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federal register

Friday
September 28, 1984

Selected Subjects

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Environmental Protection Agency

Air Traffic Control
Federal Aviation Administration

Animal Drugs
Food and Drug Administration

Aviation Safety
Federal Aviation Administration

Banks, Banking
Fiscal Service

Chemicals
Environmental Protection Agency

Claims
Federal Emergency Management Agency

Equal Employment Opportunity
Equal Employment Opportunity Commission

Exports
International Trade Administration

Flood Insurance
Federal Emergency Management Agency

Hazardous Waste
Environmental Protection Agency

Health Insurance
Defense Department

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

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Surface Mining Reclamation and Enforcement Office

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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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

Prevailing Rate Systems

Correction

In FR Doc. 84–25170 appearing on page 37055 in the issue of Friday, September 21, 1984, make the following correction: In column one the **EFFECTIVE DATE** should read "October 22, 1984".

BILLING CODE 1505–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 711

Marketing Quota Review Regulations

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations at 7 CFR Part 711 to delete obsolete references with respect to marketing quotas review requirements for peanuts and extra long staple cotton. In addition, this final rule implements certain provisions of the No Net Cost Tobacco Program Act of 1982 and the Dairy and Tobacco Adjustment Act of 1983 with respect to matters involving tobacco which are subject to review by a marketing quota review committee. This final rule also provides that the areas of venue of these committees will no longer be published in the Federal Register and codified.

DATES: Effective September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Jay S. Poole, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA-ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 447–2715.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Information collection requirements contained in this regulation (7 CFR Part 711) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB numbers 0560–0068.

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loan and Purchases; 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The major provisions of this final rules are a follows:

(1) *Elimination of references to peanuts and extra long staple cotton.* Section 701 of the Agriculture and Food Act of 1981, with respect to peanuts, and Section 2 of the Extra Long Staple Cotton Act of 1983, with respect to extra long staple (ELS) cotton, amended the Agricultural Adjustment Act of 1938 (hereinafter referred to as "the 1938 Act") to provide that marketing quotas are not applicable to the 1982 through 1985 crops of peanuts or the 1984 and succeeding crops of ELS cotton. Accordingly, all specific references to these commodities have been removed from 7 CFR Part 711.

(2) *Removal of the listing of areas of venue.* Producers may administratively appeal certain determinations made by county Agricultural Stabilization and Conservation (ASC) committees with respect to farm acreage allotments and farm marketing quotas. These appeals are heard by local statutory review committees in accordance with section 363 of the 1938 Act. The areas of venue for these committees are established by State ASC committees and may consist of all or part of a county, or more than one county in the State. Currently a listing of areas of venue for each State is published in the **Federal Register** and maintained in the applicable State ASCS office and by the Deputy Administrator, ASCS. The practice of publishing areas of venue and any revisions thereto in the **Federal Register** annually is both costly and time consuming and does not provide a significant benefit to producers. Therefore, 7 CFR 711.29 is amended by removing the listing of areas of venue. In addition, 7 CFR 711.13 is amended to provide that the listing of areas of venue within a State may be obtained from State ASCS offices or the Deputy Administrator, ASCS.

(3) *Expansion of matters subject to review to include provisions of the No Net Cost Tobacco Program Act of 1982 and the Dairy and Tobacco Adjustment Act of 1983.* Section 363 of the 1938 Act provides that any producer who is dissatisfied with the farm marketing quota established for the farm may have such quota reviewed by a local review committee. As a result of amendments made to the 1938 Act by the No Net Cost Tobacco Program Act of 1982 and the Dairy and Tobacco Adjustment Act of 1983, additional factors must be considered by the county ASC committee to establish a tobacco acreage allotment and farm marketing quota and to determine whether such allotment and quota may be retained by

the producer. Accordingly, the regulations of 7 CFR 711.3 have been amended to expand the list of factors which are used to established a quota for a farm and crop year to include: (a) The forfeiture, reallocation, sale and purchase of allotment or quota, (b) a determination of land constituting a farm, including: (i) Land devoted to nonagricultural usage, (ii) land used for agricultural purposes, (iii) cropland acreage, and (iv) tillable cropland.

(4) *Inclusion of OMB Control Numbers.* A new section (§ 711.29) has been added to regulations to identify the control numbers assigned to this part by the Office of Management and Budget (OMB) as required by the Paperwork Reduction Act.

Since these changes are either specifically required by statutory amendments or are administrative in nature, it has been determined that no further public rulemaking is required. Accordingly, this rule shall become effective upon date of publication in the **Federal Register.**

List of Subjects in 7 CFR Part 711

Administrative practice and procedures, Marketing quotas.

Final Rule

PART 711—[AMENDED]

1. The table of contents is amended by revising the undesignated center heading preceding § 711.29 and by revising the entry for § 711.29 as follows:

Sec.

* * * * *

OMB Control Numbers

711.29 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

2. The authority citation for Part 711 is revised to read as follows:

Authority: Secs. 301, 363–368, 371, 374, 375, 379, 52 Stat. 38, as amended, 63–66, amended, 79 Stat. 1211, as amended; 7 U.S.C. 1301, 1363–1368, 1371, 1374, 1375, 1379.

3. In § 711.3, the introductory text of paragraph (f) and paragraphs (f) 1), (3), and (7) are revised to read as follows:

§ 711.3 Definitions.

* * * * *

(f) *Quota.* Quota means the farm marketing quota established under the Act for a farm during a year in which quotas are approved in the national referendum for a commodity, including any of the following factors:

(1) Farm acreage allotment, farm marketing quota, and any adjustments in such allotment and quota resulting from: (i) Program violations; (ii) lease and transfer; (iii) sale and purchase; (iv) overmarketing and undermarketing; (v) release and reapportionment; (vi) eminent domain transactions; and (vii) forfeiture and reallocation.

* * * * *

(3) A determination of the land constituting a farm for which a farm acreage allotment or farm marketing quota is established, including the following: (i) Land devoted to nonagricultural use, (ii) land used for agricultural purposes, (iii) cropland acreage; and (iv) tillable cropland.

* * * * *

(7) Marketing quota penalties, including but not limited to, assessments for marketing quota violations involving: (i) False identification, (ii) failure to account for production and disposition, (iii) failure to file a report, and (iv) the filing of a false report.

4. In § 711.13, a new paragraph (c) is added to read as follows:

§ 711.13 Areas of venue and jurisdiction.

* * * * *

(c) A listing of the areas of venue within a State shall be available from the State ASCS office and the Deputy Administrator.

5. Section 711.15 is revised to read as follows:

§ 711.15 Matters subject to review.

In all cases, the review committee shall consider only such factors as, under applicable provisions of law and regulations, are required or permitted to be considered by the county committee in the establishment of the quota being reviewed. The establishment of national marketing quotas and apportionment of national acreage allotments and marketing quotas among States and counties and the establishment of reserve acreages and quotas at the national level and apportionment of such reserves among States and counties are not subject to review by a review committee. Review of a quota may include any of the factors which enter into the establishment of such quota for the farm and crop year as set forth in § 711.3(f): *Provided, however,* That any factor of such quota considered by a review committee in a prior determination for the farm and crop year shall not be considered in a subsequent review proceeding. For example, a determination of the farm acreage allotment by the review committee would not be reconsidered upon any application for review of the farm marketing excess for the same farm and crop year.

6. The third sentence in § 711.16 is revised to read as follows:

§ 711.16 County committee answer.

* * * In the event the applicant is satisfied with the proposed determination, the county committee shall, upon the withdrawal of the application, take the necessary action to revise the quota within the limits of the Act and applicable commodity regulations if the required amount of acreage allotment or marketing quota is available in the county. * * *

7. The undesignated center heading preceding § 711.29 is revised to read as follows:

OMB Control Numbers

8. Section 711.29 is revised to read as follows:

§ 711.29 OMB Control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR Part 711) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of the 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0560–0068.

Signed at Washington, D.C., on September 24, 1984.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 84–25690 Filed 9–27–84; 8:45 am]

BILLING CODE 3410–05–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 483; Lemon Reg. 482, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona lemons that may be shipped to the fresh market during the period September 30–October 6, 1984, and increases the quantity of lemons that may be shipped during the period September 23–29, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

DATES: This regulation becomes effective September 30, 1984, and the amendment is effective for the period September 23–29, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch,

F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

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

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

This action is consistent with the marketing policy currently in effect. The committee met publicly on September 25, 1984, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports that lemon demand is steady.

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

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

1. Section 910.783 is added as follows:

§ 910.783 Lemon Regulation 483.

The quantity of lemons grown in California and Arizona which may be handled during the period September 30, 1984, through October 6, 1984, is established at 250,000 cartons.

2. Section 910.782 Lemon Regulation 482 is revised to read as follows:

§ 910.782 Lemon Regulation 482.

The quantity of lemons grown in California and Arizona which may be handled during the period September 23, 1984, through September 29, 1984, is established at 240,598 cartons.

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

Dated: September 26, 1984.

Thomas R. Clark,

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

[FR Doc. 84–25980 Filed 9–27–84; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 24248; Amdt. No. 1278]

Air Traffic and General Operating Rules; Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

For Examination—

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

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

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

For Purchase—

Individual SIAP copies may be obtained from:

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

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

By Subscription—

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

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

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

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

the airport, its location, the procedure identification and the amendment number.

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

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

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument.

Adoption of the Amendment

PART 97—[AMENDED]

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

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

. . . Effective November 8, 1984

Jasper, AL—Walker County-Bevill Field, VOR/DME-A, Amdt. 1
Atlanta, GA—DeKalb-Peachtree, VOR RWY 27, Amdt. 15
Swainsboro, GA—Emanuel County, VOR-A, Amdt. 4
Olathe, KS—Johnson County Industrial, VOR-A, Amdt. 3
Fayetteville, NC—Fayetteville Muni/Grannis Fld, VOR RWY 4, Amdt. 14
Winston Salem, NC—Smith Reynolds, VOR/DME-A, Amdt. 1
Painesville, OH—Concord Airpark, VOR-A, Amdt. 8
Philip, SD—Philip, VOR-A, Amdt. 9
Humboldt, TN—Humboldt Muni, VOR/DME-A, Amdt. 4
Portland, TN—Portland Muni, VOR/DME RWY 19, Amdt. 1
Trenton, TN—Gibson County, VOR/DME-A, Amdt. 4
Madison, WI—Dane County Regional/Truax Field, VOR RWY 13, Amdt. 17
Madison, WI—Dane County Regional/Truax Field, VOR RWY 31, Amdt. 18
Douglas, WY—Converse County, VOR-A Orig., Cancelled

. . . Effective October 25, 1984

Peoria, IL—Greater Peoria, VOR RWY 13 (TAC), Amdt. 20
Peoria, IL—Greater Peoria, VOR/DME or TACAN RWY 31 Amdt. 6

. . . Effective September 14, 1984

Victoria, TX—Victoria Regional, VOR RWY 12L, Amdt. 11
Victoria, TX—Victoria Regional, VOR/DME RWY 30R, Amdt. 3

. . . Effective September 12, 1984

West Palm Beach, FL—Palm Beach County Park, VOR RWY 15, Amdt. 1

. . . Effective September 11, 1984

Big Spring, TX—Big Spring McMahon-Wrinkle, VOR RWY 17L, Amdt. 3
Big Spring, TX—Big Spring McMahon-Wrinkle, VOR RWY 35R, Amdt. 3

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

. . . Effective November 8, 1984

Sturgeon Bay, WI—Door County Cherryland, SDF RWY 1, Amdt. 1

. . . Effective October 25, 1984

Lebanon, MO—Floyd W. Jones Lebanon, SDF RWY 36, Orig.

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

. . . Effective December 20, 1984

Baton Rouge, LA—Baton Rouge Metropolitan Ryan Field, NDB RWY 31, Orig.

. . . Effective November 8, 1984

Blytheville, AR—Blytheville Muni, NDB-A, Amdt. 4
Malvern, AR—Malvern Muni, NDB RWY 21, Amdt. 1
Waynesboro, GA—Burke County, NDB RWY 7, Orig.
Storm Lake, IA—Storm Lake Muni, NDB RWY 35, Amdt. 2
Great Bend, KS—Great Bend Muni, NDB-A, Amdt. 3
Olathe, KS—Johnson County Industrial, NDB RWY 35, Amdt. 3
Beaufort, NC—Beaufort-Morehead City, NDB RWY 14, Amdt. 4
Beaufort, NC—Beaufort-Morehead City, NDB RWY 21, Amdt. 3
Fayetteville, NC—Fayetteville Muni/Grannis Fld, NDB RWY 4, Amdt. 13
Winston Salem, NC—Smith Reynolds, NDB RWY 33, Amdt. 20
Dillon, SC—Dillon County, NDB RWY 6, Amdt. 3
Pickens, SC—Pickens County, NDB RWY 4, Amdt. 4
Springfield, TN—Springfield Muni, NDB RWY 21, Amdt. 1
Black River Falls, WI-Black River Falls Area, NDB RWY 8, Amdt. 1
Sturgeon Bay, WI—Door County Cherryland, NDB RWY 1, Amdt. 5

. . . Effective October 25, 1984

Chicago, IL—Chicago-O Hare Intl, NDB RWY 14L, Amdt. 22
Peoria, IL—Greater Peoria, NDB RWY 31, Amdt. 12
Lebanon, MO—Floyd W. Jones Lebanon, NDB RWY 36, Amdt. 3, Cancelled
Lebanon, MO—Floyd W. Jones Lebanon, NDB RWY 36, Orig.

. . . Effective September 14, 1984

Victoria, TX—Victoria Regional, NDB RWY 12L, Amdt. 2

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

. . . Effective November 8, 1984

Atlanta, GA—DeKalb-Peachtree, ILS RWY 20L, Amdt. 2
Quincy, IL—Quincy Muni-Baldwin Field, ILS RWY 4, Amdt. 14
Olathe, KS—Johnson County Industrial, ILS RWY 35, Amdt. 3
Carlsbad, NM—Cavern City Air Terminal, ILS RWY 3, Amdt. 1
Fayetteville, NC—Fayetteville Muni/Grannis Fld, ILS RWY 4, Amdt. 13
Winston Salem, NC—Smith Reynolds, ILS RWY 33, Amdt. 21

. . . Effective October 25, 1984

Chicago, IL—Chicago-O'Hara Intl, ILS RWY 14L, Amdt. 27
Peoria, IL—Greater Peoria, ILS RWY 13, Amdt. 3
Peoria, IL—Greater Peoria, ILS RWY 31, Amdt. 3

. . . Effective September 14, 1984

Victoria, TX—Victoria Regional, ILS RWY 12L, Amdt. 6

5. By amending § 97.31 RADAR SIAPS identified as follows:

. . . Effective November 8, 1984

Beaufort, NC—Beaufort-Morehead City, RADAR-1, Amdt. 2
Chapel Hill, NC—Horace Williams, RADAR-1, Amdt. 4
Madison, WI—Dane County Regional-Truax Field, RADAR-1, Amdt. 11

. . . Effective October 25, 1984

Peoria, IL—Greater Peoria, RADAR-1, Amdt. 10

. . . Effective September 17, 1984

Baton Rouge, LA—Baton Rouge Metropolitan Ryan Field, RADAR-1, Amdt. 7

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

. . . Effective October 25, 1984

Peoria, IL—Greater Peoria, RNAV RWY 4, Amdt. 5

Peoria, IL—Greater Peoria, RNAV RWY 22 Amdt. 7

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

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

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

Issued in Washington, D.C., on September 21, 1984.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 84-25745 Filed 9-27-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 385, 390, and 399

[Docket No. 40919-4119]

Foreign Policy Controls on Exports to Iran of Aircraft, Helicopters and Marine Outboard Engines

AGENCY: Office of Export Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Export Administration maintains controls on exports to countries that have repeatedly provided support for acts of international terrorism, including Iran. This rule modifies anti-terrorism controls on certain exports to Iran. In light of the continuing policies of support for international terrorism maintained by the government of Iran, the U.S. government has determined that further restriction of U.S. exports to Iran is warranted.

DATES: This rule is effective September 28, 1984. Comments must be received by November 27, 1984.

ADDRESS: Written comments (six copies) should be sent to: Betty Ferrell, Exporter Services Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20044 .

FOR FURTHER INFORMATION CONTACT: Vincent Greenwald, Exporter Services Division, Office of Export Administration, Telephone: (202) 377-3856.

SUPPLEMENTARY INFORMATION:

Export controls on Iran have been maintained on aircraft valued at $3 million each or more and on helicopters over 10,000 pounds empty weight. This rule modifies the controls to apply to all aircraft regardless of value and helicopters regardless of weight, including related parts and components.

Export controls have also been maintained on goods and technical data subject to national security controls and valued at over $7 million, if the export were destined to a military end-user or for military end-use. The modified controls apply to all such goods and technical data, regardless of value.

In addition, this rule imposes controls on marine outboard motors of 45 horsepower or more.

The licensing policy on exports to Iran under these controls, as modified, is one of general denial. However, limited exceptions are possible since licensing decisions will take into account the existence of export obligations under contracts in effect prior to the imposition of controls. In addition, licensing decisions will take into account whether items had been exported from the United States prior to the imposition of controls, or whether the U.S. content of foreign-produced commodities is 20% or less by value.

Following consultation with the Department of State, it has been determined that this rule is necessary to further significantly the foreign policy of the United States. Members of the Congress have been consulted, and the criteria described in section 6(b) of the Export Administration Act have been considered. The compelling need to impose controls on these sensitive exports renders industry consultation, prior to the imposition of these controls, inappropriate. Industry comments, however, on these controls are solicited and will be considered before regulations become final.

Failure to take action would be detrimental to the foreign policy of the United States, notwithstanding any foreign availability.

It has been determined that there are no feasible alternative means of achieving the purpose of this action and efforts are being made to obtain cooperation of countries that produce comparable items.

Saving Clause

Shipments of commodities and technical data removed from General License authorizations as a result of these changes that were on dock for lading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export pursuant to actual orders for export prior to (date of publication) may be exported under the previous general license provisions up to and including (two weeks after publication). Any such commodity not actually exported before midnight (two weeks after publication) requires a validated export license.

Rulemaking Requirements and Invitation To Comment

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Since this regulation involves a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring a notice of proposed rulemaking, an opportunity for public participation and a delay in effective date are inapplicable.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in developing final regulations. These regulations may be revised before the end of the comment period. Accordingly, the Department encourages interested persons who desire to comment to do so at the earliest possible time to permit the fullest consideration of their views.

2. Applicants for the validated export license required by this rule will use Form ITA-622P. This Form has been approved by the Office of Management and Budget under control number 0625-0001.

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. Because this interim rule is being issued with respect to a foreign affairs function, it is not subject to Executive Order No. 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

The period for submission of comments will close November 27, 1984. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be

considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4001, U.S. Department of Commerce, 14th street and Pennsylvania Avenue, N.W., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377-3031.

List of Subjects in 15 CFR Parts 385, 390 and 399

Advisory committees, Communist countries, Exports.

Accordingly, the Export Administration Regulations (15 CFR Parts 368-399) are amended as follows:

PART 385—[AMENDED]

1. Section 385.4 is amended by revising paragraph (d) to read as follows:

§ 385.4 Country groups T & V.

* * * * *

(d) *People's Democratic Republic of Yemen, Syria, and Iran.* (1) A validated license is required for foreign policy purposes for the export to the People's Democratic Republic of Yemen, Syria, or Iran (countries that have repeatedly provided support for acts of international terrorism) of crime control and detection equipment (see § 376.14), military vehicles and items specially designed to produce military equipment as defined in CCL entries 2018A, 1118A, 2406A, and 2603A (see § 376.16), and certain other commodities as specified below.

(2) For the People's Democratic Republic of Yemen and Syria, a validated license is required for the export of aircraft valued at $3 million each or more and helicopters over 10,000 pounds empty weight as defined in CCL entries 1460A(a), 1460A(b) and 5460F, except aircraft and helicopters for use by regularly scheduled airlines based in the People's Democratic Republic of Yemen and Syria for which assurances have been submitted to OEA against military use, and of goods or technology subject to national security controls if the export is destined to military end-users or for military end-use and is valued at $7 million or more. In the case of the use abroad of U.S.-origin parts, components or materials in foreign-origin products, the dollar limits set forth above apply to the U.S. content. Applications for validated licenses will be considered on a case-by-case basis to determine whether issuance of a license would be consistent with the provisions of section 6 and the applicable policies set forth in section 3 of the Act (exports subject to national security controls must also meet the national security provisions of the Act). When the request for authorization involves use of U.S.-origin parts, components, or materials in foreign-origin products destined for the People's Republic of Yemen or Syria, licensing decisions will take into account whether the U.S. content is 20% or less by value.

(3)(i) For Iran, a validated license is required for the export of all aircraft and helicopters, and related parts and components, and of marine outboard engines with a horsepower of 45 or more, as defined in CCL entries 1460A, 4460B, 5460F, 6460F, 1485A, 6494F, and 1501A (a), (b)(1) and (c)(1); and of all goods and technical data subject to national security controls if the export is destined to a military end-user or for military end-use. Applications for export to Iran of commodities and technology subject to these controls will generally be denied. However, applications may be considered on a case-by-case basis, if:

(A) The transaction involves the export or reexport of goods or technical data under a contract that was in effect before:

(*1*) January 23, 1984, in the case of helicopters over 10,000 lbs. empty-weight, aircraft valued at $3 million or more each, or national security controlled items valued at $7 million or more; or

(*2*) September 28, 1984, in the case of all other commodities or technical data.

(B) The commodities or technical data had been exported from the United States before January 23, 1984 or September 28, 1984 as appropriate.

(C) The U.S. content of foreign-produced commodities is 20% or less by value.

(ii) Applicants who wish such factors to be considered in reviewing their license applications must submit adequate documentation demonstrating the value of the U.S. content, the existence of the pre-existing contract, or the date of export from the U.S.

(4) The appropriate Congressional Committee identified in subsection 6(i) of the Act will be notified 30 days before any application falling under this subsection valued at $7 million or more is approved.

PART 390—[AMENDED]

2. A new § 390.6 is added reading as follows:

§ 390.6 General order preventing the use of special licensing procedures for aircraft controlled by Iran.

Effective September 28, 1984, special licensing procedures described in Part 373 may not be used to provide aircraft parts and accessories (Export Control Commodity Number 1460, 4460, 1485, 1501(a), (b)(1) and (c)(1) intended for aircraft (wherever located) owned, operated, or controlled by, or under charter or lease to Iran, or any of its nationals.

PART 399—[AMENDED]

3. In Supplement No. 1 to §399.1 (the Commodity Control List), Commodity Group 4, Transportation Equipment, is amended by adding a new entry (in numerical order, disregarding the first digit) reading as follows:

6494F Marine Outboard Engines With a Horsepower of 45 or More

Controls for ECCN 6494F

Unit: Report in "number."

Validated License Required: Country Groups SZ and Iran.

GLV $ Value Limit: General License *GLV* is not applicable; however, another general license may apply.

Processing Code: TE.

Reason for Control: Foreign policy.

Special Licenses Available: None.

Authority: Secs. 203, 206, Pub. L. 95–223, Title II, 91 Stat. 1626, 1628 (50 U.S.C. 1702, 1704), Executive Order No. 12470 of March 30, 1984 (49 FR 13099, April 3, 1984).

Dated: September 25, 1984.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 84–25865 Filed 9–26–84; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 18 and 146

[T.D. 84–207]

Customs Regulations Amendments Relating to Textiles and Textile Products; In-Bond Movements; Foreign-Trade Zones

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Interim regulations, solicitation of comments, extension of comment period.

SUMMARY: Section 204 of the Agricultural Act of 1956 grants authority to the President to negotiate agreements with foreign governments limiting exports of textiles and textile products from such countries into the U.S. The Act also grants authority to issue regulations governing the entry into the U.S. of articles covered by the agreements. Executive Order 12475 of May 9, 1984, delegated that authority to the Secretary of the Treasury and directed that the regulations be promulgated within 120 days of the May 11, 1984, effective date of the Executive Order. On August 3, 1984, interim Customs Regulations were published in the **Federal Register** (49 FR 31248) as T.D. 84–171. The regulations amended the Customs Regulations to prevent circumvention or frustration of visa or export license requirements contained in multilateral and bilateral agreements to which the U.S. is a party in order to facilitate the efficient an equitable administration of the U.S. Textile Import Program. Based upon public comments received in response to the solicitation of comments provision of the interim regulations, it has been decided to modify them to eliminate the requirement of presentation of the visa or export license before an in-bond movement is approved and include a listing of specific information which will assist district directors in making their determination of whether or not to approve an in-bond movement or examine the merchandise. It has also been decided to modify the foreign-trade zones provisions of the interim regulations to include a phrase which recognizes the existing statutory authority of the Foreign-Trade Zones Board.

DATES: Effective date: These interim regulations are effective for all textiles and textile products subject to section 204, Agricultural Act of 1956, as amended, exported from the country of origin, as defined by § 12.130, Customs Regulations (19 CFR 12.130), on or after September 7, 1984.

Comments: Written comments received on or before November 1, 1984, will be considered in determining whether any further changes to the interim regulations are required before a final rule is published. Based upon numerous requests for additional time to comment on the interim regulations published in the **Federal Register** on August 3, 1984 (49 FR 31248), as T.D. 84–171, it has been decided to extend the close of the comment period for that document from October 2, 1984, to November 1, 1984.

ADDRESS: Written comments may be submitted to and inspected at the Regulations Control Branch, U.S. Customs Service Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Part 18: Kent Parsell, Inspection and Control Division (202–566–5354);

Part 146: John Holl, Office of Cargo Enforcement Facilitation (202–566–8151);

U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION

Background

In order to implement import policies with respect to textiles and textile products, Congress provided authority to the President to negotiate textile restraint agreements in section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and authority to carry out such agreements by issuing regulations governing the entry of merchandise covered by the agreements into the U.S.

In December, 1973, representatives of 50 nations meeting under the General Agreement on Tariff and Trade (GATT) aegis, negotiated the Multi-Fiber Arrangement Regarding International Trade in Textiles. The arrangement is usually known as the Multi-Fiber Arrangement, or MFA, and came in force on January 1, 1974. It was subsequently renewed and next expires on July 31, 1986.

Under the MFA, the U.S. has negotiated bilateral restraint agreements with 28 countries. The U.S. also has bilateral agreements with 8 MFA non-signatories. The Committee for the Implementation of Textile Agreements (CITA) was established by Executive Order 11651 on March 3, 1972, to supervise the implementation of textile agreements.

In recent months the U.S. Customs Service has been faced with an ever increasing number and variety of instances where attempts have been made to circumvent the Textile Import Program. Many of these attempts to circumvent the Textile Import Program have involved the use of the in-bond movement procedures set forth in Part 18, Customs Regulations (19 CFR Part 18).

In part, because of these problems, to prevent circumvention or frustration of the various multilateral and bilateral agreements to which the U.S. is a party, and to facilitate efficient and equitable administration of the U.S. Textile Import Program, the President signed Executive Order 12475 on May 9, 1984. Under the Executive Order the Secretary of the Treasury was required to promulgate regulations governing the entry of textiles and textile products subject to section 204 of the Agricultural Act of 1956 within 120 days of the May 11, 1984, effective date of the Executive Order. On August 3, 1984, a document was published as T.D. 84–171 in the **Federal Register** (49 FR 31248), which promulgated interim Customs Regulations amendments pursuant to the Executive Order. The document invited public comments on the interim regulations until October 2, 1984. That comment period is now being extended by this document to November 1, 1984. During the comment period, Customs has been and will continue to review comments as they are received to determine if any problem arises which requires immediate action.

Accordingly, in order to alleviate unnecessary hardships to persons (individuals, partnerships, or corporations) in the U.S. who had made binding commitments for a fixed quantity of merchandise prior to publication of the interim regulations, the effective date as it relates to the provisions of § 12.130 was modified, by a document published in the **Federal Register** on August 29, 1984 (49 FR 34199) as T.D. 84–190, subject to the terms and conditions as set forth in the document, to October 31, 1984.

Another area which has been looked at closely by Customs has been the in-bond procedures set forth in § 18.11 of

the interim regulations. In the August 3, 1984, Federal Register document it was indicated that because of the numerous instances identified by Customs in which the provisions of the regulations relating to in-bond transportations have been used to frustrate and circumvent the textile and textile products visa or export license requirements, district directors have been advised to strictly enforce the provisions of § 18.11(h), Customs Regulations (19 CFR 18.11(h)). To insure the applicability of these requirements, § 18.11(e) was amended by the interim regulations to incorporate the provisions of § 18.11(h). In addition, § 18.11(e) was amended to require the visa or export license, if applicable, to be presented with the entry. Section 6.18, Customs Regulations (19 CFR 6.18), relating to documentation for transit air cargo, was amended to cross-reference the requirements of § 18.11 (e) and (h).

Customs has received numerous comments in response to the solicitation of comments provision of the interim regulations regarding the presentation of the visa or export license prior to movement of textiles and textile products under the in-bond procedures. Based upon a review of these comments, it has been concluded that compliance with the requirement would be difficult. Accordingly, Customs has decided to delete this requirement.

Further, the commenters expressed concern about the example of the rated invoice used in the interim regulations to indicate the type of evidence the district director could use to satisfy himself of the approximate correctness of the value and quantity stated in the in-bond entry. The rated invoice was chosen as an example not because of a need for this particular document but because it contained most of the information necessary for Customs to accurately assess the risk of possible diversion during the in-bond movement. Because the example has generated so much adverse comment and concern, it has been decided to delete it and specifically list, by way of example, the information which Customs will use in making the determination of whether or not to examine the merchandise and whether or not to approve the in-bond movement. This information includes:

(a) Detailed quantity description (e.g., 14 cartons, 2 dozen per carton),

(b) Detailed description of the textiles or textile products including type of commodity and chief fiber content (e.g., men's cotton jeans or women's wool sweaters),

(c) Net weight of the textiles or textile products (including immediate packing but excluding pallets),

(d) Total value of the textiles or textile products,

(e) Manufacturer or supplier,

(f) Country of origin,

(g) Name(s) and address(es) of the person(s) to whom the textiles and textile products are consigned, and

(h) Harmonized code tariff number (when available).

The harmonized code tariff number, if provided, will greatly assist Customs in determining the proper classification of the merchandise and the visa requirements. Not providing any one or all of the foregoing will not in and of itself result in a denial of the in-bond movement or examination of the merchandise. It will, however, be a factor considered by the district director along with all other facts and circumstances available as to the risk to the revenue, potential for diversion of the merchandise, and proper enforcement of the Textile Import Program.

The information may be provided to Customs by the carrier or his agent or the importer. If this information is available on existing documentation such as an invoice, a bill of lading, etc., providing a copy of that document, will assist Customs in the consideration of whether or not to approve the movement or to examine the merchandise. In lieu of the foregoing, the information could be included on the in-bond document itself or a plain piece of paper. This flexible approach will allow the importer to determine the manner in which the information will be supplied.

Further, Customs has also decided that to effectively enforce these interim regulations and ensure that shipments of textiles or textile products arrive intact, no diversion from the destination, as shown on the in-bond document, will be allowed without the permission of the district director at the port of origin of the in-bond movement. This requirement provides Customs with the administrative control over shipments of textiles and textile products necessary to effectively ensure that those products subject to quota are not diverted into the commerce of the U.S. in violation of such quota. While the privilege of in-bond movement provided under 19 U.S.C. 1552 is statutorily denied for prohibited merchandise, textiles or textile products imported in excess of quota are not deemed to be prohibited until they arrive at the port at which entry is to be filed. As a result, such textile shipments, which will become prohibited merchandise at the port where the entry is filed, are, in fact, allowed to transit through the U.S. where they may be diverted into the commerce of the U.S. Although, historically, the bonding mechanism protected the government from such diversion, because the bond protected against a loss of revenue, with respect to quota merchandise the bond provides an inadequate remedy under the law. This is because the quota agreements are not concerned with revenue but, rather, with prohibiting introduction of those textiles and textile products into the commerce of the U.S. This new requirement is designed to ensure that the diversion of such merchandise does not occur. This change is set forth as an amendment to § 18.5, Customs Regulations (19 CFR 18.5) and is included in this document.

The interim regulations published on August 3, 1984, also contained an amendment to the foreign-trade zones regulations found in Part 146, Customs Regulations (19 CFR Part 146), to prevent use of foreign-trade zones to frustrate or circumvent quota or visa or export license requirements. The provision set forth in § 146.49 specifically provided that textiles and textile products admitted into a foreign-trade zone, regardless of whether the merchandise has privileged or nonprivileged foreign status, which would have been subject to quota or visa or export license requirements in their condition at the time of importation if entered for consumption rather than admitted to a foreign-trade zone, may not be subsequently transferred into the customs territory for consumption if during the time the merchandise is in the foreign-trade zone there has been a change by manipulation, manufacture, or other means:

(a) in the country of origin of the merchandise as defined by § 12.130 of the interim regulations,

(b) to exempt from quota or visa or export license requirements other than a change brought about by statute, treaty, executive order or Presidential proclamation, or

(c) from one textile category to another textile category.

Based upon public comment and after consultation with the Foreign-Trade Zones Board, it has been decided to modify the foreign-trade zones provisions of the interim regulations to include a phrase which recognizes the existing statutory authority of the Foreign-Trade Zones Board. The change is set forth as an amendment to § 146.49 of the interim regulations.

Comments

Before adopting these interim regulations as a final rule, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be

available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), and § 1.6 Treasury Department Regulations (31 CFR 1.6), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on normal business days between the hours of 9:00 a.m. to 4:30 p.m. at the Regulations Control Branch, U.S. Customs Service Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Inapplicability of Notice

Public notice is inapplicable to these regulations because they are promulgated pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and are thus within the foreign affairs function of the U.S. and the foreign affairs exemption of 5 U.S.C. 553(a)(1). These regulations are necessary to prevent circumvention or frustration of multilateral and bilateral agreements to which the U.S. is a party and to facilitate efficient and equitable administration of the U.S. Textile Import Program as authorized in section 204. For the above reasons it is also believed that pursuant to 5 U.S.C. 553(b)(B), notice and public procedures are impracticable, unnecessary and contrary to the public interest. The authority to promulgate these regulations was delegated by the President to the Secretary of the Treasury by Executive Order 12475.

Executive Order 12291

This interim regulation is not a "major rule" as defined by section 1(b) of Executive Order 12291. Accordingly, a regulatory impact analysis is not required under E.O. 12291.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this document because it is believed the regulation will not have a significant economic impact on a substantial number of small entities. However, public comment is requested on the effects, with numerical estimates, of the amendments on costs, profitability, competitiveness, and employment in small entities. Subsequent to the receipt of public comments, it will be decided whether the preparation of a final regulatory flexibility analysis is warranted. In light of the above, it is certified under the provisions of section 3, Regulatory Flexibility Act (5 U.S.C. 605(b)) that the interim regulations will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The interim regulation is subject to the Paperwork Reduction Act of 1980, Pub. L. 96–511. Accordingly, applicable sections of the interim regulation have been cleared by the Office of Management and Budget and assigned control number 1515–0140.

Drafting Information

The principal author of this document was John Elkins, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects

19 CFR Part 18

Common carriers, Customs duties and inspection, Freight forwarders, Imports.

19 CFR Part 146

Customs duties and inspections, Foreign-trade zones, Imports.

Amendments to the Regulations

Parts 18 and 146, Customs Regulations (19 CFR Parts 18, 146), are amended as set forth below.

William von Raab,

Commissioner of Customs.

Approved: September 7, 1984.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

PART 18—TRANSPORTATION IN-BOND AND MERCHANDISE IN-TRANSIT

1. Section 18.5(a) is amended by removing the words "and (e)" in the second sentence and inserting, in their place, the words "(e) and (f)".

2. Section 18.5 is further amended by adding a paragraph (f) to read as follows:

§ 18.5 Diversion.

* * * * *

(f) The diversion of in-bond shipments, which contain textiles or textile products subject to section 204, Agricultural Act of 1956, as amended (7 U.S.C. 1854), during the in-bond movement shall be allowed only upon the prior written permission of the district director at the port of origin.

3. Section 18.11(e) is amended by removing the last three sentences, as added by T.D. 84–171, and inserting, in their place, the following:

§ 18.11 Entry, classes of goods for which entry is authorized; form used.

* * * * *

(e) * * *

Entries for immediate transportation without appraisement covering textiles and textile products subject to section 204, Agricultural Act of 1956, as amended (7 U.S.C. 1854), shall be described in such detail as to enable the district director to estimate the duties and taxes, if any, due. The district director may require evidence to satisfy him of the approximate correctness of the value and quantity stated in the entry (e.g. Detailed quantity description (e.g., 14 cartons, 2 dozen per carton); Detailed description of the textiles or textile products including type of commodity and chief fiber content (e.g., men's cotton jeans or women's wool sweaters); Net weight of the textiles or textile products (including immediate packing but excluding pallet); Total value of the textiles or textile products; Manufacturer or supplier; Country of orgin; Name(s) and address(es) of the person(s) to whom the textiles and textile products are consigned; Harmonized code tariff number (when available)).

(R.S. 251, as amended, sec. 484, 46 Stat. 722, as amended, sec. 624, 46 Stat. 759, sec. 204, 70 Stat. 200, as amended (19 U.S.C. 66, 1484, 1624, 7 U.S.C. 1854))

PART 146—FOREIGN TRADE ZONES

§ 146.49 [Amended]

Section 146.49, as added by T.D. 84–171, is amended by removing the word "Textiles" and inserting, in its place, the words "Subject to the existing statutory authority of the Foreign-Trade Zones Board, textiles".

(R.S. 251, as amended, sec. 8, 48 Stat. 1000, sec. 484, 46 Stat. 722, as amended, sec. 624, 46 Stat. 759, sec. 204, 70 Stat. 200, as amended (19 U.S.C. 66, 81h, 1484, 1624, 7 U.S.C. 1854))

[FR Doc. 84–25956 Filed 9–27–84; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

Supplemental Security Income for the Aged, Blind, and Disabled; State Supplementation Provisions; Agreements; Payments; Termination of Federal Fiscal Liability

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: These final regulations remove § 416.2086 of the current regulations. This section contains our

policies on: Determining the error rate used to calculate the Federal fiscal liability (FFL) amount for States (including the District of Columbia) with which we have agreements to administer both their mandatory and the optional State supplementary payment programs; calculating the FFL amount; making the FFL payments; and exclusions and adjustments to the FFL amount. Our new policy precludes determinations and payment of FFL for any Federal fiscal year (FY) beginning on or after October 1, 1984.

EFFECTIVE DATE: These regulations are effective on September 28, 1984 for periods beginning October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Duane Heaton, Office of Regulations, 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–7951.

SUPPLEMENTARY INFORMATION: In order to obtain the public's views and comments before proceeding with this amendment, we published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on April 23, 1984 (49 FR 17016). The public was invited to submit comments pertaining to the proposed amendment within a period of 60 days of publication of the notice. We have carefully considered all the comments we received during the comment period. Some of the comments received were not germane to these particular regulations. However, these comments did address regulations that the Social Security Administration (SSA) and Health Care Financing Administration (HCFA) are currently preparing or the comments addressed SSA's internal personnel issues that are important to efficient administration. The comments that addressed Medicaid were referred to HCFA, and those on the Aid to Families with Dependent Children (AFDC) were referred to the Office of Family Assistance for consideration. The comment regarding SSA's internal personnel issues was referred to our Office of Management, Budget, and Personnel for consideration. The comments addressing food stamps were referred to the Department of Agriculture. The remaining substantive comments are organized by the issues raised. While comments on all programs will be considered, only those issues pertaining to FFL under the SSI program are addressed below.

These final regulations remove section 416.2086, effective October 1, 1984. This section contains our policies on making FFL determinations and payments for those States with which we have agreements to administer both their mandatory and optional supplementary payment programs. (FFL is the money we pay to States as compensation for payment errors we make in administering the States' supplementation programs.) Our new policy is to terminate FFL under the SSI program effective with Federal FY 1985, beginning October 1, 1984. Although the provisions of section 416.2086 are removed, they are not repealed and continue to apply to periods prior to October 1, 1984, the date that FFL terminates.

History and Rule

Section 1616 of the Social Security Act (the Act) and section 212 of Pub. L. 93–66 provide respectively for optional and mandatory supplementation of Federal Supplemental Security Income (SSI) benefits. These statutory provisions also gave the States the option of Federal administration of the State supplementary payment program on the States' behalf pursuant to an agreement.

Neither title XVI of the Act nor Pub. L. 93–66 requires us to accept liability for erroneous payments made as a result of Federal administration of State supplementary payments. We adopted a policy of FFL at our administrative discretion because at the beginning of the SSI program we recognized the equity of affording some protection to the States from the full burden of errors that might initially occur from our inexperience in administering a new kind of program. We therefore decided to assume liability for a share of our errors and provided for FFL in Federal/State agreements.

In 1979 we published regulations on FFL that limited payment to the 17 States for which we administer both optional and mandatory State supplementary payments (44 FR 12579, March 7, 1979). We eliminated FFL for the 10 States for which we administered only mandatory State supplementary payments.

As we gained experience in the SSI program, we made fewer errors. Our national payment error rate in administering the SSI program, including both optional and mandatory State supplementation programs, has decreased 69 percent from a high of 11.5 percent in the January through June 1975 sample period to a low of 3.6 percent in the April through September 1983 period. (We have updated the payment error rate and FFL payments since more current figures are now available than we had for the NPRM. The NPRM reflected a 4.9 percent error rate for the April through September 1981 period and FFL payment for FY 1981.)

States received little or no FFL in FY 1982, with the exception of California and Massachusetts which accrued FFL credits of $13.0 million and $1.7 million respectively. None of the remaining 15 States had FFL credits in excess of $.4 million; in fact, 9 States accrued no FFL and 1 State received less than $3,000.

Since we have reduced the payment error rate significantly from the beginning of the program and have maintained it at a relatively low level for the past several years, we believe FFL has served the purpose for which it was intended and now should be eliminated.

The elimination of FFL will in no way affect our diligence in pursuing our goal of correctly paying all Federal SSI benefits as well as State supplementary payments. The purpose of FFL was to reimburse the States for a share of our incorrect payments rather than impose a sanction on the Federal Government. We fully recognize and accept our responsibility to administer efficiently both the Federal SSI and State supplementary programs and to make correct payments. Accordingly, we will continue to sample cases to assure the accuracy of Federal SSI and State supplementary payments.

Public Comments

We published a Notice of Proposed Rulemaking in the **Federal Register** on April 23, 1984 (49 FR 17016). We asked for public comments within a period of 60 days. The comment period closed on June 22, 1984.

We received 19 comments. These comments consisted of 1 petition from 28 Members of the House of Representatives representing 1 State, 2 comments from associations, 14 comments from States, 1 comment from a county's Department of Human Resources, and 1 comment from a union.

To facilitate our response, the comments have not been addressed individually but rather by issues raised.

Comment: One respondent questioned the legality of our proposed regulatory change because we did not provide a citation to a statutory change in the Federal law. Another commenter argued that elimination of FFL was inconsistent with what the commenter saw as congressional intent to encourage Federal administration of State supplementary payments.

Response: The payment of FFL is not required by Federal law. The law, however, does give SSA discretion to establish policies that will facilitate Federal administration of the State supplementation program. When we began making State supplementation payments in January 1974, we recognized that we had no experience in

administering a multi-State welfare program and that numerous payment errors might occur. So that the States would not need to bear the full burden of these errors, we agreed to share with them liability for our errors. We now believe that the circumstances that prompted FFL no longer exist; consequently, our policy is to discontinue these payments.

Comment: Several commenters stated that the elimination of FFL would establish a double standard in that the States would be held fiscally responsible for misspending Federal funds in the AFDC program while we would not be held responsible for State funds misspent in the SSI program.

Response: FFL was never intended to serve as a fiscal sanction. We voluntarily agreed to pay FFL to States because we recognized the need to protect States from excessive errors that were likely to result from our inexperience in administering a new kind of program. Unlike fiscal sanctions in the AFDC program, FFL is not required by law. Moreover, States are not required to request Federal administration of their State supplementation payments but may administer their own programs.

Comment: Several commenters stated that the elimination of FFL would not be a true savings for the SSI program but rather a transfer of costs to the States.

Response: There will be a true savings of $5 million per year beginning in FY 1985 since this is our projected cost for administration associated with FFL, exclusive of FFL payments. It is true that States will not be reimbursed for any erroneous State supplementary payments we make and to that extent will incur some costs. However, we have demonstrated very significant improvement in performance (69 percent error rate reduction from a high of 11.5 percent for the January through June, 1975 period to 3.6 percent in the April through September, 1983 period.) Moreover, we are committed to continuing our efforts to reduce errors and improve performance so as to minimize error costs to us and to the States.

Comment: Three commenters pointed out that with the tight budgetary constraints that face State governments today, any loss of FFL represents a significant amount.

Response: We can appreciate this comment for the Federal Government also faces similar budgetary constraints. Data available since the NPRM was published reveals that our FFL payments decreased from $20.9 million in FY 1981 to $15.7 million in FY 1982, a decrease of 25 percent. We also anticipate a further drop for FY 1983. Consequently, the potential loss to the States will not be as great as previously anticipated. In FY 1982, of the 17 federally administered State supplementation programs eligible for FFL, 9 States received no FFL and 1 State received less than $3,000.

Comment: Another commenter questioned the statement that our cost of administering State supplementation programs and conducting the quality assurance sample is considerably more than FFL payments made to the States.

Response: In FY 1981 our FFL payments were $20.9 million and declined to $15.7 million in FY 1982. The respondent apparently confused the $5 million administrative cost savings with the cost of administering all of the various State supplementation programs. The $5 million represents only the projected costs of carrying out the quality assurance function related to calculating FFL.

Comment: Some respondents also questioned the 5.0 percent payment error rate we quoted for the 1980–1981 period as being indicative of our current performance. The commenters said that the payment error rate for October 1980 through March 1981 was 6.2 percent.

Response: The 5.0 percent error rate was used as a measure of our improvement in administering the SSI program in general and reflects our overall performance in making both Federal and State SSI payments. The 6.2 percent payment error rate measured the performance that is associated with federally administered supplementary payments. This rate also has continued to improve and, for the 6-month period ending September 1982, had declined to 4.8 percent.

Comment: It was argued that SSA had a fiduciary and contractural relationship with the States by virtue of the supplementation agreements in which the States gave up control over their funds when they requested Federal administration and that FFL has served as the chief means to safeguard proper administration of the States' funds.

Response: We fully recognize and accept our responsibility for administering Federal benefits and State supplementary payments correctly, but do not agree that FFL has been the chief means for assuring that we make correct payments. It has always been our policy to make correct payments no matter whose funds are involved. We plan to continue, and where possible, improve our quality assurance program to minimize errors. Other safeguards the States have to assure the proper administration of their money include review of our performance by the Departmental Audit Agency and the General Accounting Office. States also have the right to audit our records.

Executive Order 12291

These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation. The projected savings will be less than $100 million. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

These regulations impose no reporting/recordkeeping requirements requiring Office of Management and Budget clearance.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because these regulations affect only States. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act of 1980, is not required.

Accordingly, this regulation is adopted without change as set forth below.

(These regulations are issued under the authority contained in secs. 1102 and 1631 of the Social Security Act, as amended; 49 Stat. 647, as amended; 86 Stat. 1745; 42 U.S.C. 1302 and 1383)

(Catalog of Federal Domestic Assistance Program No. 13.807—Supplemental Security Income)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI).

Dated: August 30, 1984.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: September 14, 1984.

Margaret M. Heckler,

Secretary of Health and Human Services.

PART 416—[AMENDED]

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

1. The authority citation for Part 416, Subpart T reads as follows:

Authority: Secs. 1102, 1601, 1616, 1631, and 1634, Social Security Act, as amended, sec. 401 of Pub. L. 92–603, sec. 212 of Pub. L. 93–66, sec. 8 of Pub. L. 93–233, secs. 1 and 2 of Pub. L. 93–335, 49 Stat. 647, as amended, 86 Stat. 1465, 1474, 1475, 1478, and 1485, 87 Stat. 155 and 956, 88 Stat. 291; 42 U.S.C. 1302, 1381, 1382e, 1383, 1383c, 1382e nts, 1382 nt (7 U.S.C. 2012 nts), unless otherwise noted.

§416.2086 [Removed]

2. Section 416.2086 is removed and reserved.

[FR Doc. 84-25877 Filed 9-27-84; 8:45 am]

BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Oxfendazole Paste and Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two new animal drug applications (NADA's) filed by Syntex Agribusiness, Inc., providing for use of oxfendazole paste and suspension as anthelmintics in horses.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Syntex Agribusiness, Inc., 3401 Hillview Ave., Palo Alto, CA 94304, submitted NADA 132-105 for oxfendazole paste and NADA 133-841 for oxfendazole suspension. The NADA's provide for oral use of the drug as equine anthelmintics to treat certain gastrointestinal infections of horses, specifically large roundworm, pinworm, and large and small strongyles. The drug has been previously approved in other oral dosage forms for equine use. The NADA's are approved and the regulations are amended to reflect the approvals.

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

The Center for Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Center's finding of no significant impact and the evidence supporting these findings, contained in an environmental assessment (pursuant to 21 CFR 25.31, proposed December 11, 1979; 44 FR 71742) 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 520

Animal drugs, Oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Part 520 is amended by adding new §§ 520.1629 and 520.1630 to read as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.1629 Oxfendazole paste.

(a) *Specifications.* Each gram of paste contains 0.375 gram oxfendazole (37.5 percent).

(b) *Sponsor.* See No. 000033 in §510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* 10 milligrams per kilogram (2.2 pounds) of body weight.

(2) *Indications for use.* The drug is used in horses for removal of the following gastrointestinal worms: Large roundworms (*Parascaris equorum*), mature and 4th stage larvae pinworms (*Oxyuris equi*), large strongyles (*Strongylus edentatus, S. vulgaris,* and *S. equinus*), and small strongyles.

(3) *Limitations.* Horses maintained on premises where reinfection is likely to occur should be retreated in 6 to 8 weeks. Withholding feed or water prior to use is unnecessary. Administer drug with caution to sick or debilitated horses. Not for use in horses intended for food. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

§ 520.1630 Oxfendazole suspension.

(a) *Specifications.* Each milliliter contains 90.6 milligrams oxfendazole (9.06 percent).

(b) *Sponsor.* See No. 000033 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* 10 milligrams per kilogram (2.2 pounds) of body weight.

(2) *Indications for use.* The drug is used in horses for removal of the following gastrointestinal worms: Large roundworms (*Parascaris equorum*), mature and 4th stage larvae pinworms (*Oxyuris equi*), large strongyles (*Strongylus edentatus, S. vulgris,* and *S. equinus*), and small strongyles.

(3) *Limitations.* Administer by stomach tube or dose syringe. Horses maintained on premises where reinfection is likely to occur should be retreated in 6 to 8 weeks. Withholding feed or water prior to use is unnecessary. Administer drug with caution to sick or debilitated horses. Not for use in horses intended for food. If for use by stomach tube: Federal law restricts this drug to use by or on the order of a licensed veterinarian. If for use by dose syringe only: Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

Effective date. September 28, 1984.

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

Dated: September 20, 1984.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 84-25740 Filed 9-27-84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification; Prednisolone Acetate, Sodium Sulfacetamide, Neomycin Ointment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to remove that section which reflects approval of a new animal drug application (NADA) held by Schering Corp. providing for use of METIMYD® (prednisolone, sulfacetamide, neomycin) Ointment for treating eye and ear infections in dogs and cats. In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of this NADA.

EFFECTIVE DATE: October 9, 1984.

FOR FURTHER INFORMATION CONTACT: John K. Augsburg, Center for Veterinary Medicine (HFV-216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of Schering's NADA 10-471 for METIMYD® Ointment. This document removes the regulation that reflects approval of this NADA.

List of Subjects in 21 CFR Part 524

Animal drugs, Topical.

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 524.1881a [Removed]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director of the Center for Veterinary Medicine (21 CFR 5.84), Part 524 is amended by removing § 524.1881a *Prednisolone acetate, sodium sulfacetamide, and neomycin ointment* and marking it "[Reserved]."

Effective date. October 9, 1984.

(Sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e)))

Dated: September 20, 1984.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 84–25738 Filed 9–27–84; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 540

Penicillin Antibiotic Drugs for Animal Use; Ticarcillin; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration is correcting a document that amended the animal drug regulations to reflect approval of a new animal drug application filed by Beecham Laboratories providing for intrauterine use of a ticarcillin infusion for treating mares for endometritis caused by beta-hemolytic streptococci. This document corrects an editorial error.

EFFECTIVE DATE: August 30, 1984.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Center for Veterinary Medicine (HFV–238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6243.

SUPPLEMENTARY INFORMATION: In FR Doc. 84–22996 appearing on page 34352 in the issue of Thursday, August 30, 1984, in the third column, the following corrections are made:

1. In the amendatory language paragraph, next-to-last line, "Subpart I" is corrected to read "Subpart F".

2. The heading "Subpart I—Certain Other Dosage Forms" is corrected to read "Subpart F—Intrauterine Dosage Forms".

Dated: September 20, 1984.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 84–25742 Filed 9–27–84; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Custom Feed Services Corp., providing for manufacturing a 40-gram-per-pound tylosin premix. The premix is used to make finished feeds for swine, beef cattle, and chickens.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3410.

SUPPLEMENTARY INFORMATION: Custom Feed Services Corp., 2100 North 13th St., Norfolk, NE 68701, is sponsor of a supplement to NADA 121–200 submitted on its behalf by Elanco Products Co. This supplement provides for the manufacture of a 40-gram-per-pound premix for the subsequent making of finished feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1) (i) through (vi). The supplement is approved and the regulations are amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

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

The Center for Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.625 by revising paragraph (b)(68) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.625 Tylosin.

* * * * *

(b) * * *

(68) To 017473: 10 and 40 grams per pound, paragraphs (f)(1) (i) through (vi) of this section.

* * * * *

Effective date. September 28, 1984.

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

Dated: September 21, 1984.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 84–25741 Filed 9–27–84; 8:45 am]

BILLING CODE 4160–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

Certified Designated 706 Agencies

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule; amendment.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations on certified designated 706 agencies. Publication of this amendment effectuates the designation of the South Carolina Human Affairs Commission as a certified 706 Agency.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Hollis Larkins, Equal Employment Opportunity Commission, Office of Program Operations, Special Services Staff, 2401 E Street, NW., Washington, D.C. 20507, telephone 202/634–6806.

SUPPLEMENTARY INFORMATION: The Commission has determined that the South Carolina Human Affairs Commission meets the eligibility criteria of certification of a designated 706 agency as established in 29 CFR 1601.75(b). In accordance with 29 CFR

1601.75(c) the Commission hereby amends the list of certified designated 706 agencies to include the South Carolina Human Affairs Commission. Publication of this amendment of § 1601.80 effectuates the designation of the following agency as a certified 706 agency: South Carolina Human Affairs Commission.

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

PART 1601—[AMENDED]

§ 1601.80 [Amended]

Accordingly, 29 CFR Part 1601 is amended in § 1601.80 by adding the South Carolina Human Affairs Commission in alphabetical order.

(42 U.S.C. 2000e–12(a))

Signed at Washington, D.C. this 25th day of September, 1984.

For the Commission.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

[FR Doc. 84–25862 Filed 9–27–84; 8:45 am]

BILLING CODE 6570–06–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Alaska State Plan; Final Approval Determination

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

ACTION: Final State Plan Approval.

SUMMARY: This document amends Subpart R of 29 CFR Part 1952 to reflect the Assistant Secretary's decision granting final approval to the Alaska State plan. As a result of this affirmative determination under section 18(e) of the Occupational Safety and Health Act of 1970, Federal OSHA standards and enforcement authority no longer apply to occupational safety and health issues covered by the Alaska plan, and authority for Federal concurrent jurisdiction is relinguished. Federal enforcement jurisdiction is retained over maritime employment in the private sector including artificial islands, at private sector worksites located on the navigable waters, and within the Metlakatla Indian Community on the Annette Islands. Federal jurisdiction remains in effect with respect to Federal government employers and employees.

EFFECTIVE DATE: September 26, 1984.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Public Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3637, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: (202) 523–8148.

SUPPLEMENTARY INFORMATION:

Introduction

Section 18 of the Occupational Safety and Health Act of 1970 (the "Act") provides that States which desire to assume responsibility for the development and enforcement of occupational safety and health standards may do so by submitting, and obtaining Federal approval of, a State plan. Procedures for State plan submission and approval are set forth in regulations at 29 CFR Part 1902. If the Assistant Secretary, applying the criteria set forth in Section 18(c) of the Act and 29 CFR Part 1902.3 and 1902.4, finds that the plan provides or will provide for State standards and enforcement which are "at least as effective" as Federal standards and enforcement, initial approval is granted. A State may commence operations under its plan after this determination is made, but the Assistant Secretary retains discretionary Federal enforcement authority during the initial approval period as provided by section 18(e) of the Act. A State plan may receive initial approval even though, upon submission, it does not fully meet the criteria set forth in §§ 1902.3 and 1902.4 if it includes satisfactory assurances by the State that it will take the necessary "developmental steps" to meet the criteria within a 3-year period. 29 CFR 1902.2(b). The Assistant Secretary publishes a notice of "certification of completion of developmental steps" when all of a State's developmental commitments have been satisfactorily met. 29 CFR 1902.34.

When a State plan that has been granted initial approval is developed sufficiently to warrant a suspension of concurrent Federal enforcement activity, it becomes eligible to enter into an "operational status agreement" with OSHA. 29 CFR 1954.3(f). A State must have enacted its enabling legislation, promulgated State standards, achieved an adequate level of qualified personnel, and established a system for review of contested enforcement actions. Under these voluntary agreements, concurrent Federel enforcement will not be initiated with regard to Federal occupational safety and health standards in those issues covered by the State plan, where the State program is providing an acceptable level of protection.

Following the initial approval of a complete plan, or the certification of a developmental plan, the Assistant Secretary must monitor and evaluate actual operations under the plan for a period of at least one year to determine, on the basis of actual operations under the plan, whether the criteria set forth in section 18(c) of the Act and 29 CFR 1902.3, 1902.4 and 1902.37 are being applied. An affirmative determination under Section 18(e) of the Act (usually referred to as "final approval" of the State plan) results in the relinquishment of authority for Federal concurrent jurisdiction in the State with respect to occupational safety and health issues covered by the plan. 29 U.S.C. 667(e).

History of the Alaska Plan

On February 5, 1973, Alaska submitted an occupational safety and health plan in accordance with the above procedures, and on February 20, 1973, a notice was published in the **Federal Register** (38 FR 4695) concerning the submission of the plan, announcing that initial Federal approval of the plan was at issue and offering interested persons an opportunity to submit data, views and arguments concerning the plan. No comments were received.

On August 10, 1973, the Assistant Secretary published a notice (38 FR 21628) granting initial approval of the Alaska plan as a developmental plan under section 18(b) of the Act. The plan provides for a program patterned in most respects after that of the Federal Occupational Safety and Health Administration.

The Alaska Department of Labor, which is headed by a Commissioner, is designated as having responsibility for administering the plan throughout the State. The day-to-day administration of the plan is directed by the Deputy Director of the Division of Labor Standards and Safety in the Department of Labor. The plan provides for the adoption by Alaska of standards which are at least as effective as Federal occupational safety and health standards, including emergency temporary standards. The plan requires employers to do everything necessary to protect the life, safety and health of employees and to comply with all occupational safety and health standards promulgated by the agency. Employees are likewise required to comply with standards applicable to their conduct. The plan contains

provisions similar to Federal procedures for, among others, imminent danger proceedings, variances, safeguards to protect trade secrets, and employer and employee rights to participate in inspection and review proceedings. Appeals of citations, penalties and abatement periods are heard by the Occupational Safety and Health Review Board within the Department of Labor. Decisions of the Review Board may be appealed to the State Superior Court.

The notice of initial approval noted a few distinctions between the Federal and Alaska programs. The State plan does not cover safety and health in private sector maritime employment. The State's procedures for emergency rulemaking are incorporated in the Alaska Administrative Procedure Act. Unlike OSHA's six month effective period for emergency standards, Alaska's emergency standards are effective for 120 days, during which time the State must begin adoption of a permanent standard to replace the temporary requirements. The Alaska legislation specifically requires that employees receive compensation from employers for time spent aiding in an inspection and for loss of wages resulting from employee appearance at contest hearings at the employer's request or subpoena. Employees appearing at the request or subpoena of the State or Review Board are compensated by the State. The Alaska legislation also contains a parallel but more extensive provision to the Act's general duty clause which requires employers to provide protective equipment and other safeguards, technological control of hazards and monitoring of employee exposure to hazards.

The Assistant Secretary's initial approval of the developmental plan for Alaska, a general description of the plan, a schedule of required developmental steps, and a provision for discretionary concurrent Federal enforcement during the period of initial approval were codified in the Code of Federal Regulations (29 CFR Part 1952, Subpart R; 38 FR 21629 (August 10, 1973)).

In accordance with the State's developmental schedule, all major structural components of the plan were put in place and appropriate documentation submitted for OSHA approval during the three year period following commencement of State operations which ended October 1, 1976. These "developmental steps" included promulgation of State occupational safety and health standards and program regulations, completion of a compliance manual, implementation of an occupational health program, and the development of a management information system. In completing these developmental steps, the State developed and submitted for Federal approval all components of its enforcement program including, among other things, a field operations manual, management information system, agency organizational chart, merit staffing system, training program and a safety and health poster for private and public employees. These submissions were carefully reviewed by OSHA; after opportunity for public comment and modification of State submissions, where appropriate, the major plan elements were approved by the Assistant Secretary as meeting the criteria of Section 18 of the Act and 29 CFR 1902.3 and 1902.4. The Alaska subpart of Title 29 was amended to reflect each of these approval determinations (see 29 CFR 1952.244).

During 1975, the Alaska plan had met the OSHA requirements for an operational status agreement. A **Federal Register** notice was published on September 2, 1975 (40 FR 40157), announcing that an operational status agreement had been signed on August 27, 1975 for Alaska. Under the terms of that agreement, OSHA voluntarily suspended the application of concurrent Federal enforcement authority with regard to Federal occupational safety and health standards in all issues covered by the Alaska plan.

On September 13, 1977, in accordance with procedures at 29 CFR 1902.34 and 1902.35, the Assistant Secretary certified that Alaska had satisfactorily completed all developmental steps (42 FR 45905). In certifying the plan, the Assistant Secretary found the structural features of the program—the statute, standards, regulations, and written procedures for administering the plan—to be at least as effective as corresponding Federal provisions. Certification does not entail findings or conclusions by OSHA concerning adequancy of performance. As has already been noted, OSHA regulations provide that certification initiates a period of evaluation and monitoring of State activity to determine, in accordance with section 18(e) of the Act, whether the statutory and regulatory criteria for State plans are being applied in actual operations under the plan and whether final approval should be granted.

History of the Present Proceeding

Procedures for final approval of State plans are set forth at 29 CFR Part 1902, Subpart D. On April 20, 1984 the Occupational Safety and Health Administration published notice of the eligibility of the Alaska State plan for a determination under section 18(e) of the Act as to whether final approval of the plan should be granted (49 FR 16813). The determination of eligibility was based on monitoring of State operations for at least one year following certification, State participation in the Federal-State Unified Management Information System, and staffing which meets the compliance staffing benchmarks established under a court order in *AFL–CIO* v. *Marshall* (CA 74–406).

The April 20 **Federal Register** notice set forth a general description of the Alaska plan and summarized the results of Federal OSHA monitoring of State operations during Fiscal Year 1983. In addition to the information set forth in the notice itself, OSHA submitted, as part of the record in this rulemaking proceeding, extensive and detailed exhibits documenting the plan, including copies of the State legislation, administrative regulations and procedural manuals under which Alaska operates its plan, and copies of all previous **Federal Register** notices regarding the plan.

A copy of the February 8, 1984 Annual Evaluation Report of the Alaska plan ("FY 1983 Evaluation Report" or "18(e) Evaluation Report"), which was extensively summarized in the April 20 proposal and which provided the principal factual basis for the proposed 18(e) determination, was included in the record (Ex. 2–8). Available data on Fiscal Year 1984 State performance through March 1984 was submitted into the record ("FY 1984 data," Ex. 2–31k) and was fully considered in the final approval process. The FY 1984 data is generally comparable to that covering FY 1983. In addition, copies of all OSHA evaluation reports on the plan since its certification as having completed all developmental steps were made part of the record. To assist and encourage public participation in the 18(e) determination, copies of the complete record were maintained in the OSHA Docket Office in Washington, D.C., in the OSHA Region X Office in Seattle, Washington, in the OSHA Area office in Anchorage, Alaska and at the office of the Alaska Department of Labor in Juneau. Summaries of the April 20 proposal, with an invitation for public comments and testimony, were published in Alaska on April 27, 28, and 30, 1984 (Ex. 1).

The April 20 proposal invited interested persons to submit, by May 22, 1984, written comments and views regarding the Alaska plan and whether

final approval should be granted. Eighteen comments were received in response to this notice. Fourteen comments were received from organized labor, one from an employer group in Alaska, one from another State with an occupational safety and health plan, and two from private employers.

Public participation was also invited at an informal public hearing which was held on June 7, 1984 at the Old Federal Building in Anchorage. Appearing at the hearing were a panel of Federal officials responsible for evaluating and monitoring the plan including James W. Lake, OSHA Region X Regional Administrator, and Barbara Bryant, OSHA's Director of the Office of State Programs in Washington, DC. Alaska Commissioner of Labor Jim Robison gave testimony regarding the Alaska plan. Two representatives of organized labor, three individuals representing businesses or business organizations, one representative of a professional safety group, and one representative from a State government agency participated in the hearing by presenting oral and, in some cases, written testimony (Ex. 4–2 through 4–6).

At the close of that hearing OSHA requested, and the presiding Administrative Law Judge granted, a 30-day posthearing comment period for the submission of any additional written testimony and comments. Comments were received from the State of Alaska (Ex. 7), a local union representative (Ex. 5), and the U.S. Congressman for Alaska (Ex. 6).

The record for this 18(e) proceeding was certified as closed on July 9, 1984 by the Chief Administrative Law Judge, who presided at the June 7, 1984 hearing.

Summary and Evaluation of Comments Received

At numerous times during this rulemaking, OSHA has encouraged interested members of the public to provide information and views regarding operations under the Alaska plan, to supplement the information already gathered during OSHA monitoring and evaluation of plan administration.

In response to the April 20 **Federal Register** notice, OSHA received comments from the American Federation of Labor and Congress of Industrial Organizations (AFL–CIO), James N. Ellenberger, Specialist, Department of Occupational Safety, Health and Social Security (Ex. 3–1); Cominco American Inc., M.J. Klein, Vice President, Human Resources and Administration (Ex. 3–2); Michigan Department of Labor, Douglas Earle, Director, Bureau of Safety and Regulation (Ex. 3–3); Associated General Contractors of America, Inc., William F. Reeves, General Counsel (Ex. 3–4); Alaska Public Employees Association, Cherie Shelley, Executive Director (Ex. 3–5); Inland Boatmen's Union of the Pacific, Mike Wilson, Assistant to the Regional Director (Ex. 3–8); International Longshoremen's & Warehousemen's Union, Larry Cotter, President, Local 200 (Ex. 3–9); United Union of Roofers, Waterproofers and Allied Workers, Ray M. Brown, Business Representative, Local 190 (Ex. 3–10); International Brotherhood of Painters and Allied Trades, Rudy J. Trosciair, Business Manager, Local 1140 (Ex. 3–11); International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers, & Helpers, David E. Chess, Business Manager/Secretary-Treasurer, Local 498 (Ex. 3–12); International Union of Operating Engineers, James D. Johnson, District Representative, Local #302-District #8 (Ex. 3–13); International Association of Bridge, Structural and Ornamental Iron Workers, John A. Abshire, Business Manager, Local 751 (Ex. 3–15); Alaska Fishermen's Union, Walter J. Smith, Secretary-Treasurer (Ex. 3–16); Association of Western Pulp and Paper Workers, Wayne Weihing, Chairman, Local 783 (Ex. 3–17); Anchorage Building & Construction Trades Council, Russell J. Anderson, Project Director, Apprentice Outreach Program (Ex. 3–18); International Association of Heat and Frost Insulators & Asbestos Workers, Kenneth M. Don, Vice-President, Local 197 (Ex. 3–19); United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry, G.L. Metcalf, Business Manager, Local 367 (Ex. 3–20); and Parker Drilling Company, John Haynes, Safety Director (Ex. 3–22).

Several of the comments of the AFL–CIO (Ex. 3–1) did not discuss actual State performance but rather were directed toward OSHA's system for monitoring and evaluation of State plans and the requirements that a State must meet to be eligible for final approval.

As stated at the hearing, the evaluation of the Alaska plan was conducted in accordance with OSHA's new State plan monitoring and evaluation system. This system uses statistical data to compare Federal and State performance on a number of criteria, or measures. Significant differences between the two are evaluated to determine whether these differences, viewed within the framework of overall State plan administration, detract from the State's effectiveness and potentially render it less effective than the Federal program (Ex. 4–2).

Some of the AFL–CIO's comments on the proposed determination addressed the methods OSHA currently uses to evaluate the performance of State plan operations as well as specific State performance. The AFL–CIO expressed concern that Federal OSHA through its monitoring system will try to limit these areas of State performance which exceed OSHA's enforcement efforts in several areas. However, OSHA never intended that superior performance would result in any negative action. Statistical outliers display differences, not necessarily deficiencies. If further review related to an outlier determines stronger State performance, clearly no negative determination will be made.

The AFL–CIO's comments also expressed concern over OSHA procedures for treating Complaints About State Program Administration (CASPA's), which now provide States the first opportunity to investigate allegations internally. The concern was that after final approval, these procedures would apply in Alaska. Actually, the procedures apply for all States regardless of 18(e) status. Even so, OSHA does not consider that State investigation will result in unfair disposition of complaints, because Federal review of State conclusions is required, and Federal investigation of complaints not satisfactorily addressed by the State will be conducted.

One of the concerns expressed in the comment received from Wayne Weihing, chairman of Local 783 of the Association of Western Pulp and Paper workers alleged that a State representative at an Alaska Loggers Safety Conference recommended that employers should contest all citations. In its post hearing comments, the State explained that its representative was responding directly to an employer's question as to his rights if he disagreed with a citation, and that Mr. Weihing misconstrued the response.

A comment from Douglas R. Earle, Director of Michigan's Bureau of Safety and Regulation supported final approval of the Alaska plan, citing exemplary administration of its program. Mr. Earle also included a general objection ot OSHA's requirement of State participation in the United Federal/State Management Information System (Uni-MIS) in order to receive final approval consideration (Ex. 3–3). (Alaska had been a participant since June 1982.) As discussed above, OSHA's evaluation of State performance is based on a comparison of Federal and State statistical data. Since the majority of this data is provided through State participation in the Uni-MIS, such

participation is appropriate and essential to OSHA's ability to make substantiated determinations under section 18(e) of the Act as to whether a State's actual operation is "at least as effective" as the Federal program. Thus, OSHA believes that the Uni-MIS is a reasonable and highly useful exercise by OSHA of its statutory authority to obtain from States "information in such form as the Secretary may from time to time require," 29 U.S.C. 667(c)(8).

The remaining fifteen prehearing comments expressed general support for final approval on the grounds of State competence, responsiveness, and specific knowledge of local conditions.

Seven public witnesses presented oral testimony at the June 7 hearing; two of the witnesses presented written statements for the record. The testimony unanimously supported final approval of the Alaska plan.

Raymond A. Elleven, president of Alaska's chapter of the American Society of Safety Engineers, indicated his organization's support for final plan approval because the State has demonstrated its capability to meet or exceed Federal safety and health requirements and procedures over the course of its plan operation (Ex. 4–6).

Clifford B. Hustead appeared on behalf of the Alaska Loggers' Association for which he is safety advisor, and the Alaska Timber Insurance Exchange, for which he is safety director, and expressed those organizations' support for final approval. Mr. Hustead felt that State personnel were well-informed and that inspections were thorough, and that the agency maintained good communication with his organizations to promote safety (Ex. 4–4 and 4–6).

Al Baffone, business manager and secretary/treasurer with the Laborers' International Local #71 (AFL–CIO) which represents public employees in Alaska, appeared in support of final approval. Mr. Baffone testified that the State has been providing competent enforcement and education in safety and health and that the State is capable of operating independently. Mr. Baffone also indicated that the continued Federal authority to monitor and, if necessary, reconsider final approval will provide ample safeguards of continued effectiveness (Ex. 4–6).

Warren Gore, who is president of the Alaska State AFL–CIO, indicated his organization's support for final approval. Mr. Gore described the Alaska program and personnel as very responsive to the safety and health needs of his membership, and knowledgable of local working conditions and practices. Mr. Gore considered the State deserving of the recognition of effectiveness conferred by an affirmative 18(e) decision (Ex. 4–5, and 4–6).

Duane Taylor, safety director for Frontier Companies of Alaska, which are engaged in construction and oil field related industry, expressed his favorable opinion of the State's operations, citing the State's cooperative attitude and its commitment to considering local needs in drafting policies and regulations (Ex. 4–6).

Sandy Stark, who works in the area of safety and health for the J.B. Gottstein Company, a wholesale grocery firm, appeared in support of final approval. Ms. Stark characterized State compliance efforts as extremely thorough, professional, and helpful, with follow through communication after the inspection to provide help in attaining abatement of hazards. Ms. Stark also commended the State education and training efforts, and its non-adversarial relations with employers, employees, and the public (Ex. 4–6).

Major Vern Watts appeared as a representative of the Department of Military and Veterans' Affairs, and supported final approval. Mr. Watts' agency is composed of a cross section of Federal civilian and military employees and State employees. In his capacity as safety officer, Mr. Watts lauded the assistance provided to his in coming to terms with technical requirements of the standards (Ex. 4–6).

Three post hearing comments were submitted to the record. Jim Robison, Commissioner of the Alaska Department of Labor, submitted comments which addressed in detail the issues raised concerning the State's program by the National AFL–CIO and Local 783 of the Association of Western Pulp and Paper workers in their comments (Ex. 4–6). Ralph Mingo, security/safety coordinator for Local 959 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers and America, expressed support based on the helpful, highly professional service by the State (Ex. 5). U.S. Congressman Don Young of Alaska also expressed support for final approval, citing Alaska's outstanding efforts in program development and operation (Ex. 6).

Some of the comments and testimony discussed above also addressed OSHA's findings on areas of State performance as described in the FY 1983 Evaluation Report. All of these comments relate to specific indices or factors for determination in making a decision on final approval of a State plan (see 29 CFR 1902.3, 1902.4 and 1902.37) and are therefore addressed in the Findings and Conclusions section of this notice.

Findings and Conclusions

As required by 29 CFR 1902.41, in considering the granting of final approval to a State plan OSHA has carefully and thoroughly reviewed all information available to it on the actual operation of the Alaska State plan. This information has included all previous evaluation findings since certification of completion of the State plan's developmental steps, especially those for Fiscal Year 1983, data for Fiscal Year 1984 from October 1983 through March 1984, and information presented in written submissions and at the informal public hearing held on June 7, 1984. Findings and conclusions in each of the areas of performance are as follows.

(1) Standards

Section 18(c)(2) of the Act requires State plans to provide for occupational safety and health standards which are at least as effective as Federal standards. Such standards where not identical to the Federal must be promulgated through a procedure allowing for consideration of all pertinent factual informaton and participation of all interested persons (29 CFR 1902.4(b)(2)(iii)); must, where dealing with toxic materials or harmful physical agents, assure employee protection throughout his or her working life (29 CFR 1902.4(b)(2)(i)); must provide for furnishing employees appropriate information regarding hazards in the workplace through labels, posting, medical examinations, etc. (29 CFR 1902.4(b)(2)(vi)); must require suitable protective equipment, technological control, monitoring, etc. (29 CFR 1902.4(b)(2(vii)); and where applicable to a product must be required by compelling local conditions and not pose an undue burden on interstate commerce (29 CFR 1902.3(c)(2)).

As documented in the approved Alaska State plan and OSHA's evaluation findings made a part of the record in this 18(e) determination proceeding, and as discussed in the April 20 notice, the Alaska plan provides for the adoption of standards and amendments thereto which are identical to or at least as effective as Federal standards. The State's law and regulations, previously approved by OSHA and made a part of the record in this proceeding (Ex. 2–4 and 2–5), include provisions addressing all of the structural requirements for State standards set out in 29 CFR Part 1902.

In order to qualify for final State approval, a State program must be found

to have adhered to its approved procedures (29 CFR 1902.37(b)(2)); to have timely adopted identical or at least as effective standards, including emergency temporary standards and standards amendments (29 CFR 1902.37(b)(3)); to have interpreted its standards in a manner consistent with Federal interpretations and thus to demonstrate that in actual operation State standards are at least as effective as the Federal (29 CFR 1902.37(b)(4)); and to correct any deficiencies resulting from administrative or judicial challenge of State standards (29 CFR 1902.37(b)(5)).

As noted in OSHA's FY 1983 Evaluation Report and summarized in the April 20, 1984 **Federal Register** notice, Alaska had for several years experienced difficulty in complying with the six-month time frame for responding to Federal standards changes required by 29 CFR Part 1953. This was primarily the result of delays in the State Attorney General's Office, which is responsible for review and concurrence with all standards actions, and for filing as official with the Lieutenant Governor. In June 1983 the State obtained assurance from the Attorney General's Office that it would assign sufficient priority to this process to ensure timely adoption and promulgated all previously delayed standards changes. At the time of the June 7 public hearing Alaska had subsequently adopted all standards changes in a timely manner, with exception for standards actions for which the State properly requested and received extensions. (These were for two technically complex standards, the Hearing Conservation Amendment and the Hazard Communication Standard.)

The prehearing comments from the ALF-CIO expressed concern that Alaska's actions with respect to Federal standards changes were not completed in a timely manner (Ex. 3-1). As pointed out in Alaska's posthearing comments (Ex. 7), however, the State had brought its standards to current status in June 1983, and continued to maintain that status. The State also took steps to ensure standards promulgation received priority within the Department and from the Attorney General's Office.

Comment at the hearing on the quality of State standards was favorable. One witness testified that State standards are often more stringent than Federal standards and are adapted to local needs, citing the State's blasting code as an example (Testimony of Duane Taylor, Frontier Companies of Alaska, Ex. 4-6).

As already noted, the Alaska plan likewise adopts standards interpretations which are as effective as the Federal. OSHA monitoring has found that the State's application of its standards is comparable to Federal standards application. No challenges to State standards have occurred in Alaska.

Therefore, in accordance with section 18(c)(2) of the Act and the pertinent provisions of 29 CFR 1902.3, 1902.4 and 1902.37, OSHA finds the Alaska program in actual operation to provide for standards adoption, correction when found deficient, interpretation and application, in a manner at least as effective as the Federal program.

(2) Variances

A State plan is expected to have the authority and procedures for the granting of variances comparable to those in the Federal program (29 CFR 1902.4(b)(2)(iv)). The Alaska State plan contains such provisions in both law and regulations which have been previously approved by OSHA. In order to qualify for final State plan approval permanent variances granted must assure employment equally as safe and healthful as would be provided by compliance with the standard (29 CFR 1902.37(b)(6)); temporary variances granted must assure compliance as early as possible and provide appropriate interim employee protection (29 CFR 1902.37(b)(7)). As noted in the FY 1983 Evaluation Report and the April 20 notice, four permanent variances were granted in FY 1983. The action on these requests were in accordance with the State's procedure and the granted variances provided protection equivalent to that provided under the standard. No temporary variances were requested (18(e) Evaluation Report, pp. 6-7). No variances were granted during the first six months of FY 1984. Accordingly, OSHA finds that the Alaska program effectively grants variances from its occupational safety and health standards.

(3) Enforcement

Section 18(c)(2) of the Act and 29 CFR 1902.3(d)(1) require a State program to provide a program for enforcement of State standards which is and will continue to be at least as effective in providing safe and healthful employment and places of employment as the Federal program. The State must require employer and employee compliance with all applicable standards, rules and orders (29 CFR 1902.3(d)(2)) and must have legal authority for standards enforcement including compulsory process (29 CFR 1902.4(c)(2)). The Alaska law (Alaska Statutes 18.60.010 through 18.60.105) and implementing regulations previously approved by OSHA establish employer and employee compliance responsibility and contain legal authority for standards enforcement in terms virtually identical to those in the Federal Act. In order to be qualified for final approval, the State must have adhered to all approved procedures adopted to ensure an at least as effective compliance program (29 CFR 1902.37(b)(2)). Both the FY 1983 Evaluation Report and FY 1984 data show no lack of adherence to such procedures.

(a) *Inspections.* A plan must provide for inspection of covered workplaces, including in response to complaints, where there are reasonable grounds to believe a hazard exist (29 CFR 1902.4(c)(2)(i)). As noted in the April 20, 1984 **Federal Register** notice Alaska follows a similar policy to Federal, i.e. promptly responding to all employee complaints by either inspection or letter to employer. In FY 1983 59.1% of complaints and in the first six months of FY 1984 51% of complaints resulted in an inspection (FY 1983 Evaluation Report, p. 53, and Ex. 2-31 k). At the hearing the president of the Alaska State AFL-CIO, Warren Gore, praised the State's responsiveness to serious complaints (Ex. 4-5).

The AFL-CIO's letter (Ex. 3-1) voiced concern that Alaska adopted OSHA's policy of responding to informal complaints with a letter to the employer rather than an inspection. OSHA feels that this policy does not reduce protections against the more serious hazards, but rather frees up resources otherwise devoted to inspections of non-high risk employers. Additionally, in its post-hearing statement (Ex. 7), Alaska explained that most nonformal complainants have been satisfied that abatement has been obtained, when a letter was used to pursue abatement. For employees who are not satisfied with the employers' actions, an inspection is scheduled. The State asserts that employees are strongly encouraged to make their complaints formally, and that the majority of complaints are filed formally.

In order to qualify for final approval, the State program, as implemented, must allocate sufficient resources toward high-hazard workplaces while providing adequate attention to other covered workplaces (29 CFR 1902.37(b)(8)). The FY 1983 Evaluation Report indicates that 98.6% of State programmed (general schedule) inspections in FY 1983 were conducted in high-hazard industries, and 98.3% in the first six months of FY 1983, which exceeds the Federal average and therefore compares favorably with Federal performance (Ex. 2-31 k).

Alaska utilizes a high hazard list to schedule programmed inspections, as does OSHA. It should be noted that Alaska concentrated its programmed safety inspections in the construction industry and has supplemented its safety and health lists with local emphasis lists (Evaluation Report, p. 49).

To ensure that sufficient compliance efforts are conducted on the North Slope of the State, where large scale oil exploration and development is ongoing, the AFL–CIO suggested that Alaska permanently station compliance officers there (Ex. 3–1). However, in Alaska's posthearing statement for the record (Ex. 7), the State explains that the North Slope is readily accessible from its Fairbanks and Anchorage offices by a short plane trip, and that it has indeed performed a volume of inspections since operations began there. According to the State, all major construction and drilling operations in that area have been inspected. In stationing a permanent inspector on the North Slope the State would encounter problems with procuring limited office space, paying the additional expense of housing the inspector (which would almost double the cost of an Anchorage-based inspector), and complying with the practice on the North Slope of giving an employee a week off for each week worked. The State concluded that the expense and administrative problems far outweigh any practical benefit of stationing an inspector on the North Slope.

(b) *Employee Notice and Participation in Inspections.* In conducting inspections the State plan must provide an opportunity for employees and their representatives to point out possible violations through such means as employee accompaniment or interviews with employees (29 CFR 1902.4(c)(2)(ii)). The State's procedures require compliance officers to provide this opportunity. In FY 1983, employee representatives exercised the right to accompany inspectors on 34.7% of all initial inspections, and 31.1% during the first six months of FY 1984. From this data OSHA concluded that employee representation was properly provided in State inspections (Evaluation Report, p. 63; Ex. 2–31 k).

In addition, the State plan must provide that employees be informed of their protections and obligations under the Act by such means as the posting of notices (29 CFR 1902.4(c)(2)(iv)) and provide that employees have access to information on their exposure to regulated agents and access to records of the monitoring of their exposure to such agents (29 CFR 1902.4(c)(vi)).

To inform employees and employers of their protections and obligations, Alaska requires that a poster, which was previously approved by OSHA (41 FR 43405), be displayed in all covered workplaces. Requirements for the posting of the poster and other notices such as citations, contests, hearings and variance applications are set forth in the previously approved State law and regulations which are substantially identical to Federal requirements. Information on employee exposure to regulated agents and access to medical and monitoring records is provided through State standards, including the Access to Employee Exposure and Medical Records standard.

During FY 1983 61 posting violations were cited, and during the first six months of FY 1984, the State cited 11 instances of posting violations.

(c) *Nondiscrimination.* A State is expected to provide appropriate protection to employees against discharge or discrimination for exercising their rights under the State's program including provision for employer sanctions and employee confidentiality (29 CFR 1902.4(c)(2)(v)). The Alaska law and regulations provide for discrimination protection which is at least as effective as the Federal. The State received and satisfactorily investigated fourteen discrimination complaints during FY 1983; three discrimination complaints were received and investigated in the first six months of FY 1984 and were determined to be non-merit cases. Federal evaluation of the FY 1983 cases indicates that the State action was satisfactory (Evaluation Report p. 98).

(d) *Restraint of Imminent Danger; Protection of Trade Secrets.* A State plan is required to provide for the prompt restraint of imminent danger situations (29 CFR 1902.4(c)(2)(vii)) and to provide adequate safeguards for the protection of trade secrets (29 CFR 1902.4(c)(2)(viii)). The State has provisions concerning imminent danger and protection of trade secrets in its law, regulations and field operations manual which are similar to the Federal. The FY 1983 Evaluation Report indicate that there were 12 imminent danger situations identified; data for the first six months of FY 1984 indicate that no imminent danger situations were identified. The Evaluation Report indicated that the imminent danger situations were handled properly (Evaluation Report, p. 71). No Complaints About State Program Administration (CASPA's) have been received concerning trade secrets during either time period.

(e) *Right of Entry; Advance Notice.* A State program is expected to have authority for right of entry to inspect and compulsory process to enforce such right equivalent to the Federal program (section 18(c)(3) of the Act and 29 CFR 1902.3(e)). Likewise, a State is expected to prohibit advance notice of inspection, allowing exception thereto no broader than in the Federal program (29 CFR 1902.3(f)). Section 83 of the Alaska Law authorizes the Commissioner to enter and inspect all covered workplaces in terms substantially identical to those in the Federal Act. In addition, the Commissioner is authorized to petition the appropriate superior court for a search warrant permitting entry to inspect any workplace where entry has been refused; such orders are enforceable through contempt proceedings. The Alaska Law likewise prohibits advance notice, and implementing procedures for exceptions to this prohibition are substantially identical to the Federal.

In order to be found qualified for final approval, a State is expected to take action to enforce its right of entry when denied (29 CFR 1902.37(b)(9)) and to adhere to its advance notice procedures. During the FY 1983 evaluation period, Alaska received four refusals of entry. The State successfully obtained warrants in all of these cases (18(e) Evaluation Report, p. 58). The first six months of FY 1984 data showed that warrants were obtained for all five refusals of entry which occurred. Advance notice of inspection procedures were used once in FY 1983 and twice in the first six months of FY 1984. The 18(e) Evaluation Report indicated proper use of the procedures.

(f) *Citations, Penalties, and Abatement.* A State plan is expected to have authority and procedures for promptly notifying employers and employees of violations identified during inspection, for the proposal of effective first-instance sanctions against employers found in violation of standards and for prompt employer notification of such penalties (29 CFR 1902.4(c)(2) (x) and (xi)). The Alaska plan through its law, regulations and field operations manual, which have all been previously approved by OSHA, has established a system similar to the Federal for prompt issuance of citations to employers delineating violations and establishing reasonable abatement periods, requiring posting of such citations for employee information and proposing penalties.

In order to be qualified for final approval, the State, in actual operation, must be found to conduct competent

inspections in accordance with approved procedures and to obtain adequate information to support resulting citations (29 CFR 1902.37(b)(10)), to issue citations, proposed penalties and failure-to-abate notifications in a timely manner (29 CFR 1902.37(b)(11)), to propose penalties for first instance violations that are at least as effective as those under the Federal program (29 CFR 1902.37(b)(12)), and to ensure abatement of hazards including issuance of failure to abate notices and appropriate penalties (29 CFR 1902.37(b)(13)). Comparison of Federal and State data, as discussed in the FY 1983 Evaluation Report and data for the first six months of FY 1984, shows the State finds more violations per initial inspection (2.2 in FY 1983; 2.1 in FY 1984). Additionally, data show closely similar State percentages of not-in-compliance programmed inspections (63.8% in FY 1983; 65.6% in FY 1984) to those of Federal OSHA. In FY 1983, the State did find a somewhat lower percentage of serious safety violations (16.5%), and found a somewhat lower percentage of serious health violations in FY 1984 (10%).

The AFL-CIO in its written comments (Ex. 3–1) asserted that the level of serious citations is low in comparison with further review levels. However, the State in its response (Ex. 7) contended that since Alaska has inspected most of its high-hazard employers at least once, the rate of serious hazards should be expected to be lower upon reinspection. The State also contended that its serious citation average are actually not much lower than Federal.

As noted in the 18(e) Evaluation Report, (p. 17), monitoring has indicated that the State does effectively identify and cite violations, and that inspectors recognize and properly classify violations.

Notices of citations, penalties, and abatement periods take somewhat longer to issue than Federally (20.3 days from inspection to issuance of citation and proposed penalty in FY 1983 and 21 days in the FY 1984 data). However, the FY 1983 Evaluation Report noted that factors such as mail delay from remote locations within the State, and the practice of scheduling a series of inspections to be completed before the compliance officer returns to the office when out-of-town travel is required, unavoidably add to citation processing time.

Neither the data nor any comments suggest that the State has any problem in adequately documenting inspections to support citations.

During the evaluation period and for six months of FY 1984, penalty levels for serious violations were closely comparable to or slightly higher than Federal ($200 safety, $338 health in FY 1983; $229 safety, $225 health in first six months of FY 1984.)

The AFL–CIO commented (Ex. 3–1) that Alaska's penalties are considerably lower than the Federal averages, and that penalties are an important enforcement mechanism. The AFL–CIO noted that appropriate penalties are especially important in the case of repeat, willful and failure to abate violations. However, the State explained that the majority of employers cited are entitled to the same reduction for small establishment size as is present in Federal procedures. The State acknowledged that the average penalty for health repeat and willful violations in FY '83 was somewhat lower than Federal (the safety average was similar to Federal). However, since no willful violations were cited the State did not consider the AFL–CIO's criticism to be pertinent. (Willful penalties and repeat penalties are combined in one activity measure; willful penalties tend to be much larger than repeat and thus raise the average significantly). The State pointed out that during the first six months of FY 1984 the average State penalty for safety repeat and willful violations was almost twice the Federal average (no repeat or willful health violations were cited during that time), and that the penalty for serious violations also was above the Federal (Ex. 7). (Data on average failure to correct citations are not available for either Federal OSHA or Alaska.)

Alaska conducts a similar proportion of follow-up inspections as does Federal OSHA (5.5% of not-in-compliance inspections in FY 1983, 2.2% in FY 1984). Abatement periods are generally shorter than Federal (7.5 days for safety, 10.7 days for health in FY 1983 and 7.3 days safety, 16.4 days health in FY 1984 data).

Alaska attempts to document abatement within 30 days for all serious, willful and repeat violations. The 18(e) Evaluation Report indicates acceptable performance (p. 72).

Wayne Weihing, Chairman of Local 783 of the Association of Western Pulp and Paper Workers expressed concern (Ex. 3–17) over inadequate follow-through to ensure abatement of health violations cited at his workplace, the Louisiana Ketchikan Pulp Mill. Mr. Weihing had filed a CASPA in 1983 alleging the continued nonabatement of a violation cited by Alaska. OSHA investigated, found the complaint to be valid, and recommended State action to correct the situation. The State in its post-hearing comments described its immediate corrective actions, and mentioned that a subsequent comprehensive complaint inspection was completed to the satisfaction of the worksite's employee representatives (Ex. 7). No monitoring information or other testimony indicate this problem to be more than an isolated incident.

(g) *Contested Cases.* In order to be considered for initial approval and certification, a State plan must have authority and procedures for employer contest of citations, penalties and abatement requirements at full administrative or judicial hearings. Employees must also have the right to contest abatement periods and the opportunity to participate as parties in all proceedings resulting from an employer's contest (29 CFR 1902.4(c)(2)(xii)). Alaska's procedures for employer contest of citations, penalties and abatement requirements and for ensuring employee rights are contained in the law, regulations and field operations manual made a part of the record in this proceeding and are substantially identical to the Federal procedures. Appeals of citations, penalties and abatement periods are heard by the Occupational Safety and Health Review Board and may be further appealed to the State Superior Court. Twenty-four cases in FY 1983 and 9 cases in the first six months of FY 1984 resulted in contests. OSHA evaluation of these cases supported the conclusion that the State's enforcement actions are adequately supported.

To qualify for final approval, the State must seek review of any adverse adjudications and take action to correct any enforcement program deficiencies resulting from adverse administrative or judicial determinations (29 CFR 1902.37(b)(14)). The State had no adverse decisions which would require review or corrective action. Accordingly, OSHA finds that the Alaska plan effectively reviews contested cases.

(h) *Enforcement Conclusion.* In summary, the Assistant Secretary finds that enforcement operations provided under the Alaska plan are appropriate to the special needs of the State, competently planned and conducted, and are overall at least as effective as Federal OSHA enforcement.

(4) Public Employee Program

Section 18(c)(6) of the Act requires that a State which has an approved plan must maintain an effective and comprehensive occupational safety and health program applicable to all employees of public agencies of the State and its political subdivisions, which program must be as effective as

the standards contained in an approved plan. 29 CFR 1902.3(j) requires that a State's program for public employees be as effective as the State's program for private employees covered by the plan.

Alaska's plan provides a program in the public sector which is identical to that in the private sector, including the proposal of penalties. During FY 1983, the State conducted 41 inspections in the public sector and cited 132 violations. Proposed penalties for serious violations were comparable to those in the private sector ($224 in FY 1983, and $240 in FY 1984).

Injury and illness rates in the public sector in Alaska are much lower than those in the private sector (6.7 combined State and local government all case rate; 2.6 combined State and local government lost workday case rate in 1982). Thus, the proportion of inspections dedicated to the public sector (5.1% of total inspections in FY 1983) were considered appropriate to the needs of public employees.

Because the State treats the public sector in the same manner as the private sector, as evidenced by its written procedures, which are applicable to all covered employees, public or private, and since monitoring indicates similar performance in the public and private sectors, OSHA concludes that the Alaska program meets the criterion in 29 CFR 1902.3(j).

(5) Staffing and Resources

Section 18(c)(4) of the Act requires State plans to provide the qualified personnel necessary for the enforcement of standards. In accordance with 29 CFR 1902.37(b)(1), one factor which OSHA must consider in evaluating a plan for final approval is whether the State has a sufficient number of adequately trained and competent personnel to discharge its responsibilities under the plan.

In 1978, the Assistant Secretary was directed by the U.S. District Court for the District of Columbia (*AFL–CIO* v. *Marshall*, CA 74–406) to calculate for each plan State the number of enforcement personnel needed to assure a "fully effective" enforcement program; States must allocate sufficient staff to meet these levels or "benchmarks" in order to qualify for final approval. In 1980, OSHA submitted a Report to the Court containing the benchmarks and requiring Alaska to allocate four safety compliance officers and five health compliance officers to conduct inspections under the plan. Alaska has allocated these positions, as evidenced by the FY 1983 and 1984 Applications for Federal Assistance (Ex. 2–31 h, i, and j) in which the State has committed itself to funding the State share of salaries for eight safety inspectors and five health enforcement officers.

As noted in the **Federal Register** notice announcing certification of the completion of developmental steps for Alaska (42 FR 45905) all personnel under the plan meet civil service requirements under the State merit system, which was found to be in substantial conformity with the Standards for a Merit System of Personnel Administration by the U.S. Civil Service Commission.

The State provides continuing training for its staff. The FY 1983 Evaluation Report (p. 34) noted that the State provided an average of two weeks of formal training for all professional employees.

Because Alaska has allocated sufficient enforcement staff to meet the benchmarks currently in effect for that State, and personnel are trained and competent, the requirements for final approval set forth in 29 CFR 1902.37(b)(1), and in the 1978 Court Order and 1980 Report to the Court in *AFL–CIO* v. *Marshall, supra*, are being met by the Alaska plan.

Section 18(c)(5) of the Act requires that the State devote adequate funds to administration and enforcement of its standards. The Alaska plan was funded at $1,901,270 in Fy 1983 and $2,111,364 in FY 1984. (For each year, 50% of the funds were provided by Federal OSHA and 50% were provided by the State.)

As noted in the FY 1983 Evaluation Report, Alaska's funding appears sufficient in absolute terms; moreover, the State allocates funds at a higher rate than Federal OSHA with respect to expenditures per covered employee and provides greater compliance officer coverage (18(e) Evaluation Report, p. 112). On this basis, OSHA finds that Alaska has provided sufficient funding for the various activities carried out under the plan.

(6) Records and Reports

State plans must assure that employers in the State submit reports to the Secretary in the same manner as if the plan were not in effect (secton 18(c)(7) of the Act and 29 CFR 1902.3(k)). The plan must also provide assurances that the designated agency will make such reports to the Secretary in such form and containing such information as he may from time to time require (section 118(c)(8) of the Act and 29 CFR 19092.3(1)).

Alaska's employer recordkeeping requirements are substantially identical to those of Federal OSHA, and the State participates in the BLS Annual Survey of Occupational Illnesses and Injuries. As noted in the April 20 proposal, the State participates and has assured its continuing participation with OSHA in the combined Federal-State computerized Management Information System as a means of providing reports on its activities to OSHA.

For the foregoing reasons, OSHA finds that Alaska has met the requirements of sections 18(c)(7) and (8) of the Act on employer and State reports to the Secretary.

(7) Voluntary Compliance Program

A State plan is required to undertake programs to encourage voluntary compliance by employers by such means as conducting training and consultation with employers and employees (29 CFR 1902.4(c)(2)(xiii)).

During the FY 1983 evaluation period, Alaska provided training to 381 employers and supervisors and 1011 employees. Of the employees trained, 76% were in high hazard industries.

In the private sector, Alaska provides on-site consultative services to employers under a cooperative agreement with OSHA made pursuant to section 7(c)(1) of the Act and 29 CFR Part 1908. On-site consultation for the public sector is provided through the Alaska State plan. During the FY 1983 evaluation period, 59 on-site consultative visits were conducted in the public sector.

Accordingly, OSHA finds that Alaska has established and is administering an effective voluntary compliance program.

(8) Injury and Illness Statistics

As a factor in its 18(e) determination, OSHA must consider the Bureau of Labor Statistics annual occupational safety and health survey and other available Federal and State measurements of program impact on worker safety and health (29 CFR 1902.37(b)(15)). As noted in the 18(e) Evaluation Report, Alaska reportable injury and illness rates in absolute terms are higher than the Federal averages. It should be noted, however, that this comparative difference existed at the time of the inception of the Alaska plan in 1973. The overall trend in worker safety and health injury and illness rates since the State began enforcement of its plan compares favorably to that under the Federal program. For example, for the period 1973–1982, the all case rate for all industry declined 30% in Alaska, and the lost workday case rate for all industry in Alaska declined 12.5%.

The AFL–CIO's comments (Ex. 3–1) expressed concern over Alaska's higher injury rates and the general, if slight, increase in Alaska's rates over the last several years. In its posthearing statement (Ex. 7) the State explained

that the composition of Alaska's private sector includes proportionately more high rate employment that the National average, that its manufacturing employment is concentrated in logging and food processing, both extremely hazardous industries, and that the mandatory inclusion of statistics which reflect injuries sustained during non-work hours for employees stationed in remote areas under the State "bunkhouse" rule contributes significantly to high rates. The State also explained that the incidence rates rose slightly between 1979 and 1982 because employment levels increased substantially in Alaska in comparison to a small decrease in the National average. As has been observed by the Bureau of Labor Statistics, rising employment levels tend to coincide with higher injury levels, because of the effect of hiring new or relatively inexperienced workers who are considered more prone to be injured on the job.

Duane Taylor, representing Frontier Companies of Alaska, who testified at the June 7 hearing, also offered the theory that the State's high injury rates were significantly increased by the requirement that injuries occurring at residential facilities provided by employers in remote locations must be reported whether or not the employee was injured while working or off duty (Ex. 4–6).

As noted in the April 20 **Federal Register** notice, the 18(e) Evaluation Report concluded that although the rates exceeded Federal rates, these are explained in terms of local employment conditions. Considering the State's overall substantial decline in injury and illness rates, OSHA finds a favorable comparison between Alaska's trends in injury and illness statistics and those in States with Federal enforcement.

Decision

OSHA has carefully reviewed the record developed during the above described proceedings, including all comments and testimony received thereon. The present **Federal Register** document sets forth the findings and conclusions resulting from this review. In light of all the facts presented on the record, the Assistant Secretary has determined that the Alaska State plan for occupational safety and health in actual operation, which has been monitored for at least one year subsequent to certification, is at least as effective as the Federal program and meets the statutory criteria for State plans in section 18(e) of the Act and implementing regulations at 29 CFR Part 1902. The Alaska State plan is hereby granted final approval under Section 18(e) of the Act and implementing regulations at 29 CFR Part 1902, effective September 26, 1984.

Under this 18(e) determination, Alaska will be expected to maintain a State program which will continue to be at least as effective as operations under the Federal program in providing employee safety and health at covered workplaces. This requirement includes submitting all required reports to the Assistant Secretary as well as submitting plan supplements documenting State initiated program changes, changes required in response to adverse evaluation findings, and responses to mandatory Federal program changes. In addition, Alaska must continue to allocate sufficient safety and health enforcement staff to meet the benchmarks for State staffing established by the Department of Labor, or any revision to those benchmarks.

Effects of Decision

The determination that the criteria set forth in section 18(c) of the Act and 29 CFR Part 1902 are being applied in actual operations under the Alaska plan terminates OSHA authority for Federal enforcement of its standards in Alaska, in accordance with section 18(e) of the Act, in issues covered under the State plan. Section 18(e) provides that upon making this determination "the provisions of sections 5(a)(2), 8 (except for the purpose of carrying out subsection (f) of this section), 9, 10, 13, and 17, and standards promulgated under section 6 of this Act, shall not apply with respect to any occupational safety or health issues covered under the plan, but the Secretary may retain jurisdiction under the above provisions in any proceeding commenced under section 9 or 10 before the date of determination."

Accordingly, Federal authority to issue citations for violation of OSHA standards (sections 5(a)(2) and 9); to conduct inspections (except those necessary to conduct evaluations of the plan under section 18(f), and other inspections, investigations or proceedings necessary to carry out Federal responsibilities which are not specifically preempted by section 18(e)) (section 8); to conduct enforcement proceedings in contested cases (section 10); to institute proceedings to correct imminent dangers (section 13); and to propose civil penalties or initiate criminal proceedings for violations of the Federal Act (section 17) is relinquished as of the effective date of this determination. (Because of the effectiveness of the Alaska plan, there has been no exercise of concurrent Federal enforcement authority in issues covered by the plan since the signing of the Operational Status Agreement in June 1975.)

Federal Authority under provisions of the Act not listed in section 18(e) are unaffected by this determination. Thus, for example, the Assistant Secretary retains his authority under section 11(c) of the Act with regard to complaints alleging discrimination against employees because of the exercise of any right afforded to the employee by the Act although such complaints may be initially referred to the State for investigation. The Assistant Secretary also retains his authority under section 6 of the Act to promulgate, modify or revoke occupational safety and health standards which address the working conditions of all employees, including those in States which have received an affirmative 18(e) determination. In the event that a State's 18(e) status is subsequently withdrawn and Federal authority reinstated, all Federal standards, including any standards promulgated or modified during the 18(e) period, would be Federally enforceable in the State.

In accordance with section 18(e), this determination relinquishes Federal OSHA authority only with regard to occupational safety and health issues covered by the Alaska plan, and OSHA retains full authority over issues which are not subject to State enforcement under the plan. Thus, for example, Federal OSHA retains its authority to enforce all provisions of the Act, and all Federal standards, rules or orders which relate to safety or health in private sector maritime employment, since the issues of maritime safety and health are excluded from coverage under the Alaska plan, as well as worksites located on the navigable waters including artificial islands and on the Metlakatla Indian Community on the Annette Islands.

As provided by section 18(f) of the Act, the Assistant Secretary will continue to evaluate the manner in which the State is carrying out its plan. Section 18(f) and regulations at 29 CFR Part 1955 provide procedures for the withdrawal of Federal approval should the Assistant Secretary find that the State has substantially failed to comply with any provision or assurance contained in its plan. Additionally, the Assistant Secretary is required to initiate proceedings to revoke an 18(e) determination and reinstate concurrent Federal authority under procedures set forth in 29 CFR 1902.47, *et seq.*, if his evaluations show that the State has substantially failed to maintain a

program which is at least as effective as operations under the Federal program, or if the State does not submit program change supplements to the Assistant Secretary as required by 29 CFR Part 1953.

Explanation of Changes to 29 CFR Part 1952

29 CFR Part 1952 contains, for each State having an approved plan, a subpart generally describing the plan and setting forth the Federal approval status of the plan. 29 CFR 1902.43(a)(3) requires that notices of affirmative 18(e) determinations be accompanied by changes to Part 1952 reflecting the final approval decision. This notice makes several changes to Subpart R of Part 1952 to reflect the final approval of the Alaska plan.

A new paragraph § 1952.244 has been added to reflect the determination granting final approval of the plan. The new paragraph contains a more accurate description of the scope of the plan than the one contained in the initial approval decision.

A new § 1952.245, Level of Federal Enforcement, has been added to reflect the State's 18(e) status. The new paragraph replaces former § 1952.242, which described the relationship of State and Federal enforcement under an Operational Status Agreement which was entered into on June 5, 1975. Federal concurrent enforcement authority has been relinquished as part of the present 18(e) determination for Alaska, and the Operational Status Agreement is no longer in effect. Section 1952.245 describes the issues where Federal authority has been terminated and the issues where it has been retained in accordance with the discussion of the effects of the 18(e) determination set forth earlier in the present **Federal Register** notice.

While most of the existing Subpart R has been retained, paragraphs within the subpart have been rearranged and renumbered so that the major steps in the development of the plan (initial approval, developmental steps, certification of completion of developmental steps and final plan approval) are set forth in chronological order. Related editorial changes to the subpart include modification of the heading of § 1952.240, to clearly identify the 1973 initial plan approval decision to which it relates, and deletion of former § 1952.245, which pertained to approval of miscellaneous, unrelated plan changes. The addresses of locations where State plan documents may be inspected have been updated and are found in § 1952.241.

Regulatory Flexibility Act

OSHA certifies pursuant to the Regulatory Act of 1980 (5 U.S.C. 601, *et seq.*) that this rulemaking will not have a significant economic impact on a substantial number of small entities. Final approval will not place small employers in Alaska under any new or different requirements nor would any additional burden be placed upon the State government beyond the responsibilities already assumed as part of the approved plan. A copy of this certification has been forwarded to the Chief Counsel for Advocacy, Small Business Administration.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

(Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 9–83 (48 FR 35736))

Robert A. Rowland,

Assistant Secretary.

PART 1952—[AMENDED]

Accordingly, Subpart R of 29 CFR Part 1952 is hereby amended as follows:

1. Section 1952.240 is amended by revising the heading to read:

§ 1952.240 Description of the plan as initially approved.

§ 1952.243 [Redesignated as § 1952.241]

§ 1952.244 [Redesignated as § 1952.242]

2. The following paragraphs of Subpart R are redesignated as follows:

§§ 1952.241–1952.244 [Redesignated as §§ 1952.245, 1952.244, 1952.241, 1952.242 respectively]

A. section 1952.241 Where the plan may be inspected is redesignated as § 1952.245.

B. section 1952.242 Level of Federal Enforcement is redesignated as § 1952.244.

C. section 1952.243 Developmental schedule is redesignated as § 1952.241.

D. section 1952.244 Completed developmental steps is redesignated as § 1952.242.

3. New § 1952.243 is added and newly redesignated §§ 1952.244 and 1952.245 are revised as follows:

§ 1952.243 Final approval determination.

(a) In accordance with section 18(e) of the Act and procedures in 29 CFR Part 1902, and after a determination that the State met the "fully effective" compliance staffing benchmarks as established in 1980 in response to a Court Order in *AFL–CIO* v. *Marshall*, (CA 74–406), and was satisfactorily providing reports to OSHA through participation in the Federal-State Unified Management Information, System, the Assistant Secretary evaluated actual operations under the Alaska State plan for a period of at least one year following certification of completion of developmental steps (September 9, 1977, 42 FR 54905). Based on the Evaluation Report for FY 1983 and available FY 1984 data, and after opportunity for public comment and an informal public hearing held on June 7, 1984 in Anchorage, Alaska, the Assistant Secretary determined that in actual operations, the State of Alaska occupational safety and health program is at least as effective as the Federal program in providing safe and healthful employment and places of employment and meets the criteria for final States plan approval in section 18(e) of the Act and implementing regulations at 29 CFR Part 1902. Accordingly, the Alaska plan was granted final approval and concurrent Federal enforcement authority was relinquised under section 18(e) of the Act effective September 26, 1984.

(b) The plan which has received final approval covers all activities of employers and all places of employment in Alaska except: the issue of private sector maritime employment, operations of private sector employers within the Metlakatla Indian Community on the Annette Islands, and worksites located on the navigable waters including artificial islands.

(c) Alaska is required: to maintain a State program which is at least as effective as operations under the Federal program; to submit plan supplements in accordance with 29 CFR Part 1953; to allocate sufficient safety and health enforcement staff to meet the benchmarks for State staffing established by the U.S. Department of Labor, or any revisions to those benchmarks; and, to furnish such reports in such form as the Assistant Secretary may from time to time require.

§ 1952.244 Level of Federal enforcement.

(a) As a result of the Assistant Secretary's determination granting final approval to the Alaska plan under section 18(e) of the Act, effective September 26, 1984, occupational safety and health standards which have been promulgated under section 6 of the Act do not apply with respect to issues covered under the Alaska plan. This determination also relinquishes concurrent Federal OSHA authority to issue citations for violation of such standards under sections 5(a)(2) and 9 of the Act; to conduct inspections and

investigations under section 8 (except those necessary to conduct evaluation of the plan under section 18(b) and other inspections, investigations, or proceedings necessary to carry out Federal responsibilities not specifically preempted by section 18(e)); to conduct enforcement proceedings in contested cases under section 10; to institute proceedings to correct imminent dangers under section 13; and to propose civil penalties or inititate criminal proceedings for violations of the Federal Act under section 17. The Assistant Secretary may retain jurisdiction under the above provisions in any proceeding commenced under section 9 or 10 before the effective date of the 18(e) determination.

(b) In accordance with section 18(e), final approval relinquishes Federal OSHA authority only with regard to occupational safety and health issues covered by the Alaska plan. OSHA retains full authority over issues which are not subject to State enforcement under the plan. Thus, Federal OSHA retains its authority relative to safety and health in private sector maritime activities and will continue to enforce all provisions of the Act, rules or orders, and all Federal standards, current or future, specifically directed to maritime employment (29 CFR Part 1915, shipyard employment; Part 1917, marine terminals; Part 1918, longshoring; Part 1919, gear certification) as well as provisions of general industry standards (29 CFR Part 1910) appropriate to hazards found in these employments. Federal jurisdiction will also be retained over marine-related private sector employment at worksites on the navigable waters such as floating seafood processing plants, marine construction, employments on artificial islands and diving operations in accordance with section 4(b)(1) of the Act. Federal jurisdiction is also retained for private sector worksites located within the Annette Islands Reserve of the Metlakatla Indian Community and with respect to Federal government employers and employees.

(c) Federal authority under provisions of the Act not listed in section 18(e) is unaffected by final approval of the plan. Thus, for example, the Assistant Secretary retains his authority under section 11(c) of the Act with regard to complaints alleging discrimination against employees because of the exercise of any right afforded to the employee by the Act, although such complaints may be referred to the State for investigation. The Assistant Secretary also retains his authority under section 6 of the Act to promulgate, modify or revoke occupational safety and health standards which address the working conditions of all employees, including those in States which have received an affirmative 18(e) determination, although such standards may not be Federally applied. In the event that the State's 18(e) status is subsequently withdrawn and Federal authority reinstated, all Federal standards, including any standards promulgated or modified during the 18(e) period, would be Federally enforceable in that State.

(d) As required by section 18(f) of the Act, OSHA will continue to monitor the operations of the Alaska State program to assure that the provisions of the State plan are substantially complied with and that the program remains at least as effective as the Federal program. Failure by the State to comply with its obligations may result in the revocation of the final determination under Section 18(e), resumption of Federal enforcement, and/or proceedings for withdrawal of plan approval.

§ 1952.245 Where the plan may be inspected.

A copy of the principal documents comprising the plan may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N3476, Washington, D.C. 20210; Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, Federal Office Building, Room 6003, 909 First Avenue, Seattle, Washington 98174; and Office of the Commissioner, Alaska Department of Labor, 1111 W. 8th Street, Room 306, Juneau, Alaska 99802.

[FR Doc. 84-25840 Filed 9-27-84; 8:45 am]
BILLING CODE 4510-26-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Approval of Permanent Program Amendment From the State of Illinois Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of a program amendment submitted by Illinois as an amendment to the State's permanent regulatory program (hereinafter referred to as the Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the ACT). The amendment consists of changes to the Illinois regulations concerning the exemption from prime farmland permitting requirements and performance standards.

The Illinois Department of Mines and Minerals (IDMM) submitted the proposed program amendment on March 16, 1984. OSM published a notice in the **Federal Register** on April 4, 1984, announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (49 FR 13380). The public comment period ended May 4, 1984.

By letter dated July 19, 1984, IDMM submitted a revised proposed rule which included a new provision concerning integration of the exemption decision with the permit application process. OSM reopened the comment period from August 7, 1984, to September 6, 1984, in order to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the July 19, 1984 modification.

After providing opportunity for public comment and conducting a thorough review of the program amendment, the Director has determined that the amendment, as modified on July 19, 1984, meets the requirements of SMCRA and the Federal regulations, and is approving it. The Federal rules codifying decisions concerning the Illinois program are being amended to implement this action.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. James Fulton, Director, Springfield Field Office, Office of Surface Mining, Room 20, 600 E. Monroe Street, Springfield, Illinois 62701; Telephone: (217) 492-4495.

SUPPLEMENTARY INFORMATION:

I. Background

The Illinois program was conditionally approved by the Secretary of the Interior on June 1, 1982 (47 FR 23858). Information pertinent to the general background, revisions, modifications, and amendments to the Illinois program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Illinois program can be found in the June 1, 1982 **Federal Register**.

When the Secretary approved the Illinois program he noted in response to

a comment that the Illinois program did not contain the specific criteria of 30 CFR 785.17(a), which implements section 510(d) (2) of SMCRA. Section 510(d) (2) is commonly referred to as the "grandfather clause" because it exempts certain surface coal mining operations from the applicability of SMCRA's special prime farmland permitting requirements and performance standards. The Secretary stated that because of the extensive litigation over the grandfather clause, Illinois could not have anticipated the adoption of the final Federal rule on September 29, 1981. The Secretary added that Illinois would be afforded an opportunity to amend its regulations as appropriate if necessary to make its program consistent with the September 29, 1981 rule.

In a related rulemaking, the Secretary recently announced his decision on remand of the issues involved in the *Illinois South Project, Inc.* v. *Watt* litigation (49 FR 13494, April 5, 1984). The Illinois South Project and nine other Illinois organizations challenged the Secretary's June 1, 1982 decision approving the Illinois program. The United States District Court for the Central District of Illinois remanded the case to the Secretary at his request to review the issues in light of legal developments since June 1, 1982. In his April 5, 1984 decision, the Secretary determined that the Illinois program is not fully consistent with the current Federal permanent regulatory program in several areas. The Director of OSM notified the State that certain required program amendments would be necessary as a result of the Secretary's decision. One of the program amendments required of Illinois is to revise the criteria used to determine exemptions from prime farmland requirements to be no less effective than the Federal criteria at 30 CFR 785.17(a).

The Secretary noted in his April 5, 1984 decision that Illinois had proposed such a regulation change on May 20, 1983, and had submitted the proposed regulation to OSM as a program amendment on March 16, 1984. It is that program amendment which is the subject of this rulemaking.

II. Submission of Revisions

By letter dated March 16, 1984, Illinois submitted regulatory amendments to revise the exemption from the prime farmland permitting requirements and performance standards. Specifically, Illinois revised rule 1785.17(a) which sets forth the applicability of prime farmland requirements. The rule implements section 2.08 of the Illinois statute which corresponds to section 510(d)(2) of SMCRA.

On April 4, 1984, OSM published a notice in the **Federal Register** announcing receipt of the amendment and inviting public comment on whether the proposed amendment was no less effective than the Federal regulations (49 FR 13380). The public comment period ended May 4, 1984. A public hearing scheduled for April 25, 1984, was not held because no one expressed a desire to present testimony.

During the public comment period, it was brought to OSM's attention that the proposed Illinois rule OSM had published in the April 4, 1984 **Federal Register** was different from the rule that IDMM was promulgating through its State rulemaking process. IDMM apparently submitted the proposed rule to OSM and later amended the rule as a result of comments received during the State rulemaking process. Those changes were not submitted to OSM. OSM was subsequently notified that the Joint Committee on Administrative Rules had published in the *Illinois Register* a notice of withdrawal of the proposed rulemaking because IDMM had not responded to certain objections within the statutory 90-day period. OSM discussed this matter with IDMM and by letter dated July 19, 1984, IDMM resubmitted the proposed rule in the form in which it should have been printed in the **Federal Register** for public comment.

On August 7, 1984, OSM published a notice in the **Federal Register** reopening and extending the public comment period on Illinois' proposed amendment as modified on July 19, 1984 (49 FR 31448). That comment period ended on September 6, 1984.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendment submitted by Illinois on March 16, 1984, meets the requirements of SMCRA and 30 CFR Chapter VII, as discussed below.

Finding 1

Section 510(d)(2) of SMCRA provides that the Act's special prime farmland requirements shall not apply (1) "to any permit issued prior to the date of enactment of this Act, or (2) to any revisons or renewals thereof or (3) to any existing surface mining operations for which a permit was issued prior to the date of enactment of this Act." The Federal rules at 30 CFR 785.17(a) implement section 510(d)(2) and set forth the three statutory exemptions. The third statutory exemption is the one which gave rise to much of the litigation over the Federal grandfather clause.

The Federal rule at 30 CFR 785.17(a) defines the third exemption as follows:

(3) Lands included in any existing surface coal mining operations for which a permit was issued for all or any part thereof prior to August 3, 1977, provided that:

(i) Such lands are part of a single continuous surface coal mining operation begun under a permit issued before August 3, 1977; and

(ii) The permittee had a legal right to mine the lands prior to August 3, 1977, through ownership, contract, or lease but not including an option to buy, lease, or contract; and

(iii) The lands contain part of a continuous recoverable coal seam that was being mined in a single continuous mining pit (or multiple pits if the lands are proven to be part of a single continuous surface coal mining operation) begun under a permit issued prior to August 3, 1977.

The Illinois rule, § 1785.17(a), contains two sets of standards for determining exemptions. For determinations made by IDMM prior to September 29, 1981, the date of the final Federal rule, the Illinois rule repeats verbatim the statutory language of section 510(d)(2). For determinations made or to be made after September 29, 1981, the Illinois rule contains language identical to 30 CFR 785.17(a)(1)–(4). The purpose of distinguishing between decisions made before or after September 29, 1981, is to ensure that IDMM decisions made prior to adoption of the revised Federal criteria are considered valid and not subject to review under the revised standards. The Director finds that the distinction is not inconsistent with SMCRA and the Federal rules and that the criteria established for making determinations after September 29, 1981, are no less effective than the Federal rules.

Finding 2

The Illinois rule contains several provisions in addition to those in the Federal rule. Subparagraph (5) limits the full applicability of the exemptions in subparagraphs (1)–(3) to lands permitted and exempted by an IDMM decision on applications made prior to August 1, 1982. Persons applying for exemption after July 30, 1982, may obtain such an exemption but the lands subject to the applications must comply with the prime farmland productivity standards of § 1823.15, and will be subject to the acreage limitation of subparagraph (6). Illinois has established a limitation of 13,000 acres statewide which may be grandfathered. Subparagraph (6) implements the acreage limitation and

provides that once that cumulative total has been reached, the exemption shall become unavailable to future applicants. The July 19, 1984 modification to the amendment redesignated subparagraph (7) as (7)(i) and added a new subparagraph (7)(ii). Subparagraph (7)(i) requires all applicants for an exemption to supply the IDMM with a scale map of the area proposed to be exempted, delineating all prime farmland soils, the total number of acres proposed to be exempted and the number of acres of each prime farmland soil type. Subparagraph (7)(ii) provides that IDMM will prepare a preliminary review of all requests for grandfather exemptions, and that both the request and the preliminary review will be subject to public review and comment along with the permit application to which the grandfathering request applies. IDMM's decision on the grandfather request will be included with the decision on the permit application.

The Director finds that these additional provisions are not inconsistent with the Federal rules, and are therefore no less effective than the Federal rules in meeting the requirements of the Act.

IV. Public Comments

The responses to public comments received are set forth below.

1. The Illinois South Project, Inc. [ISP] commented that the proposed amendment represents an improvement over the earlier proposal which appeared in the April 4, 1984 **Federal Register**. However, ISP believes that the amendment should not be approved because it contains a deficiency which renders it less effective than the Federal rules. ISP stated that the proposed amendment would incorporate Illinois' policy of "once grandfathered, always grandfathered" by not subjecting grandfather decisions made during the interim program to the standards contained in the permanent program rules. ISP stated that while Illinois has maintained that grandfather decisions made during the interim program included the "legal right to mine" criterion, ISP's review of IDMM's decisions shows that such was not the case. ISP contends that IDMM must re-grandfather lands originally grandfathered during the interim program. In addition, ISP questioned whether the final grandfather decision, included with the decision on the permit application, would be subject to administrative and judicial review under Part 1787 of the Illinois rules.

In responding to a public comment, the Secretary addressed the issue of "once grandfathered, always grandfathered" in his April 5, 1984 decision on remand in the *Illinois South v. Watt* litigation. The Secretary stated that he could not find support in the Federal rules for the proposal that all past grandfather decisions should be remade under revised rules (49 FR 13507, Issue IV.C.10).

Furthermore, IDMM has not contended in this rulemaking that it used the "legal right to mine" criterion for interim program decisions. Rather, IDMM has stated that it has used the criterion in all grandfather decisions since September 29, 1981, when the revised Federal rules were promulgated.

In response to ISP's concern about administrative and judicial review of grandfather decisions, the Secretary noted in his decision on remand (Issue IV.C.9., 49 FR 13507) that the permit applicant's claim that certain lands have been properly grandfathered will be subject to public comment during the permit application review period. As with any other aspect of the permit application decision, the grandfather decision will be subject to administrative and judicial review under Part 1787.

2. An acknowledgment was received from the following Federal agency.

Department of Agriculture

This agency's comments were not substantive. The disclosure of Federal agency comments is made pursuant to section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(10)(i).

V. Director's Decision

The Director, based on the above findings, is approving the March 16, 1984 amendment to the Illinois program, as modified on July 19, 1984. The Director is amending § 913.15 of 30 CFR Chapter VII to reflect approval of the above State program modification and § 913.16 to remove the related requirement, imposed on April 5, 1984, that Illinois amend its program.

VI. Procedural Requirements

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

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

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

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

List of Subjects in 30 CFR Part 913

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

Dated: September 24, 1984.

William B. Schmidt,

Acting Director, Office of Surface Mining.

PART 913—ILLINOIS

1. 30 CFR 913.15 is amended by adding a new paragraph (e) as follows:

§ 935.15 Approval of regulatory program amendments.

* * * * *

(e) The following amendment submitted to OSM on March 16, 1984, and modified on July 19, 1984, is approved effective upon promulgation of the revised rule by the State, provided the rule adopted is identical to the rule submitted to and reviewed by OSM: Illinois revised rule 1785.17(a).

2. 30 CFR 913.16 is amended by removing and reserving paragraph (b).

§ 935.16 Required program amendments.

* * * * *

(b) [Reserved]

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

[FR Doc. 84–25802 Filed 9–27–84; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 240

Indorsement and Payment of Checks Drawn on the United States Treasury

AGENCY: Bureau of Government Financial Operations, Treasury.

ACTION: Final rule.

SUMMARY: The Bureau of Government Financial Operations is amending 31 CFR 240.8(a)(1), formerly 31 CFR 240.6(a)(1), to delete the procedure whereby Federal Reserve Banks may verify the balances in the accounts of Government disbursing officers before cashing checks drawn by such disbursing officers to their own order. This action is being taken because the provision is obsolete and has caused unnecessary delays in the cashing of disbursing officers' checks. Deletion of this provision is intended to eliminate such delays, and to remove an unneeded regulation from the Code of Federal Regulations. The public will not be affected by this change.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Gary Spittle, Funds Flow Division, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226, (202) 634–5745.

SUPPLEMENTARY INFORMATION:

Background

Section 240.8(a)(1) presently contains the following sentence:

Federal Reserve Banks may ascertain from the Treasury that the balances to the credit of the disbursing officers are sufficient and thereafter payment on such checks shall not be refused except for alteration or forged signature of the drawer. (Emphasis added.)

This amendment will delete the italicized portion above.

This provision originated in Section 28 of Treasury Department Circular No. 176, issued December 31, 1919. At that time, the Treasury Department carried funded checking accounts in the name of each Government disbursing officer. Thus, each disbursing officer had an individual balance which could be verified. The above provision was apparently intended to protect Federal Reserve Banks from loss in case a disbursing officer's account was overdrawn.

However, pursuant to authority contained in section 114 of the Budget and Accounting Procedures Act of 1950, 31 U.S.C. 3513 (1982), funded checking accounts for disbursing officers were discontinued during the 1950s. Treasury Department-General Accounting Office Joint Regulation No. 4—Revised (April 29, 1955) and *id.*, Supplement No. 1 (January 10, 1957). Accordingly, the portion of the regulation which pertains to verifying the balances in the checking accounts of Government disbursing officers is obsolete and no longer serves any useful purpose. On the contrary, it has led to needless delays, often amounting to several days, in the cashing of disbursing officers' checks. Since funds are often needed for immediate disbursement in order to carry on an agency's daily activities such delays have a harmful effect on Government operations.

Therefore, this amended rule is being promulgated in order to delete the obsolete provision. This will permit Federal Reserve Banks to cash checks of Government disbursing officers upon presentation, after verification that such checks have not been altered and that they bear authorized signatures. The public will not be affected by this change.

Additional Determinations

Because the amendment relates to Treasury Department practice, relieves a restriction, and does not affect the public, the Bureau finds, pursuant to 5 U.S.C. 553(b), that notice and public comment and a delayed effective date are unnecessary.

Because this rule relates to agency management, it is not subject to the provisions of Executive Order 12291. Because no Notice of Proposed Rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

List of Subjects in 31 CFR Part 240

Banks, Banking, Forgery, Treasury checks.

PART 240—INDORSEMENT AND PAYMENT OF CHECKS DRAWN ON THE UNITED STATES TREASURY

For the reasons set forth in the preamble, 31 CFR Part 240 is amended as follows:

1. The authority citations continue to read as follows:

Authority:—5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 3331; 31 U.S.C. 3343; 31 U.S.C. 3711; 31 U.S.C. 3716; 31 U.S.C. 3717; 332 U.S. 234 (1947); 318 U.S. 363 (1943).

2. By revising paragraph (a) of § 240.8 to read as follows:

§ 40.8 Processing of checks.

(a) *Federal Reserve Banks.* (1) Federal Reserve Banks shall cash checks for Government disbursing officers when such checks are drawn by the disbursing officers to their own order. Payment of such checks shall not be refused except for alteration or forged signature of the drawer.

* * * * *

Dated: September 13, 1984.

W.E. Douglas,

Commissioner.

[FR Doc. 84-25837 Filed 9-27-84; 8:45 am]

BILLING CODE 4810-35-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD Regulation 6010.8-R]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Postmastectomy Reconstructive Breast Surgery

AGENCY: Office of the Secretary, DoD.

ACTION: Amendment of final rule.

SUMMARY: This final rule amends the comprehensive CHAMPUS Regulation, DoD 6010.8–R (32 CFR Part 199), pertaining to the three year limitation for CHAMPUS coverage of postmastectomy reconstructive breast surgery. CHAMPUS provisions requiring a three year limitation between mastectomy and reconstruction automatically denied reconstruction benefits to those individuals who had had a medically necessary mastectomy three years prior to October 1, 1980, the effective date for CHAMPUS coverage of reconstructive breast surgery. This amendment would delete any requirement for a time limitation for reconstructive breast surgery.

EFFECTIVE DATE: This amendment is retroactively effective to October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Charles E. Guidice, Policy Branch, OCHAMPUS, telephone (303) 361–3586.

SUPPLEMENTARY INFORMATION: In FR Doc. 77–7834, appearing in the Federal Register on April 4, 1977 (42 FR 17972), the Office of the Secretary of Defense published its regulation, DoD 6010.8–R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)," as Part 199 of this title.

Amendment No. 9, published in the Federal Register on November 10, 1981 (46 FR 55515), authorized benefits for postmastectomy reconstructive breast surgery when the mastectomy was performed as a result of carcinoma, fibrocystic disease, other nonmalignant tumors, or traumatic injuries, up to three years postmastectomy, retroactively effective for services rendered on and after October 1, 1980.

The time limit of three years for reconstruction of the breast following a mastectomy was based on opinions of experts who indicated no need for a delay period between mastectomy and reconstruction. Research showed, that while there are not concrete rules concerning a specific time limitation on postmastectomy reconstructive breast surgery, very few experts still advocate obligatory intervals such as 2, 3, or 5 years before starting reconstruction and indicated that it is cruel to ask a patient to wait until there is no doubt that they are cured before proceeding with reconstruction. Such a determination cannot be made with certainty in the case of breast cancer for 10 or even 20 years.

Current CHAMPUS policy does allow for an exception to the three year limit between mastectomy and reconstruction when medical indications justify the delay, however, the issue has again been raised and concerns those individuals who had a mastectomy prior to the date of the amendment which allowed for reconstructive breast surgery. The amendment is viewed as inequitable to those beneficiaries who had a mastectomy performed when reconstruction was still considered an unsafe procedure, or those, who, for economic reasons delayed the procedure, unaware of a time limitation being imposed once reconstructive benefits were established.

Accordingly, this amendment is the result of an administative reevaluation and the consideration of public comments concerning the application of a time limitation between an established benefit (a medically necessary mastectomy) and a new benefit (reconstruction of the breast) effective on October 1, 1980; that is, an inequity to those beneficiaries who had a mastectomy more than three years prior to the effective date for authorized reconstructive breast surgery without prior knowledge of a forthcoming time limitation. Therefore, it is felt that this change should be published as a final amendment, as a time delay to publish as a proposed amendment would not be in the best interest of anyone concerned.

This final amendment will allow benefits for reconstructive breast surgery, without a time limitation between mastectomy and reconstruction.

List of Subjects in 32 CFR Part 199

Health insurance, Military personnel, Handicapped.

PART 199—IMPLEMENTATION OF THE CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES

Accordingly, 32 CFR, Chapter I is amended as follows:

1. Section 199.10 is amended by revising paragraph (e)(8)(i)(*e*) to read as follows:

§ 199.10 Basic program benefits.

* * * * *

(e) * * *

(8) * * *

(i) * * *

(*e*) Generally benefits are limited to those cosmetic, reconstructive and/or plastic surgery procedures performed no later than December 31 of the year following the year in which the related accidental injury occurred, except for authorized postmastectomy breast reconstruction for which there is no time limitation between mastectomy and reconstruction. Also, special consideration for exception will be given to cases involving children who may require a growth period.

* * * * *

(10 U.S.C. 1079, 1086; 5 U.S.C. 301)

Patricia H. Means,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 84-25832 Filed 9-27-84; 8:45 am]

BILLING CODE 3810-01-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

41 CFR Part 51-5

Procurement Requirements and Procedures; Change of Address

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Final rule.

SUMMARY: This action changes the addresses of the central nonprofit agencies which the Committee for Purchase from the Blind and Other Severely Handicapped has designed to represent blind and other severely handicapped workshops participating in the Committee's program.

EFFECTIVE DATE: September 21, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: The National Industries for the Blind has moved from 3530 Moncure Avenue, Falls Church, Virginia 22041 to 1901 North Beauregard Street, Suite 200, Alexandria, Virginia 22311.

The National Industries for the Severely Handicapped has moved from 4350 East-West Highway, Suite 1120, Washington, D.C. 20014 to 2235 Cedar Lane, Vienna, Virginia 22080.

PART 51-5—[AMENDED]

Therefore, the addresses of the above agencies shown in 41 CFR 51-5.1-2(b) should be changed.

§ 51-5.1-2 [Amended]

Accordingly, the addresses of the two central nonprofit agencies listed in 41 CFR 51-5.1-2(b) are changed to read as follows:

Agency	Agency symbol
National Industries for the Blind, 1901 North Beauregard Street, Suite 200, Alexandria, Virginia 22311	1B
National Industries for the Severely Handicapped, 2235 Cedar Lane, Vienna, Virginia 22080	SH

(41 U.S.C. 46-48c)

C.W. Fletcher,

Executive Director.

[FR Doc. 84-25779 Filed 9-27-84; 8:45 am]

BILLING CODE 6820-33-M

41 CFR Parts 51-7 and 51-8

Public Availability of Agency Materials and Privacy Act Rules; Change of Address

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Final rule.

SUMMARY: This action changes the address of the Committee for Purchase from the Blind and Other Severely Handicapped shown in Chapter 51, Title 41, Code of Federal Regulations.

EFFECTIVE DATE: September 21, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: The Committee for Purchase from the Blind and Other Severely Handicapped has moved from 2009 14th Street North, Suite 610, Arlington, Virginia 22201 to Crystal

Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

PART 51-7—[AMENDED]

Accordingly, the Committee amends 41 CFR Chapter 51 as follows:

§ 51-7.4 [Amended]

1. Section 51-7.4 (a) and (b) are amended by removing "2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201", and inserting in lieu thereof "Crystal Square 5, Suite 1107, 1155 Jefferson Davis Highway, Arlington, Virginia 22202".

(5 U.S.C. 552)

§ 51-8.401 [Amended]

2. In § 51-8.401(a) change "2009 14th Street N., Arlington, Virginia 22201" to read "Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202".

PART 51-8—[AMENDED]

§ 51-8.405 [Amended]

3. In § 51-8.405(a), change "2009 14th Street N., Suite 610, Arlington, Virginia 22201" to read "Crystal Square 5, Suite 1107, 1155 Jefferson Davis Highway, Arlington, Virginia 22202".

(5 U.S.C. 552a)

C.W. Fletcher,

Executive Director.

[FR Doc. 84-25780 Filed 9-27-84; 8:45 am]

BILLING CODE 6820-33-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 11

Collection of Debts by the Government Under the Debt Collection Acts

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: The regulation in this subpart sets forth policies and procedures by which FEMA collects debts due the United States under programs administered by the Agency. It also establishes standards for the compromise of such debts. The regulation implements the provisions of the Debt Collection Act of 1982 (Pub. L. 97-365) and previous Federal debt collection legislation (31 U.S.C. 3711 *et seq.*). The regulation is being republished to implement guidance provided by the General Accounting Office, Department of Justice, and the Office of Personnel Management since prior publication. The present version of the regulation also changes the wording of the existing rule to describe a "debt collection" rather than a "claims collection" process.

DATE: This regulation takes effect October 29, 1984.

FOR FURTHER INFORMATION CONTACT: Lt. Col. Richard S. Buck, Attorney-Advisor, Office of General Counsel, Telephone (202) 287-0385.

SUPPLEMENTARY INFORMATION: This final rule updates a prior final rule published by FEMA on September 29, 1983 to implement Federal Claims Collection Standards promulgated jointly by the General Accounting Office and the Department of Justice on March 9, 1984. It also implements a proposed rule by the Office of Personnel Management published on September 26, 1983 on the use of salary offset from pay due Federal employees, military personnel, and retirees. The proposed rule changes the wording of the present regulation to describe a "debt collection" program rather than one for "claims collection."

Throughout the regulation, the process of collecting monies due the United States under programs administered by FEMA is referred to as "debt collection" rather than "claims collection" in order to avoid confusion with the claims made under the Federal Tort Claims Act (28 U.S.C. 267 *et seq.*) and Subpart B of this Part. Most of the present regulation's references to "claims" have been changed to "debt" or "debts."

The chief of FEMA's efforts to collect monies owed the United States under FEMA-administered programs is the "Agency Collections Officer" rather than the "Agency Claims Officer." This change is used to avoid the connotation that this official has responsibilities under the Federal Tort Claims Act. Each office now has a "Debt Collections Officer" under the proposed rule rather than a "Claims Collections Officer" as is used in the present regulation.

Section 11.45 (Collection by Salary Offset) has been extensively changed to implement recent guidance provided in a new office of Personnel Management regulation, 5 CFR which outlines procedural safeguards for debtors who are being subjected to offset procedures from pay due them as Federal employees, military personnel, and retirees. The form of the notice to the debtor concerning a proposed offset (§ 11.45(b)(7) was changed to require that such debtors be advised of any potential waivers or remissions of the debt available under the statute giving rise to the debt. Debtors are granted 20 calendar days rather than 15 days in which to request a hearing (see § 11.45(c).). A new § 11.45(e) has been added which provides that the informal hearing procedure available under § 11.45(c) is not available in cases involving changes in coverage under a Federal benefits program of where there are ministerial adjustments in pay which cannot be effectuated immediately.

Sections 11.50 and 11.51 relating to standards for compromise, suspension or termination of debt collection actions have been revised in accordance with recently issued guidelines from the General Accounting Office and the Department of Justice (see 4 CFR Parts 101 through 105 published at 49 FR 8889 through 8905 on March 9, 1984).

Since this rule makes minor changes to the existing rule which implements rules of other agencies, which had been subject to public comment; therefore, notice and public procedure are necessary and the changes are being promulgated as a final rule rather than as a proposed rule.

List of Subjects in 44 CFR Part 11

Administrative practices and procedures, Claims.

Accordingly, Title 44 CFR Chapter 1, Subpart C is amended by revising the Table of Contents for Subpart C and by revising Subpart C to read as follows:

PART 11—CLAIMS

Subpart C—Collection of debts by the Government Under the Debt Collection Act of 1982

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11.31 Adoption of joint standards.
11.32 Subdivision and joining of debts.
11.33 Authority of offices to attempt collection of debts.
11.34 Referral of debts to the Comptroller, Federal Emergency Management Agency.
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11.36 Debt collection files.
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11.44 Collection of debts from Federal agencies or State or local government by administrative offset.
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11.50 Standards for compromise of debts.
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11.52 Referral of delinquent debtors to consumer reporting agencies.
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11.60 Sale of debts due in the United States arising under programs administered by the Agency.

Authority: 31 U.S.C. 3711 *et seq.*

Subpart C—Collection of Debts by the Governments Under the Debt Collection Act of 1982

§ 11.30 Scope of regulations.

(a) *Scope.* This regulation implements policies and procedures used by the Director of the Federal Emergency Management Agency (the Agency or FEMA) to effectuate collections under the Debt Collection Act of 1982 (31 U.S.C. 3711 *et seq.*) (the Act). The Act requires the Director or his designee to: (1) Attempt collection of all debts of the United States for money or property arising out of activities of the Agency and (2) authorizes the Director or his designee, for debts not exceeding $20,000 exclusive or interest, to compromise such debts or to suspend or terminate collection action where it appears that no person is liable on such debt or has the present or prospective financial ability to pay a significant sum thereon or that the cost of collecting such debt is likely to exceed the amount of recovery.

(b) *Definitions.* For purposes of this subpart, "office" means one of the following: (1) Training & Fire Programs Directorate/National Emergency Training Center, (2) Emergency Operations Directorate, (3) Federal Insurance Administration, (4) National Preparedness Programs Directorate, (5) State & Local Programs & Support Directorate, (6) Executive Administrator's Office, (7) Office of Regional Operations, and (8) Office of Comptroller.

§ 11.31 Adoption of joint standards.

All administrative actions to collect debts arising out of activities of the Agency shall be performed in accordance with the applicable standards prescribed either in 4 CFR Parts 101 through 105 or any standards promulgated jointly by the Attorney General and the Comptroller General. Such standards are adopted as a part of this subpart and are supplemented in this subpart. Additional guidance will be found in the GAO Policy & Procedures Manual for Guidance of Federal Agencies and in the Treasury Fiscal Requirements Manual.

§ 11.32 Subdivision and joining of debts.

(a) A debtor's liability arising from a particular transaction or contract shall be considered as a single debt in determining whether the debt is one not exceeding $20,000 exclusive of interest for the purpose of compromise or termination of collection action. Such a debt may not be subdivided to avoid the monetary ceiling established by the Act.

(b) Joining of two or more single debts in a demand upon a particular debtor for payment totaling more than $20,000 does not preclude compromise or termination of collection action with respect to any one of such debts that do not exceed $20,000, exclusive of interest.

§ 11.33 Authority of offices to attempt collection of debts.

The head of each office and each regional director shall designate a debt collections officer (DCO) who shall attempt to collect in full all debts of the Agency for money or property arising out of the activities of such office. Each DCO shall establish and currently maintain a file with regard to each debt for which collection activities are undertaken. Insofar as it is feasible, debt collection personnel shall have personal interviews or telephone contact with the debtor.

§ 11.34 Referral of Debts to the Comptroller, Federal Emergency Management Agency.

(a) Authority of the Comptroller, Federal Emergency Management Agency.

(1) The Comptroller, Federal Emergency Management Agency, is designated the Agency Collections Officer (ACO) and shall exercise the power and perform the duties of the Director to compromise, or to suspend or terminate collection action, after consultation with the Office of General Counsel, on all Agency claims not exceeding $20,000 exclusive of interest, except as provided in § 11.35 and paragraph (b) of this section. In addition, the Comptroller is delegated all authority which may be exercised by the Director, Federal Emergency Management Agency, in relation to:

(i) Disclosure to a consumer reporting agency in accordance with 31 U.S.C. 3711(f).

(ii) Instituting salary offset procedures in accordance with 5 U.S.C. 5514(a).

(iii) Instituting administrative offset procedures in accordance with 31 U.S.C. 3716.

(iv) Charging of interest and penalties in accordance with 31 U.S.C. 3717.

(v) Entering into contracts for collection of debts in accordance with 31 U.S.C. 3718, except that the execution and administration of such contracts is delegated to Federal Emergency Management Agency contracting officers appointed under provisions of 41 CFR Subpart 1–1.4.

(vi) Prescribe debt collection procedures and manage debt collection activities within the Agency.

(2) When initial attempts at collection by the office originating such debt have not been fully successful, the debt file shall be forwarded to the ACO for further administrative collection procedures. Debts shall be referred to the ACO well within the applicable statute of limitations (28 U.S.C. 2415 and 2416).

(b) *Exclusions.* There shall be no compromised or terminated collection action with respect to any debt: (1) As to which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim; (2) based in whole or in part on conduct in violation of the anti-trust laws; (3) based on tax statutes; or (4) arising from an exception made by the General Accounting Office in the account of an accountable officer. Such a debt shall be promptly referred to the Justice Department, or GAO, as appropriate, after CO has consulted with the Inspector General and the Office of General Counsel.

§ 11.35 Authority of offices to compromise debts or suspend or terminate collection action

Where it appears that the cost of collecting a debt of less than $600 will exceed the amount of recovery, the DCO is authorized to compromise the debt or to terminate collection action. Further, DCO's are authorized to compromise a debt or terminate or suspend collection action for debts of less than $600 where:

(a) Debtor cannot be located despite vigorous efforts, including but not limited to, use of skip tracing services, have failed to ascertain the debtor's current address.

(b) Debtor is financially unable to pay in full or in part. DCO's must obtain a financial statement from the debtor in such cases.

(c) The debt is without merit or cannot be substantiated by evidence. In such cases, debt collection officers should secure the advice of counsel. DCO's

must document the debt file to show all evidence and reasons for compromise or termination of such debts. The DCO must prepare a narrative report and forward a copy of the report to the ACO.

§ 11.36 Debt collection files.

Each DCO is responsible for obtaining current credit data about each person against whom a debt is pending in his office. The files shall be kept up-to-date by the ACO for claims referred to his/her office for collection. Such credit data may take the form of: (a) A commercial credit report, showing the debtor's assets and liabilities and his income and expenses, (b) the individual debtor's own financial statement, executed under penalty for false claim, reflecting his assets and liabilities and his income and expenses, or (c) an audited balance sheet of a corporate debtor. The file should also contain a checklist or brief summary of action taken to collect or compromise a debt. All debts files relating to debts owed by individuals are to be safeguarded in accordance with 5 U.S.C. 552a, popularly known as the "Privacy Act of 1974"; 31 U.S.C. 3711 *et seq.*, popularly known at the "Debt Collection Act of 1982"; 44 CFR Part 6 and this subpart. Each DCO is responsible for maintaining files on debtors with information sufficient to enable the Government to effectuate administrative or judicial collection.

(Approved by the Office of Management and Budget under Control No. 3067–0122)

§ 11.37 Quarterly report of collection action.

The ACO shall make a quarterly report to the Director and to all offices that have referred debts for collection. The report should contain the following information as a minimum:

(a) All outstanding debts referred to the ACO for administrative collection, including the name and address of the debtor, the amount of the debt, the date the debt accrued, the basis of the debt, the office referring the debt, and the current program of collection activities.

(b) All debts referred to the Office of General Counsel for legal guidance.

(c) All debts compromised or on which collection has been suspended or terminated or referred to the General Accounting Office of the Department of Justice for further collection action during the quarter. The collection action taken and the basis for the action should be indicated.

(d) All debts referred to the Department of Justice under § 11.55 of this part.

(e) Debts returned to this Agency by the Justice Department for further collection action because handling by the Department of Justice was not warranted.

§ 11.38 Annual reports to the Director, Office of Management and Budget, and the Secretary of the Treasury.

(a) The ACO shall gather data on loans, accounts receivable, and debts which are required by 31 U.S.C. 3719 and shall transmit them to the Director, Federal Emergency Management Agency. Such data shall include:

(1) The total amount of loans and accounts receivable owed to the Agency and when the funds owed to the Agency are due to be repaid;

(2) The total amount of receivables and number of debts that are at least thirty days past due;

(3) Total amount written off as uncollectable, actual, and allowed for;

(4) The rate of interest charged for overdue debts and the amount of interest charged and collected on debts;

(5) The total number of debts and total amount collected;

(6) The number of debts and the total amount of debts referred to the Department of Justice for settlement or collection and the total number of debts and the total amount of debts settled or collected by that Department;

(7) For each program or activity administered by the Agency, the data described in paragraphs (a) (1) through (6) of this section; and

(8) Such other data as the Director, Office of Management and Budget, shall prescribe by regulations issued under authority of 31 U.S.C. 3719.

(b) Data described in paragraph (a) of this section shall be collected on a calendar year basis and transmitted to the Director, FEMA not later than the end of January of the year following the year for which the data described in paragraph (a) of this section, were collected. The Director, FEMA, shall report these data to the Secretary of the Treasury and the Director, Office of Management and Budget in accordance with 31 U.S.C. 3719. If the Secretary of the Treasury and the Director, Office of Management and Budget prescribe, by regulation, a different annual reporting cycle, the Agency's reporting cycle, described in the first sentence of this subsection shall be changed to conform with the cycle prescribed by the Department of the Treasury and Office of Management and Budget regulation.

§ 11.39 Accounting control.

Each office shall process all debt collections through the ACO and report the collection, compromise, suspension, and termination of all debts to that Officer for recording.

§ 11.40 Records retention.

The file of each debt on which administrative collection action has been completed shall be retained by the appropriate officer not less than 1 year after the applicable statute of limitations has run.

§ 11.41 Suspension or revocation of eligibility.

(a) Where a contractor, grantee, or other participant in programs sponsored by the Agency fails to pay his debts to the Agency within a reasonable time after demand, the fact shall be reported by the ACO to the Inspector General and to the Office of Acquisition Management, which shall place such defaulting participant's name on the Agency's list of debarred, suspended and ineligible contractors and grantees. The participant will be so advised. Suspension or revocation of eligibility may be waived in whole or in part in the case of grants for disaster programs administered by FEMA, if the Director FEMA, so directs.

(b) The failure of any surety to honor its obligations in accordance with 6 U.S.C. 11 is to be reported at once to the ACO, who shall so advise the Treasury Department. That Department will notify this Agency when a surety's certificate of authority to do business with the Government has been revoked or forfeited.

§ 11.42 Demand for payment of debts.

(a) *Initial demand.* An initial demand shall be made in writing and sent by certified mail, return receipt requested, to the debtor identifying the debt, and advising that the full amount due should be paid by a specified due date, not less than 30 days from mailing of the demand. If the debtor is other than a State or local government or an agency of the United States, the initial demand notice shall also advise the debtor that interest, calculated at rates provided by 31 U.S.C. 3717(a), shall be assessed if the debt is not paid in full by the due date. Interest shall be charged on the outstanding balance due at the rate prescribed by the Secretary of the Treasury in accordance with 31 U.S.C. 3717(a), beginning on the date that the first notice was mailed to the debtor. The debtor shall also be advised that if any portion of the debt remains unpaid or if a repayment schedule, satisfactory to the Agency, has not been arranged 90 days after the due date, then additional penalties prescribed in 31 U.S.C. 3717(e)(2) of 6 per centum per annum shall be charged on the unpaid balance.

(b) *Subsequent demands.* If the debt is not paid by the due date or if a

repayment program, acceptable to the ACO, has not been arranged with the debtor, then an initial demand shall be made followed by two progressively stronger written demands at not more than 30-day intervals, will be made unless a response to the initial or subsequent demands indicates that further demands would be futile and that the debtor's response does not require rebuttal.

(c) *Debts arising from contracts executed on or before October 25, 1982.* If the claim arises from a contract executed before October 25, 1982, then the initial and subsequent demands shall mention nothing about the imposition of penalties or interest, prior to rendering of judgment by a court of competent jurisdiction.

(d) *Waiver of Subsequent Written Demands.* If there is valid reason, the sending of second and third demand letters may be waived. Such reasons may include, but are not be limited to, statute of limitations being about to run.

§ 11.43 Collection from non-Government entities by administrative offset.

(a) *General.* The Agency Collections Officer may effectuate collection of debts owed by persons or entities, other than Federal agencies or State or local governments, by means of offsets against monies due from the United States under provisions of 31 U.S.C. 3716 and the procedures set forth below. The procedures, prescribed by this subsection, shall not be used if the debtor has executed a written agreement, satisfactory to the ACO, for the payment of the debt so long as the debtor adheres to the provisions of the agreement. Before utilizing the procedures of this section, the ACO, or his designee, shall examine the debt to see whether the likelihood of collecting such a debt and the best interests of the United States justify the use of administrative offset. If the debt is over 6 years old but is not 10 years old, the ACO shall examine the debt and decide whether utilizing these procedures is cost effective. Further, administrative offset procedures shall not be used on debts over six years after they arise unless the facts material to the debt were not previously known to the Government and could not have been reasonably discovered by the person responsible for collecting the debt.

(b) *Written notice.* After the ACO or his designee has examined the debt under procedures set forth in paragraph (a) of this section, a notice shall be sent by certified mail, return receipt requested, to the debtor advising him of:

(1) Nature and amount of the debt determined by the Agency to be due, and of intention to collect by administrative offset,

(2) Rights available under this section,

(3) Opportunity to inspect and copy the records relating to the debt,

(4) Opportunity for review within the Agency with respect to the debt, and

(5) Opportunity to enter into an agreement with the ACO with respect to the debt. Such agreement may include voluntary but nonrevocable withholding of monies due from the United States to the debtor.

(c) *Review within the Agency.* The debtor may request, within fifteen calendar days after receipt of the written notice specified in paragraph (b) of this section, review within the Agency as to the existence or amount of the debt or terms of repayment. The review shall be conducted by a member of the staff of the Office of General Counsel not involved in collection of debts under the Agency program which gave rise to the debt. The staff member, with the concurrence of the ACO, may determine that no debt is due, the amount of the debts should be reduced, that terms of repayment should be set, or that the demanded amount should be paid in full. The staff member may negotiate with the debtor concerning a written agreement for the repayment of the debt. However, such agreement shall be subject to approval by the ACO.

(d) If no written agreement is executed, if the debtor does not request review within the Agency, or if the review within the Agency determines that a debt is due, then administrative offset against monies payable by the United States shall be effectuated in accordance with appropriate regulations. Efforts shall be made to coordinate offset collections with other agencies, including use of the Army Holdup List. However, if a statute either prohibits or explicitly provides for collection through administrative offset of the debt or the type of debt involved then the provisions of that statute rather than the provisions of this section shall be used for such offset.

(e) If the debtor has a judgment against the United States, then notice shall be provided to the General Accounting Office for offset in accordance with 31 U.S.C. 3728.

§ 11.44 Collection of debts from Federal agencies or State or local government by administrative offset.

Claims for debts against Federal agencies and against State or local governments may be collected from monies due from the United States to the agency or government utilizing offset principles of common law. See *U.S.* v. *Munsey Trust Co.*, 332 U.S. 234 (1947). Prior to utilizing this procedure for collection, the Agency Collections Officer shall notify the debtor agency or State or local government of the nature of the debt, the amount due and of the Agency's intent to collect interest on unpaid balances due. Interest shall accumulate at rates prescribed by the Department of the Treasury pursuant to 31 U.S.C. 3717(a). The notice shall also advise the debtor Federal agency or State or local government of the right to inspect and copy records relating to the debt and shall give the name, business address and telephone number of the official having cognizance over the debt. A bill for collection shall be sent to the Federal agency or to the State or local government.

§ 11.45 Collection by salary offset.

(a) *General.* Where an individual is an employee of the Federal Government or a member of the Armed Forces or a reserve component of the Armed Forces or is receiving retired or retainer pay for service as a Federal employee and where the individual is indebted to the United States and where the individual fails to satisfy his indebtedness voluntarily after the Agency has made demands in accordance with § 11.42 of this part, the ACO may institute collection action by salary or pay offset procedures in accordance with 5 U.S.C. 5514, 5 CFR 550.1101 through 550.1106 and the procedures described below.

(b) *Notice to debtor.* At least 30 days prior to initiating salary offset, the ACO or his designee shall send notice by certified mail, return receipt requested, to the debtor advising him of:

(1) Nature, origin and amount of indebtedness determined by the Agency to be due, the date that the debt was due, and a statement that FEMA has complied with applicable statutes, regulations and procedures,

(2) Agency intention to initiate proceedings to collect the debt by deductions from pay,

(3) Rights available under 5 U.S.C. 5514(a),

(4) Debtor's opportunity to inspect and copy Government records relating to the debt,

(5) Opportunity to enter into a written agreement, under terms satisfactory to the ACO, to establish terms for the repayment of the debt, and

(6) Opportunity for a hearing, described in paragraph (c) of this section, concerning the existence or the amount of the debt or, if no repayment schedule has been established (in accordance with paragraph (b)(1) of this section) concerning the terms of the repayment schedule,

(7) If there is a statutory provision authorizing waiver, remission, or forgiveness of the debt due the United States; the individual will be notified as to:

(i) Nature of the provision

(ii) Explanation of the conditions under which the waiver shall be granted

(iii) Reasonable opportunity to request a waiver

(iv) If waiver is requested, then a written response will be given to the request.

(c) *Hearing.* The debtor shall file a written petition for hearing or for a waiver (if applicable) on or before the twentieth calendar day after receipt of notice, referred to in paragraph (b) of this section, addressed to the Agency Collections Officer, Federal Emergency Management Agency, Washington, D.C. 20472. The postmark or receipt date, if mail is not used, shall establish the date of petition.

(1) The hearing official shall be an Administrative Law Judge or a person of grade GM–14 or higher, not under the supervision or control of the Director, FEMA. The Director may enter into interagency support agreements with other Federal agencies or departments for providing hearing officials.

(2) The hearing shall be informal but the debtor shall be given the basic safeguards of due process. The debtor shall have the right to be represented by an attorney. A summary record shall be made of the proceedings at the hearing. The hearing shall, insofar as possible, be conducted at a location and time convenient to the debtor.

(3) As soon as practicable, but in no event later than 60 days after the filing of the petition for hearing, the hearing official shall render a final decision. If a hearing is requested, no further action shall be taken to collect the debt until the final decision is rendered.

(d) *Amount deducted.* The amount deducted from pay for any period shall not exceed 15 percent of disposable pay. However, the debtor may voluntarily agree to the deduction of a greater amount of pay. Disposable pay means that part of pay of any individual remainng after the deduction from those earnings of any amounts required by law to be withheld. However, installment payments of less than $25.00 will be accepted only in the most unusual circumstances.

(e) Procedural requirements specified in paragraph (c) of this section shall not be used in cases of collections of such obligations as changes in coverage under a Federal benefits program or resulting from ministerial adjustments pay and allowances which cannot be placed in effect immediately because of normal processing delays.

(f) When an employee, who is subject to salary offset in accordance with this section and who is making repayment in installments, finds that total repayment of the debt is about to be made, then the employee must notify the employee's payroll office, at least two pay periods before the final payment, that final payment is being made.

§ 11.46 Liquidation of collateral.

Where FEMA holds security or collateral that may be liquidated and the proceeds applied on debts due it through the exercise of a power of sale in the security instrument or a nonjudicial foreclosure, such procedures should be followed if the debtor fails to pay his debt within a reasonable time after demand, unless the cost of disposing of the collateral will be disproportionate to its value or special circumstances require judicial foreclosure.

§ 11.47 Collection in installments.

Debts with accrued interest and penalties should be collected in full in one lump sum whenever this is possible. However, if the debtor is financially unable to pay the indebtedness in one lump sum, payment with applicable interest may be accepted in regular installments in accordance with a written agreement approved by the ACO or his designee. If possible, installment payments shall be sufficiently larger to complete collection in the three years. Installment payments should not be less than $50.00 per month unless there are most unusual circumstances. The Agency may require the debtor to execute a confess-judgment, negotiable note for the amount of the indebtedness. The ACO or DCO may require the debtor to provide a statement as to financial condition.

§ 11.48 Interest and penalties.

(a) *Interest.* Interest shall be charged on the outstanding balance due on debts due the United States at the rate published by the Secretary of the Treasury under provisions of 31 U.S.C. 3717(a). The interest rate in effect at the time that the debt becomes due shall be the rate charged throughout the duration of the debt until the debt is paid in full. The interest shall run from following dates:

(1) If the initial demand for the debt was mailed on or after October 25, 1982, then the date of mailing to the debtor (using the most current address available to the ACO), or

(2) If the initial demand for the debt was mailed before October 25, 1982, then from the date that a demand letter was mailed after October 25, 1982.

(b) *Exceptions to interest charges.* However, no interest, described in paragraph (a) of this section, shall be charged if:

(1) the amount due is paid within 30 days of the mailing of the demand. However, the ACO for good cause shown, as documented by a memorandum in the debt collection file, may extend this 30 day period, or

(2) the applciable statute, regulation required by statute, loan agreement or contract either prohibit the charging of interest or explicitly fix interest or charges which apply to the debt involved.

(c) *Penalty charges.* Except in the situations described in paragraph (b) of this section, a penalty charge of 6 per centum per annum shall be charged on the unpaid portion of the principal amount of the debt which remains unpaid 90 days after the date described in subparagraph (a) of this section, if no repayment schedule, satisfactory to the ACO or the DCO, has been agreed upon.

(d) *Processing and handling costs for delinquent debts.* The debtor shall also pay the extraordinary costs of processing delinquent debts. Extraordinary costs are deemed to include, but not be limited to, costs of employing commercial firms to locate debtor; costs, not to exceed one-third of the debt due, of employing contractors for collection services, costs of selling collateral or property to satisfy the debt, etc.

(e) *Standards for waiver of interest, penalties and charges.* (1) Interest, penalties and delinquent debts charges may be waived, either in whole or in part, if the ACO or his designee finds that: (i) The debtor is financially unable to pay, (ii) the Agency's enforcement policy will be adequately served if there is a waiver in whole or in part or (iii) the debtor has shown good cause, satisfactory to the ACO, that the claim was not timely paid. If waiver is granted, the administrative claims file shall be adequately documented.

(2) The ACO, with the concurrence of the General Counsel, may waive interest, penalties and administrative costs based on criteria set forth in paragraphs (e) (3) through (5) of this section. When such charges are waived, the Agency Collections Officer shall prepare a memorandum for the file stating the reasons for not collecting such charges.

(3) If the costs of collection exceed the projected recovery then interest, penalties and administrative costs may be waived.

(4) If the debtor has a *bona fide* dispute as to facts or has raised valid legal issues, then charges may be waived.

(5) If it is determined that debtor is unable to pay, as shown by complete and sworn statements as to his assets and projected income, then charges may be waived. Such a determination shall be made by ACO if the debt (excluding of interest and penalties) is $600, or more. If the debt (exclusive of interest and penalties) is less than $600.00, then such a determination shall be made by the DCO.

(f) *Nonapplicability.* The provisions of this section do not apply to debts owned by Federal agencies and State and local governments. Interest on such debts owed by such entities shall be charged in accordance with applicable statute or, if nonexistent, then in accordance with principles of common law.

(g) *Installment collections.* When a debt is paid in installments, the payments shall first be applied to collection charges and penalty charges, second to accrued interest and third to outstanding principal.

(h) *Collection of interest while an appeal is pending.* If the debtor notes an appeal either as to the existence of or the amount of the debt, interest may be waived or suspended by the ACO under the following circumstances.

(1) In the case of a state or local government, interest shall be charged only on those amounts found due after the appeal process is completed and shall run from the time that the bill for collection was issued. However, if the State or local government can show that its taxes and revenues will not be sufficient to meet essential governmental expenses, then the ACO may waive the imposition of interest during the pendency of the appeal. However, the State or local government must submit to the ACO such financial and accounting data which will establish governmental hardship as the ACO determines to be necessary to arrive at a decision concerning such waiver of interest.

(2) In the case of an individual or a non-governmental entity which is noting an appeal which is *mandated* by law, then the imposition of interest and penalties is waived while the appeal is pending from the time that the appeal is noted until the Agency has taken final action on the appeal.

(3) When an individual or a non-governmental entity notes an appeal which is *permissive* under statute or regulation, then interest and penalties may be waived under the following circumstances:

(i) If the amount of the debt, exclusive of interest and penalties, is less than $5,000, then interest and penalties shall be waived from the time that the appeal is noted until the Agency takes final action on the appeal.

(ii) If the amount of the debt, exclusive of interest and penalties, is $5,000 or more then the imposition of penalties and interest may be waived if there is no fault or lack of good faith on the part of the debtor and if the amount of interest is so high, in relation to affordable installments repayments that the debt would never be repaid. In determining whether interest and penalties should be waived, the ACO or DCO may demand that the debtor provide such financial data as he or she may demand.

§ 11.49 Omission not a defense.

Failure to comply with any standard prescribed in 4 CFR Chapter 11, or in this subpart shall not be available as a defense to any debtor.

§ 11.50 Standards for compromise of debts.

(a) *Compromise.* (1) A debt may be compromised if: (i) the debtor is not able to pay the full amount within a reasonable period of time; (ii) if the debtor refuses to pay the debt in full and the Agency is unable to enforce collection within a reasonable time by enforced collection proceeding; (iii) if there is real doubt concerning the Agency's ability to prove its case in court for the full amount claimed; (iv) if the cost of collecting the debt does not justify the enforced collection of the full amount; (v) if, in connection with statutory penalties or forfeitures established as an aid to enforcement and to compel compliance, the Agency's enforcement policy will be adequately served by acceptance of the sum to be agreed upon; or (vi) for other reasons deemed valid by the ACO after consultation with the General Counsel. The Standards set forth in 4 CFR 103.3 through 103.9 should be used.

(2) Inability to pay. If a debtor is unable to pay the full amont of the debt within a reasonable time or if the debtor refuses to pay and the Government is unable to collect the amount of the debt through enforced proceedings then the Agency may compromise the claim either in whole or in part. The ACO may require that the debtor provide sworn information as to assets, actual or potential sources of income, liabilities and other financial data. The standards set forth in the GAO, Department of Justice guidelines prescribed in 4 CFR 103.2 should be used.

(3) Compromises payable in installments will not normally be permitted by the Agency only if the debtor shows that full, immediate payment is impossible.

(4) Litigative probabilities. If there is a *bona fide* dispute as to facts or if there is a valid legal defense raised which may limit or eliminate the possibility of recovery, then the Agency Collections Officer may, after receiving a legal analysis from the General Counsel, compromise the action in whole or in part.

(b) *Documentary evidence of compromise.* No compromise of a debt shall be final or binding on the Agency unless it is in writing and signed by the appropriate officer who has authority to compromise the claim pursuant to this subpart.

(c) *Authority:* Only the ACO may compromise debits of $600.00 or more. Debts of less than $600.00 may be compromised by the DCO. Debts exceeding $20,000 may be compromised only after approval by the Department of Justice in accordance with 4 CFR 101.4(a).

§ 11.51 Standards for suspension or termination of collection action.

(a) *Suspension of collection action.* (1) Collection action shall be suspended temporarily on a debt when the debtor cannot be located after diligent effort but there is reason to believe that future collection action may be sufficently productive to justify periodic review and action on the claim, making consideration for its size and the amount which may be realized. Collection action may be suspended temporarily on a debt when the debtor owns no subsantial equity in realty and is presently unable to make payment on the Agency's debt or effect a compromise, but his future prospects justify retention of the claim for periodic review and action, and, (i) the applicable statute of limitations has been tolled or started anew, or (ii) future collection can be effected by offset notwithstanding the statute of limitations. Suspension as to a particular debtor should not defer the early liquidation of security for the debt. Standards prescribed in 4 CFR Part 104 shall be used in making determinations as to suspension as termination of collection efforts.

(2) No substantial recovery possible. If, at the time that collection is attempted, debtor is without assets or actual or potential income or if the debtor may have exemptions under the bankruptcy laws which make enforced collection of the debt not cost-effective.

then collection action may be suspended. However, interest and other charges will accumulate unless waived.

(3) Debtor cannot be located. If the debtor cannot be located or is outside the United States, then collection action may be suspended until the debtor is located. The statute of limitations will be tolled during those periods that the debtor is outside the United States.

(b) *Termination of collection action.* (1) Collection action may be terminated and the Agency file closed for the following reasons: (i) No substantial amount can be collected; (ii) the debtor cannot be located; (iii) the cost will exceed recovery; (iv) the claim is legally without merit; or (v) the claim cannot be substantiated by evidence.

(2) No substantial recovery possible. If there is little likelihood that collection efforts will result in any substantial recovery, then collection efforts may be terminated. Costs of recovery may be a factor in determining whether any recovery would be substantial. Normally, costs of recovery would be more important in cases of small debts than in cases of large ones.

(3) Debtor cannot be located. Every effort, including, but not limited to, use of governmental records, Internal Revenue Service taxpayer information, private contractor skip tracer and credit agencies, shall be made to locate debtors in advance of the runnning of the statute of limitations. If the debtor cannot be located, then the Agency Collections Officer may determine, with the concurrence of the General Counsel, that collection efforts may be terminated.

(4) Litigative possibilities. The criteria and procedures of § 11.50(a)(3) of this subpart may be used to terminate collection efforts if it appears unlikely that the Government would prevail if it were to litigate collection of the debt.

(c) *Debts exceeding $20,000.* No debt exceeding $20,000 (exclusive of interest and penalties) shall be compromised by FEMA unless the proposed compromise has been referred to the Department of Justice in accordance with 4 CFR 101.4(a). Such proposed compromises shall be referred to the Office of General Counsel, which shall review the proposal before being forwarded to the Department of Justice. However, where a debt claim is of no legal merit, the ACO may compromise such a debt without referral to the Department of Justice but only with the concurrence of the Office of General Counsel.

(d) *Enforcement Policy.* Statutory penalties and forfeitures are used as an aid to secure compliance with FEMA requirements and to compel payment. These may be waived if the Agency's enforcement policy in terms of securing payment and securing compliance with FEMA regulations would be sreved by accepting a sum agreed upon. Mere accidental or technical violations will be dealt with less severly than willful or substantial violations.

§ 11.52 Referral of delinquent debtors to consumer reporting agencies.

(a) *General.* This section implements 31 U.S.C. 3711(f) concerning reporting of debtors having overdue debts to consumer reporting agencies.

(b) *Procedures.* When a debt is unpaid for 120 days after the initial demand letter has been sent and where the debtor has not repaid the amount due nor has the debtor entered into an agreement for repayment satisfactory to the ACO or his designee, or the debt is not subject to administrative offset (as described in § 11.43), the ACO may report the claim to consumer reporting agencies if:

(1) The Agency Collections Officer or his designee has determined that the debt is overdue,

(2) Notice has been sent certified mail, return receipt requested, to debtor informing him that:

(i) Payment of the debt is overdue,

(ii) The Agency intends to disclose the debtor's debt records to a consumer reporting agency within a stated period, not less than 60 days after the mailing of such debt,

(iii) Specified items of information being released shall be listed in the notice. Such items will normally include the debtor's name, taxpayer account number, last known address, other information necessary to establish the identity of the individual, the nature, amount and status of the outstanding claim, and programs under which the claim arose, and

(iv) The debtor has a right to a full explanation of the debt, to dispute any information in the records concerning the debt, and to have an administrative review. If the debtor petitions for administrative review, then no further action or. referring debtor information to consumer reporting agencies shall be undertaken until the administrative review is completed.

(c) *Administrative review.* The debtor shall send with his petition arguments in writing and documentary evidence to the Agency Collection Officer, Office of the Comproller, Federal Emergency Management Agency, Washington, D.C. 20472. These shall be reviewed by the ACO or an official designated by him. The reviewing official shall prepare a reply, within 60 days after receipt of the petition, either accepting the debtor's assertions in whole or is part or rejecting them. If the debtor's assertions are rejected in whole or in part, then the debt data, described in paragraph (b)(2)(iii) of this section (with correction made as indicated by the reviewing official) shall be sent to consumer reporting agencies.

(d) *Information released.* Information released to consumer reporting agencies shall be limited to the following items:

(1) Name of debtor, address, taxpayer identification number, and other information necessary to establish the identity of the debtor,

(2) Amount, status and history of the debt and

(3) Program under which the debt arose.

§ 11.35 Securing debtor addresses from the Department of Treasury.

(a) If the ACO is unable to obtain a current address for the debtor, then a written request shall be sent to the Secretary of the Treasury asking for the debtor's most current mailing address from the Department of the Treasury taxpayer identity information files for Agency use in collecting claims. Any information so received from the Secretary of the Treausury shall be safeguarded in accordance with provisions of 26 U.S.C. 6103(p)(4) and 26 CFR Parts 301 and 601.

(b) Taxpayer identity information (which includes IRS current address and social security number) shall be released to consumer reporting agencies only for the purpose of preparation of commercial credit reports for use by Federal agencies in accordance with section 3 of the Debt Collection Act (31 U.S.C. 3711(f)). A notice to this effect shall be placed on each page containing taxpayer identitiy information which is sent to consumer reporting agencies.

§ 11.54 Contracts with debt collection agencies.

(a) *General.* The ACO may request the Agency's Office of Acquisition Managment Division to enter into contracts for the recovery of indebtedness owed to the United States arising under programs administered by Agency. Such contracts may be entered into with persons or organizations and shall be handled in accordance with the Federal Procurment Regulations (41 CFR Part 1) and the Agency's procurement regulation (41 CFR Part 44).

(b) *Debt Collection Contract Provisions.* Contracts entered into under authority of this secion shall have provisions relating to:

(1) Protection of data relating to individuals which shall not be less than

that provided under the terms of the Privacy Act (5 U.S.C. 552a).

(2) Protection of data derived from Department of the Treasury taxpayer identity information files shall in accordance with 26 U.S.C. 6103(p)(4) and 26 CFR Parts 301 and 601.

(3) Authority to terminate collection action, settle or compromise claims shall remain with the Director of the Agency or the ACO rather than with the Contracting Officer.

(4) Resolution of disputes relating to the claim shall remain with the ACO or the Agency Director. Resolution of disputes arising under the contract or with the contractor shall remain with the Agency Contracting Officer who shall handle such disputes in accordance with the Contract Disputes Act (Pub. L. 95–563).

(5) Judicial enforcement of the claim shall be handled by the U.S. Department of Justice.

(6) The contractor shall adhere to Federal and State laws and regulations pertaining to debt collection practices including the Fair Debt Collection Practices Act (15 U.S.C. 1692 *et seq.*)

(7) Contracts, entered into under provisions of this section, shall be subject to competition to the maximum practicable extent.

(8) The contractor shall be required to strictly account for all amounts collected.

(c) *Collection Fees.* Contracts entered into under this section may provide that fees payable to the contractor may be paid only from the amounts collected from the debtor as determined by the Contracting Officer. However, such contracts shall be funded only from funds available for the time period in which the contract is executed.

[Approved by the Office of Management and Budget under Control No. 3067–0122]

§ 11.55 Referral to GAO or Justice Department.

(a) *Referral to the Department of Justice.* With the exception of debts described in paragraph (b), of this section, those debts which cannot be collected or compromised or terminated in accordance with 3 CFR Parts 103 and 104 and §§ 11.50 and 11.51, shall be referred to the Department of Justice for collection action. All such referrals shall be done by the ACO, who shall consult with the FEMA Office of General Counsel. The referral shall be accompanied by a copy of the complete debt collection file. In addition, the following information shall be provided:

(1) Current address of debtor. Effort shall be made to locate the debtor if he is missing. If the debtor is a corporation, then the name and address of the agent upon whom service of process may be made, shall be provided.

(2) Credit data which may be in the form of a credit report or a statement, under oath, of the debtor's assets and liabilities.

(3) History of prior collection actions.

(4) Data required by the GAO Claims Collection Litigation Report form. If the debt is less than $600, exclusive of interest, then referral shall not be made to the Department of Justice, except in unusual cases.

(b) *Referral to the General Accounting Office.* Debts arising from audits exceptions taken by the General Accounting Office (GAO) shall be referred to GAO before referring such debts to the Department of Justice. If the merits of the debt or the propriety of a proposed compromise, suspension or termination are in doubt, then the matter should be referred to GAO prior to referral to the Department of Justice.

(c) *Prompt referral.* Such referrals shall be made as early as possible consistent with aggressive collection action, and, in any event, well within the statute of limitation for bringing suit against the debtor. Ordinarily, debt collection referrals will be made to the Department of Justice within six months after FEMA has determined that a debt is owing in an amount certain.

§ 11.56 Analysis of costs.

The ACO shall provide for periodic comparison of costs incurred and amounts collected. Data on costs and corresponding recovery rates for debts of different types and in various dollar ranges should be used to compare the cost effectiveness of alternative collection techniques, establish guidelines with respect to the points at which costs of further collection efforts are likely to exceed recoveries, assist in evaluating offers in compromise, and establish minimum debt amounts below which collection efforts need not be taken. Cost and recovery data should also be useful in justifying adequate resources for an effective collection action.

§ 11.57 Automation.

The ACO shall work to automate the Agency's debt collection operations to the extent that it is cost effective and feasible.

§ 11.58 Prevention of overpayments, delinquencies, and defaults.

The ACO shall establish procedures to identify the causes of overpayments, delinquencies, and defaults and the corrective actions needed. All debts or loans, when first established, may be reported to commercial credit bureaus.

§ 11.59 Office of General Counsel.

The Office of General Counsel shall provide legal advice on claims collection matters to all debt collection officers and the Agency Collection Officer, as needed.

§ 11.60 Sale of debts due the United States arising under programs administered by the Agency.

Where debts due the United States arising under programs administered by the Agency prove to be uncollectable or unresolvable through procedures described in §§ 11.33 through 11.35, 11.41 through 11.48, and 11.50 through 11.55 and where the stated value of the debt is less than $20,000, excluding penalties and interest, then the Agency may contract to sell or assign such debts under competitive sales procedures. The Agency may sell or assign debts valued at $600, or less, excluding penalties and interest, after decision by the ACO. Where the debt exceeds $600, but is less than $20,000, exclusive of interest and penalties, the Agency may sell or assign such debts only after the ACO has coordinated such action with the Department of Justice and the General Accounting Office.

Dated: September 21, 1984.

Louis O. Giuffrida,

Director.

[FR Doc. 84–25750 Filed 9–27–84; 8:45 am]

BILLING CODE 6718–01–M

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44 CFR Part 64

[Docket No. FEMA 6623]

Suspension of Community Eligibility Under the National Flood Insurance Program; Florida

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This document makes a correction to a final rule, Suspension of Community Eligibility under the National Flood Insurance Program, published August 13, 1984, 49 FR 32191. The City of Sopchoppy, Florida's sanctions date in the sixth column should be corrected to August 15, 1985. The Flood Insurance Rate Map (FIRM) dated August 15, 1984, is the initial hazard identification for the city, thus, the sanctions do not go into effect until August 15, 1985, in accordance with section 202(a) of the National Flood Insurance Act of 1968, as amended. Please amend records accordingly.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 287–0878, 500 C Street, Southwest, FEMA, Room 416, Washington, DC 20472.

(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 21, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-25760 Filed 9-27-84; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 6625]

Suspension of Community Eligibility Under the National Flood Insurance Program; Maryland, 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 (42 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 floodprone 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 with the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

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 entries to the table.

§ 64.6 List of Eligible Communities.

Code for Reading 4th Column:

Emerg.—Emergency
Reg.—Regular
Susp.—Suspension

State and county	Location	Community Number	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard areas
Region III					
Maryland:					
Calvert	Unincorporated areas	240011B	July 5, 1973, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	Oct. 18, 1974 and July 15, 1977.	Sept. 28, 1984.
Talbot	Easton, town of	240067B	Oct. 9, 1974, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	Aug. 9, 1974 and Jan. 16, 1976.	Do.
St. Mary's	Leonardtown, town of	240065B	Apr. 14, 1975, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	July 19, 1974 and Jan. 16, 1976.	Do.
Talbot	Oxford, town of	240068A	March 27, 1974, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	Aug. 9, 1974	Do.

State and county	Location	Community Number	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard areas
Queen Annes	Queenstown, town of	240120B	May 1, 1975, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	Dec. 20, 1974 and June 18, 1976.	Do.
Pennsylvania:					
Blair	Duncansville, borough of	420161B	Aug. 22, 1974, Emerg.; Sept. 28, 1984, Reg., Sept. 28, 1984, Susp.	June 28, 1974 and Apr. 30, 1976.	Do.
Do	Logan, township of	421391A	Nov. 24, 1975, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	Jan. 3, 1975	Do.
Region IV					
Florida: Alachua	Unincorporated areas	120001A	Aug. 29, 1975, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	Sept. 28, 1984	Sept. 28, 1985.
Region VIII					
North Dakota: Barnes.	Valley City, city of	380002D	Apr. 11, 1974, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	Feb. 8, 1974, and Jan. 31, 1978, and Nov. 13, 1979.	Sept. 28, 1984.
Utah: Cache	Logan, city of	490019B	Nov. 26, 1974, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	Jan. 16, 1974 and Apr. 8, 1977.	Do.
Region IX					
California: San Diego.	Santee, city of	060703B	May 18, 1981, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	Sept. 7, 1972	Do.
Region X					
Idaho: Canyon	Nampa, city of	160038C	May 20, 1975, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	May 31, 1974, and Aug. 13, 1976 and July 19, 1977.	Do.
Kootenai	Rathdrun, city of	160187A	Apr. 23, 1975, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	July 11, 1975	Do.
Canyon	Unincorporated areas	160208B	June 17, 1975, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	May 24, 1977	Do.
Oregon: Washington	Beaverton, city of	410240B	Oct. 30, 1974, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	Feb. 1, 1974 and June 25, 1976.	Do.
Do	Burns-Paiute Indian Reservation.	410281B	July 2, 1976, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	July 18, 1978	Do.
Coos	Coquille, city of	410045B	Apr. 29, 1975, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	Nov. 3, 1973 and Oct. 10, 1975.	Do.
Harney	Hines, city of	410085B	Jan. 17, 1975, Emerg.; Sept. 28, 1984, Reg.; Sept. 28, 1984, Susp.	Nov. 30, 1983 and May 21, 1976.	Do.

(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 23, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-25761 Filed 9-27-84; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

45 CFR Part 205

General Administration—Public Assistance Programs; Quality Control Requirements

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: These final rules amend the procedures for the quality control (QC) review of sample cases under the Aid to Families with Dependent Children (AFDC) and adult assistance programs to—

1. Implement the changes required by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), Pub. L. 97–248;

2. Require State agencies administering the AFDC and adult assistance programs to conduct monthly QC sampling during each 12-month sample period;

3. Allow States to reduce their sample size to a minimally acceptable sample size below the Federally prescribed standard sample size when the State accepts the reliability of the reduced sample;

4. Change the method and timing for submission of sample review findings and access to State and local records;

5. Modify and clarify the good faith waiver criteria;

6. Change the time limits for States to submit waiver requests;

7. Establish thresholds for States to request waivers on the basis that they took actions to meet the error standard which were unsuccessful; and

8. Revise the appeal provisions to conform to the time frame under 45 CFR Part 16.

On May 10, 1984, a notice of proposed rulemaking was published in the **Federal Register** (49 FR 19856). Comments were received from 25 States and local welfare departments, two private agencies and one private firm. All comments were considered in preparing the final rule. These comments and responses are discussed below. Changes from the proposed rule resulting from comments received are indicated in the discussion.

DATES: *Effective Date:* September 28, 1984.

Applicability dates:

1. The three percent standard contained in 45 CFR 205.42 applies to all States, excluding Guam, Puerto Rico and the Virgin Islands, beginning with the sample period October 1983–September 1984.

2. Incentive payment provisions at § 205.43 apply only to Puerto Rico, Guam and the Virgin Islands beginning April 1, 1983.

3. All other provisions of these regulations begin with the October 1984 sample period and thereafter.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Levering, Room B–442, Transpoint Building, 2100 Second Street, SW., Washington, D.C. 20201, telephone (202) 245–2637.

SUPPLEMENTARY INFORMATION: These rules amend the regulations on the quality control (QC) system in the "Aid to Families With Dependent Children"

(AFDC) and the adult assistance programs under titles I, IV–A, X, XIV, and XVI (Aid to the Aged, Blind, and Disabled (AABD)) of the Social Security Act. The QC system is the Social Security Administration's (SSA) and the States' major management tool for determining whether the State agencies are properly spending the Federal funds that Congress appropriates for financial aid to recipients. These aims are accomplished by a continuous review of a statistically valid and reliable sample of AFDC and adult assistance cases. In addition, data from the QC system has been used under the AFDC program to compute incentive payments to a State which has a combined ineligible, overpayment, underpayment and incorrect denial or termination error rate below four percent.

Under the previous AFDC program rules, all States are subject to a reduction of Federal financial participation (FFP) for incorrect payments that exceed established levels for State performance based on the QC sample data. The Michel Amendment (section 201 of the Labor-HEW Appropriation Bill for fiscal year 1980 (H.R. 4389) as referenced in the Continuing Resolution for fiscal year 1980 (section 101(g) of Pub. L. 96–123) set a series of target payment error rates for States to reach with an ultimate goal of a national standard of four percent that was to be met by September 30, 1982 and was to be maintained for all fiscal years thereafter. For this purpose a State's level of performance is reviewed during an annual assessment period, October 1–September 30, to measure attainment of each preceding September 30th error target. If a State fails to meet the prescribed error rate, it is subject to a loss in FFP unless it can demonstrate it has made a good faith effort to comply.

Section 156 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) amended title IV–A of the Social Security Act (the AFDC program) by adding a new section, section 403(i), governing reductions in FFP where State error rates exceed certain levels and amending section 403(j) to limit the incentive payment provisions for low error rates to the Territories. This legislation requires us to modify the existing AFDC–QC regulations. The major provisions of this legislation:

1. Establish the allowable error rates at four percent for fiscal year (FY) 1983 and three percent for FY 1984 and thereafter, and require a reduction in FFP equal to the amount of erroneous excess payments;

2. Provide for a waiver of reductions in FFP in certain limited cases in which a State has made a good faith effort to reach the allowable error rate;

3. Require States to provide error rate data to the Secretary;

4. Authorize the Secretary to establish a State's error rate through appropriate techniques, including contractual arrangements, when a State fails to provide error rate data;

5. Provide for the recoupment of costs to the Department for establishing a State's error rate;

6. Do not apply to Puerto Rico, Guam, or the Virgin Islands;

7. Repeal the provisions for incentive payments to States with low error rates under section 403(j) of the Social Security Act for periods after March 31, 1983, except for Puerto Rico, Guam, and the Virgin Islands; and

8. Provide for the continuation of the existing disallowance regulations at 45 CFR 205.42 until new regulations are promulgated and in effect.

These rules do not include any provisions for offsetting disallowances by recoupment. We will issue a separate Notice of Proposed Rulemaking setting forth the procedures we propose to use in crediting recoveries from overpaid and ineligible recipients against disallowances.

In addition to the changes in the AFDC program regulations required by TEFRA, we are changing the rules which set forth the general QC system requirements. These rules apply to both the AFDC and adult assistance programs.

The existing QC regulations do not apply across the board to the AFDC and adult public assistance programs. While the rules at 45 CFR 205.40, which require States to provide for quality control systems are applicable to the adult assistance program as well as the AFDC program, the provisions for reducing FFP for excess error rates (§ 205.42) and for increasing FFP for low error rates (§ 205.43) apply only to the AFDC program.

We have included the changes in the disallowance provisions that are only applicable to the AFDC program in one new section, § 205.44, which are in effect after September 1984. This continues the precedent established in former rulemaking, and as part of this package we have deleted § 205.41 (the pre-Michel rule) as it no longer applies. The regulations at § 205.42 will continue to apply to sample periods through September 1984.

1. Major Provisons of These Rules—AFDC Program

a. *National Standard*—The national error rate standard is set at three percent. Commencing with FY 1984 States are required to meet this three percent national standard and maintain this standard for subsequent fiscal years. States which have error rates in excess of the National standard will be subject to a disallowance of FFP equal to the amount of their erroneous payments in excess of the standard. TEFRA specifically exempts Puerto Rico, Guam and the Virgin Islands from the three percent standard. We have interpreted this to mean that the Michel four percent standard continues to be applicable to the Territories.

b. *Measurement Period*—We will measure States' performance under these new rules in the same fiscal year that the national standard is to be achieved. Under TEFRA the three percent national standard is associated with a total fiscal year and not with an end of fiscal year date of September 30th as had been the case under the Michel provisions. Thus, the determination whether a State has met the three percent standard for a given fiscal year is based on sample reviews conducted during that year, and the national standard, the measurement, and any potential reductions in FFP, as well as "good faith" considerations, are all concurrently examined in, or for, the same time period. While we have also changed this for the Territories under the Michel provision, it makes no substantive difference in the computation of the error rate.

c. *Data Used to Measure a State's Performance*—These regulations provide that we will determine a State's error rate using data from the Federal/State QC system. States are required to submit to the Department, in such form and at such times as the Department prescribes, the information needed to establish: the statistical validity and reliability of their sample results; their rates of erroneous excess payments; and their corrective action plans.

We are making three changes in the existing rules contained in § 205.40 which govern the method and timing of data submission and Federal access to state and local records. We are making these changes in response to States' request for a more timely issuance of error rate data as well as for greater uniformity among the respective QC systems. The changes will also assist the Health Care Financing Administration (HCFA) and the States to develop more timely error rate data to

be used in accordance with HCFA regulations at 42 CFR 431.803 to timely determine the likely Medicaid error rate. Similar requirements were recently promulgated by the Department of Agriculture, Food and Nutrition Service (49 FR 6292 published February 17, 1984).

The Food and Nutrition Service (FNS) requires all cases in the active and negative sample to be submitted on a monthly schedule. We have reviewed the FNS standard and have determined that both agencies require completion and submittal of 90 percent of all but five cases of the sample cases within 75 days after the end of each sample month. FNS requires that 100 percent of the cases be submitted within 95 days of the end of the sample month. We believe that 95 days is sufficient time to complete the vast majority of cases. We have decided to require that 95 percent or all but five cases be submitted within 95 days of the end of the sample month. However, to allow leeway for the resolution of problem cases and to allow states to input their Food Stamp and AFDC cases on different schedules when necessary, we extend the time frame beyond this and require that 100 percent of the cases be submitted within 120 days of the end of each sample month. These time frames are established to assure more timely completion of the Federal sample and calculation of national error rates.

States have been provided FNS-furnished computer terminals through which to transmit edited review findings to a host computer for use by the Federal agencies. The Food and Nutrition Service has specified in final regulations that States are required to submit edited Food Stamp review findings via the FNS-supplied computer terminal or, for States that do not have a FNS-supplied computer terminal, in a format specified by FNS. We are establishing a similar requirement. States that have an FNS-supplied computer terminal will input edited review findings into the computer terminal provided by the Federal government and transmit data to a designated host computer. State agencies that do not have a terminal provided by the Federal government shall submit the review findings in a format specified by the Department.

In order to validate the States' sample findings, it is necessary to conduct a Federal rereview of the States' sample. So that this can be accomplished, States are required to mail, at Federal expense, case records or legible copies to Federal regional offices, within ten days of receipt of such request. We believe the ten day time frame for locating and mailing case records is attainable in most situations. We will consider allowing States and local areas to deviate from this policy when greater efficiency will be attained through the use of a different procedure, such as when the case records are located in the same city as the regional office.

d. *Failure to Complete a Sample*—Each State must complete a proper sample in accordance with Federally prescribed instructions and procedures; the results of this sample must be reported timely; and payment/eligibility records must be provided timely when required for the Federal rereview. If a State does not follow the Federally prescribed instructions and procedures, or if the State does not conduct its sample in accordance with its approved sampling plan, the sample may be considered invalid, unreliable, or both. Similarly, if a State does not complete its sample and submit the review data in a timely manner, the available sample results may be considered to be unreliable. The extent of the deviations from prescribed standards and the scope of remedial action taken by the State will be used to determine whether a State has failed to cooperate in completing a valid, reliable and timely sample. Furthermore, State records must be timely supplied for the Federal rereview to enable the Department to determine the State error rate.

If a State is failing to submit proper and timely data, we will advise the State as soon as we believe there is a problem, and give the State the opportunity to negotiate a reasonable solution with the Department. If we are unable to negotiate a solution or if the State, having negotiated a solution, fails to carry out the solution, we will use the best information reasonably available to us to determine a State's error rate, derived from any one or more of the following:

(1) Error rate information for past sample periods;

(2) A partial State sample;

(3) A Federal subsample of completed State cases;

(4) A supplemental Federal sample (de novo review);

(5) The results of a Federal audit;

(6) The results of an audit conducted through a contractual agreement with a third party.

The Secretary has considerable flexibility in determining the method(s) to be used to determine the State's error rate. Thus, the actual method we use to establish a State's error rate will depend on the particular circumstances involved. Some of the circumstances we will consider include the timing and extent of a State's non-cooperation, whether the State experiences chronic problems, and the time and resources available to the Secretary. For example: From the beginning of the sample period, a State completed a valid but less than reliable sample because the sample contained fewer than the prescribed number of reviews. We may combine this State sample with the Federal subsample of this State sample and add an additional Federal sample (de novo review) to determine the State's error rate, if there is no question of the validity of the reviews conducted by the State. In this context, the cost to the Federal government of conducting the additional Federal sample, whether performed by Federal staff or through a contractual agreement with a third party, will be borne by the State.

Similarly, if we have reason to question the validity of the reviews being conducted by the State because the State does not conduct its reviews in accordance with Federally prescribed procedures or improperly excludes cases from its sample, and the State fails to timely take the remedial action that is indicated, it may become necessary for us to complete these reviews. In such cases, the State will be charged for any additional Federal efforts to properly review these cases, as provided in the paragraphs below.

e. *Assessment of Costs*—In any case in which it is necessary for the Secretary to determine a State's error rate because the State failed to cooperate by providing, in a timely manner, the required valid and reliable information necessary to compute its error rate, the full administrative costs incurred (directly or otherwise) by the Secretary in making the error rate determination shall be deducted from the State's grant award, generally no later than the second quarter following the quarter in which the costs of compiling the data for determining the State's error rate are available. The statute does not provide for an appeals procedure or waiver mechanism of the cost assessment determination. The offset against a State's grant award does not constitute a "disallowance," and because the Department has already expended its own funds to determine the State's error rate, the cost assessment determination is not appealable nor subject to waiver under the provisions of these regulations.

The full costs, rather than 50 percent of the costs, incurred by the Secretary shall be passed on to the State. These reductions in administrative costs are separate from and in addition to any

reductions in FFP for erroneous assistance payments that may be required because a State's error rate is in excess of the national standard. The assessment of costs will be accomplished by reducing the amount that would otherwise be payable to the State for administrative expenses, generally no later than the second quarter following the quarter in which the costs of compiling the data for determining the State's error rate are available. TEFRA excludes the Territories from assessment of costs.

f. *Waiver of Reductions in FFP*—If a State does not meet the national standard for any assessment period, we will reduce FFP to the State for that period unless the State is granted a waiver of this reduction, in whole or in part, by the Commissioner of Social Security. The regulations contain some examples of the limited circumstances under which the Commissioner of Social Security may find that a good faith effort existed. The burden of proof rests entirely with the State.

These provisions are similar to the existing regulations for good faith waivers under the Michel Amendment. However, to address the emphasis that TEFRA places on the timely completion of a valid and reliable sample, we are separately identifying factor (E), in § 205.44(g)(2)(iv), which states that "a State must have operated its QC system in accordance with Federally prescribed policies, procedures and time limits for sampling, conducting case reviews, and submitting QC data and reports." Also, in 45 CFR 205.44(g)(1), we are requiring a State to submit a good faith waiver request within 30 days after the receipt of notice of intent to disallow or within 15 months after the end of each fiscal year, whichever is first. Finally, we are implementing more objective criteria for determining when a State's good faith effort may qualify it for consideration of a waiver under the limited circumstances provision of 45 CFR 205.44(g)(2)(iv).

In order to be eligible to apply for a waiver under 45 CFR 205.44(g)(2)(iv), we require a State to demonstrate one of the following: the State has achieved some error rate reduction from the last measurement period; or, despite an increase in error rate, the State has achieved an error rate for the measurement period that does not exceed the target error rate by more than one-third of the target error rate. For example, States must meet a three percent target; therefore, they cannot exceed an error rate of four percent to meet the one-third threshold. The Territories must meet a four percent target; therefore, they cannot exceed an error rate of 5.3 percent to meet the one-third threshold.

Also, we have deleted from the circumstances under which a State could previously request a good faith waiver, situations where a State was given an incorrect written Federal policy interpretation. Errors associated with incorrect Federal policy interpretations are currently excluded from State error rates at the time the problems are identified.

g. *Exclusion of Territories*—TEFRA specifically provided that the new requirements contained in § 403(i) of the Social Security Act are inapplicable to Puerto Rico, Guam, and the Virgin Islands. These Territories will, however, continue to be subject to reductions in FFP for erroneous assistance expenditures if they fail to meet the QC error standard of four percent established in § 205.42 and continued in § 205.44

Section 403(i) and its legislative history are silent as to what Congress intended should apply to Puerto Rico, Guam, and the Virgin Islands with respect to disallowances of FFP in erroneous assistance expenditures after the QC TEFRA regulations are in effect. However, we believe that the Secretary continues to have the authority to take disallowances in Puerto Rico, Guam, and the Virgin Islands pursuant to the discretionary authority under section 403(a)(1) of the Act, even though, by statute, TEFRA provisions do not apply to the State plans from these jurisdictions. Thus, in requiring the application of TEFRA QC provisions to the States, section 403(i)(1)(A) begins with "notwithstanding subsection (a)(1)." The effect of this language is twofold. In jurisdictions where TEFRA QC provisions are to be implemented, the provisions of section 403(i) supersede those in section 403(a)(1). However, where section 403(i) cannot be implemented, such as in the Territories, the implication is that section 403(a)(1) is applicable since it is not superseded. Accordingly, the Secretary, pursuant to her authority under section 403(a)(1), could continue to take disallowances of erroneous assistance expenditures in the Territories.

There is legal support, even if not expressly provided for in TEFRA, under section 403(a)(1) for continuing to apply the basic provisions of 45 CFR 205.42, as incorporated in § 205.44, to Puerto Rico, Guam, and the Virgin Islands. This was the authority first used by the Department in 1975 to establish three and five percent error rate tolerance levels. While the court, in *Maryland* v. *Mathews*, 415 F. Supp. 1206 (1976), struck down these particular tolerance levels as arbitrary, the establishment of tolerance levels themselves was upheld under the law as within the Secretary's authority. Further, the Department subsequently published revised error rate tolerance regulations on March 7, 1979 which were in effect prior to the enactment of the Michel Amendment requirements. These earlier regulations were in concept very similar to the Michel regulations. Accordingly, there is ample precedent under section 403(a)(1) to issue regulations like those at 45 CFR 205.42. Moreover, we do not believe that maintaining a four percent tolerance for error rates in the Territories would be inconsistent with section 403(i) which also establishes a four percent tolerance for the first year for the States. The major thrust of section 403(i) is to lower the error rate tolerance to three percent. The use of four percent for the first year was merely an expedient measure to integrate the new provisions with the Michel Amendment regulations during a transitionary period so as not to disrupt the QC process. In light of this, the continuation of the Michel tolerance level in the Territories would not appear to be inconsistent with the spirit of the TEFRA QC provisions.

Finally, as a matter of policy, continuing the existing QC system for taking disallowances in the Territories would seem to be reasonable. The sampling and review methodologies used for calculating disallowances under the new 45 CFR 205.44 are also used for determining eligibility for incentive payments under section 403(j) of the Act. Quality control reviews in the Territories will, therefore, continue to be done under the current process for purposes of computing incentives. Moreover, the Territories have had considerable experience in conducting reviews and making determinations under this system.

Thus, the continuation of the QC system for error rate tolerance purposes as now in effect would not be administratively disruptive. In light of this, it would seem duplicative and inefficient to create a totally new system for taking disallowances when the present system appears adequate.

h. *Appeals*—The regulations provide that a State will have 30 days after receipt of the disallowance letter to request a Commissioner's review of the decision. The time period for a State's request for the Commissioner's review of a disallowance is consistent with the time period allowed for a subsequent appeal to the Departmental Grant Appeals Board.

In this regard, it is important to note the distinction between the Commissioner's decision on a good faith waiver request and a disallowance letter. The Commissioner's decision on a good faith waiver request is not appealable to the Commissioner or to the Grant Appeals Board under Part 16 of Title 45 of the Code of Federal Regulations. The Congress has given the Secretary (and, by delegation, the Commissioner) discretion to determine whether any waivers should be granted. Because the granting or not granting of a waiver is a discretionary action on the part of the Commissioner, it is not appealable.

Once the State is formally notified of a disallowance, separate and apart from receiving the Commissioner's decision on its waiver request, the regular appeal procedures are applicable to appealable issues unrelated to the State's good faith claim or the Commissioner's waiver decision.

i. *Incentive Payments*—The incentive provisions a section 403(j) of the Social Security Act and the regulations at § 205.43 apply only to Puerto Rico, Guam, and the Virgin Islands beginning April 1, 1983. TEFRA requires that the applicability of the incentive payment provisions be limited to Puerto Rico, Guam, and the Virgin Islands, and we have so modified these regulations.

2. Major Provisions of the Rules—AFDC and the Adult Assistance Programs

In addition to the changes required by the new statutory requirements, we are making several changes in the QC sample requirements contained in § 205.40. These changes affect both the AFDC and the adult assistance programs. A few of these changes are discussed in the preceding section in the context of data that will be used to measure a State's performance.

a. *Annual Sample*—The rules provide that States will conduct monthly sampling during a 12-month sample period. The length of the sample period is the same as the assessment period used to determine disallowances under the AFDC program. However, we will still have the necessary data to make six-month incentive payment determinations for the Territories, and States will continue to have error rate data available for timely corrective action planning.

This annual sample period permits us to reevaluate our existing prescribed sample sizes in terms of establishing standard and minimum sample sizes within a Federally acceptable range of reliability. States may increase their sample beyond the standard to increase reliability, but they may not reduce their sample below the minimum. For example, a State whose caseload places it in a standard sample size of 1,200 cases for a six-month period will have a standard sample size of 2,400 cases for an annual period. The State will be permitted, where it meets the conditions below, to reduce its standard annual sample size of 2,400 cases to the Federally acceptable minimum sample size of 1,200 cases annually. The standard and minimum sample sizes depend on State caseloads and will be specified in the AFDC Quality Control Manual, Section 2.

We believe that each State shares in the responsibility for operating the QC system in an efficient and effective manner and, therefore, should be allowed flexibility in the management of the system. Consequently, we are providing States the option of reducing their samples as indicated above. States that select this option, however, must agree to accept the reliability of this reduced sample size and provide as part of their sampling plan, a signed statement that they will not challenge the reliability of the error rates based on sample size. Since the AFDC error rate data is used in the calculation of the Medicaid error rate, HCFA has requested that these rules require States to also agree to accept the reliability of their own Medicaid error rate estimate based on the reduction of the AFDC sample size. States, on the other hand, may select larger samples than the standard if they are not willing to accept the error rate that may result from the Federally prescribed standard State sample size. FFP will be available for the administrative costs associated with additional State sampling and reviews where a State elects to increase its sample size.

b. *Submission of Reports*—The regulations change the date for submitting corrective action plans from August 15 to February 15 and submitting progress reports from February 15 to August 15 of each year.

We are clarifying the areas a progress report should cover. The progress report is intended to provide an evaluation of corrective action activities identified in the last annual corrective action plan, the status of the implementation of corrective actions, a discussion of error rate changes, and, based on the latest available data, a discussion of any new corrective actions initiated.

c. *Other Changes*—We have deleted references to error analyses and profiles of errors and non-error cases in § 205.40(b)(2)(iv)(A) because we believe States may erroneously interpret these references to mean that error analysis and profiles of error and non-error cases are the only factors we expect to be discussed in a corrective action plan. The corrective action plan requirements continue to be specified in the QC Manual, section 5.

3. Changes From the May 10, 1984 Notice of Proposed Rulemaking (NPRM)

In the NPRM we proposed to require a State to notify us within 30 days of a sudden and unexpected event that would affect its ability to meet the error rate standard. We were convinced by States' comments that this requirement would impose an unnecessary burden on States and that it is often very difficult to determine when a situation becomes a disaster which will have a subsequent inpact on the error rate. We, therefore, have eliminated the requirement in these final regulations.

States were concerned that the requirement that they request a waiver of disallowances within nine months after the end of a fiscal year did not allow enough time for States to obtain final error rate data. We have decided to modify the time limit to 15 months or 30 days after receipt of a notice of intent to disallow, whichever is earlier.

In the NPRM we required States to complete 100 percent of their QC samples within 95 days of the end of each sample month. We feel this does not allow enough leeway for States to deal with difficult cases. We are amending this provision to require that 90 percent or all but five cases be completed in 75 days, 95 percent or all but five cases be completed in 95 days, and 100 percent be completed within 120 days of the end of each sample month. The 120 day time frame applies to alternate sample plans as well.

The NPRM required States reducing their sample size to accept the reliability of the smaller sample. This final rule also requires States to accept the reliability of the Medicaid error rate to the extent that the reliability is affected by a reduced AFDC sample size. HCFA requested that this new language be added.

The NPRM proposed thresholds for States to apply for a waiver of disallowances on the basis that actions were taken to meet the standard but the standard was not met. We have decided to modify the thresholds to allow a State to apply if its error rate decreased, or even increased as long as the increase is not above the established limits.

The NPRM included in the preamble the requirement that States mail case records to regional offices for Federal rereviews. The regulation on this is modified to specify the ten-day mail-in requirement and to permit the

Department to allow exceptions to these requirements in situations where an alternate method is more practical.

Also, language in the regulation has been added to clarify that the provision which allows the Department to determine a State's error rate and charge the State for such determination will only be exercised after the State has been given the opportunity to negotiate a solution with the Department and has failed to reach or implement an agreed upon solution.

HHS Response to Public Comments on Notice of Proposed Rulemaking Issues

Inadequacies of the QC System

Comment: Several commenters objected to the fact that the TEFRA regulation did not address the definition of the errors for which they are fiscally liable, such as "technical errors."

Response: Although some States believe that errors such as those for WIN registration and enumeration are procedural and should not be included in the payment error rate, these requirements are basic statutory conditions of eligibilty. We must ensure that all conditions of eligibility are met. In addition, these requirements may indeed lead to information which would result in ineligibility for other reasons; therefore, they will continue to be measured for payment error rate purposes.

Comment: Commenters objected to the counting of client errors in the payment error calculation.

Response: The QC system makes the distinction between client and agency errors solely for corrective action planning purposes. Since the classification of client versus agency errors is often a matter of subjective judgement by State and Federal reviewers, significant bias would be introduced if we were to use this classification in the determination of State error rates. Moreover, we continue to believe that client errors are controllable, as they have been largely controlled by States which have already achieved error rates below the targets, and we want to maintain an incentive for States to control them.

Comment: Some commenters expressed concern that the QC system disregards the impact on errors caused by demographics, program differences, and program complexities.

Response: There have been several studies which compared payment error rates with geographic and socio-economic differences among States. While some studies have shown that error rates may differ slightly due to socio-economic and administrative variables, these variables are frequently offsetting and there is no procedure for equitably adjusting error rates to take account of these small differences. Further, many important variables like worker and management attitudes cannot be measured. In addition, the targets have been set by statute and the statute does not provide for any adjustments.

Three Percent National Error Rate Standard

Comment: One State objected to the use of a uniform national error rate standard because external circumstances and the complexity of a State's program increase the likelihood of payment errors and these factors are not reflected in the national average. Also, for many of the same reasons and because the national average error rate has not fallen below seven percent, several States commented that the three percent error rate standard is too low.

Response: TEFRA mandates a three percent national error tolerance; under this legislation the Secretary has no authority to raise the national standard or to establish error tolerance levels on a State-by-State basis.

Although we recognize that States operate under different socio-economic and administrative circumstances, we do not believe that equity would be served by attempting to establish and justify a system of tolerance which holds some States more accountable for managing their program than other States. Although States with different types of caseloads must use different solutions to control errors, we believe that all States can achieve a three percent error rate with proper management, as some States have already demonstrated.

Statistical Issues

Comment: Several commenters raised a variety of statistical issues concerning the impact of annual sampling and the reliability of reduced sample sizes on error rates. Some suggested we use the lower limit of the confidence interval or other methodologies to validate the error rates.

Response: While the regulations provide States the option of reducing their QC sample down to a Federally acceptable minimum, the size of the Federal subsample will remain unchanged. Since any sampling reduction will not reduce the annual sample below the prior six-month sample, the sample precision for the annual period will be the same as it was for a six-month period. We have taken this action to allow States flexibility in targeting resources. When a State does not reduce its sample, the reliability (precision) of the State's error rate estimate will increase. Also, a State can increase its sample above the Federal standard to increase sample reliability, where a State is not satisfied with the Federal standard and administrative matching is available for such enhanced samples.

Annual sampling does not conflict with the Medicaid Quality Control (MQC) requirements for six-month data. We recognize MQC uses AFDC error rate data in computing MQC error rates. The revised section 2 of the AFDC–QC Manual will require States to reevaluate their sample interval and adjust for "under sampling" at the end of each six months. The methodology to be used will be specified in the Manual. Thus, the MQC six-month data requirement can be met.

We use the point estimate of the error rate as it is most likely to be closer to the true value of the error rate than any other value within the confidence interval. There are two other reasons we do not use the lower limit of the confidence interval of the payment error rate as some respondents have suggested. It would be a disincentive for states to do a thorough QC review since a large number of Federal differences would result in a large confidence interval, thus a lower "lower limit." Also, since the payment error rate is greatly influenced by the distribution of the dollar amounts of error in a State, it is possible for two States with the same payment error rate and same sample size to have a different lower limit. This would be inequitable.

The Three Percent Standard Imposed Retroactively

Comment: Commenters were opposed to retroactively imposing the three percent tolerance standard.

Response: Public Law 97–248, the Tax Equity and Fiscal Responsibility Act, section 156 (enacted September 3, 1982), amended Title IV–A of the Social Security Act to require States to meet a three percent error rate tolerance for FY 1984 and thereafter. States were aware of this provision in the statute and should have been planning for the three percent target. We made this clear in discussions with States and the American Public Welfare Association. For example, at a meeting of the National Council of Public Welfare Administrators, State agency administrators were advised on September 21, 1983 of the three percent error tolerance for FY 1984. States were repeatedly advised of this provision at conferences held throughout FY 1983

and 1984 for States in each region. Thus, we believe that States' actions to achieve error reduction would not have been different if this regulation were issued earlier.

Incentive Payments

Comment: Commenters believe that incentive payments should not be eliminated for the States, particularly if they are continued for the U.S. Territories. The comment was also made that, at least, incentives should continue to be available to States until the publication of final regulations under TEFRA.

Response: Amendments to the Social Security Act contained in TEFRA specifically limit the applicability of the incentive provisions found in section 403(j) to Puerto Rico, Guam, and the Virgin Islands. TEFRA also provides that the changes to the incentive provisions shall be effective after April 1983 without regard to publication of final rules. In order to conform to the intent of Congress, we are implementing this change effective April 1, 1983.

Michel Amendment Remains in Effect for the U.S. Territories

Comment: The comment was made that the Secretary does not have the authority under TEFRA to continue imposing the Michel requirement on the U.S. Territories.

Response: TEFRA, in section 156(a)(4), provides that the changes made in section 156(a) "shall not apply with respect to Puerto Rico, Guam, or the Virgin Islands." In the NPRM we indicated that the Michel Amendment remains in effect for the Territories, and we still believe that legal basis exists for the application of the Michel Amendment to the Territories. Provisions of the Michel Amendment have been incorporated into the new § 205.44 and will continue to apply to the Territories. (See earlier discussion on this issue.)

Effective Date of Sample Completion Requirements

Comment: Several commenters pointed out that changes in the sample completion time frames cannot be met retroactively for FY 1984.

Response: These final regulations are amended to clarify that such time frame requirements are effective October 1, 1984. It was never our intent to impose these changes retroactively.

Failure To Complete a Sample

Comment: Section 403(i) of the Social Security Act provides that where a State fails to cooperate with the Secretary in providing information necessary to establish the error rate for the State, the Secretary shall establish an error rate on the basis of the best information available. Several States opposed the broad application of the Secretary's authority. Those States commented that the proposed regulations failed to distinguish between States which fail to follow Federal requirements versus those which, due to unusual circumstances, were unable to complete their sample in a timely fashion. They disagreed with the definition of "cooperation" and expressed the opinion that failure to cooperate should only occur if a State fails to do a quality control sample or refuses access to State records.

Response: The TEFRA statute requires us to determine States' error rates annually. If a State is unable for whatever reason to complete a valid, reliable and timely sample, we are obliged to determine the State's error rate using the best information available. To limit the definition of cooperation to instances where a State refused to complete its sample or provide necessary information would seriously impair our ability to determine a State's error rate.

Assessment of Costs of Error Rate Determination

Comment: Several States objected to charging a State for the cost incurred by the Department in making an error rate determination on the basis that together with the imposition of a sanction this placed a substantial financial burden on States during a time of fiscal constraints. They also opposed the provision that did not allow for an appeal of the costs assessed on a State.

Response: As previously indicated, States will be advised when it appears that they will not meet the Department's requirement to complete a valid and reliable quality control sample in a timely manner. Where they fail to remedy the problem, the Department clearly has the authority to gather the necessary data for an error rate determination while at the same time assessing States for costs involved. We realize that costs will be incurred by States. Therefore, the Federal government will give the States every reasonable opportunity to work out a solution. If States fail to negotiate a solution or implement a negotiated solution, the Federal government will have to expend funds which must be recovered. The reasons for not allowing States to appeal the assessment of costs for determining the error rate by the Federal government are fully explained earlier in the preamble at section 1.e. in the discussion of the "Major Provisions of these Rules."

Reduction of Annual Sample Size

Comment: Several States opposed the elimination of a State's ability to challenge the reliability of the error rate based on sample size when a State chooses to reduce its annual sample size. They indicated that this proposal would force States to spend additional resources unnecessarily to increase their sample size or lose their right to challenge the resulting error rate.

Response: The Department believes that each State agency shares in the responsibility for operating the QC system in an efficient and effective manner and should therefore be allowed the flexibility to manage the system in the manner most suited to its own particular needs. States' acceptance of the reliability of the error rate when selecting a reduced sample size is a means of assuring that the State will consider what degree of reliability they need. We do not believe this proposal forces a State to spend additional resources because the standard annual sample size will be no greater than the existing sample size required for two six-month periods.

Comment: One commenter expressed concern about what effect a reduction in the AFDC quality control sample size would have on the Medicaid AFDC categorically eligible sample.

Response: We recognize that precision is also reduced for the Medicaid sample if a State elects a reduced AFDC sample size. The Department requires in this final regulation that where a State elects to reduce its sample size for AFDC, it must also accept the reliability of the error rate. At HCFA's request, this regulation requires that States accept the reliability of the Medicaid error rate to the extent that the reliability is affected by a reduced AFDC sample size.

Comment: A commenter expressed concern that when a State elects the option of reducing its sample size, staff resources may also be reduced.

Response: Error reduction activities in a State encompass many facets, only one of which is the completion of a quality control sample. When a State selects the option of reducing its sample size, it has the ability to target those staff resources to work on other critical error reduction activities. We believe that each State is in the best position to decide how to target its resources for error reduction. It is up to each State to make sufficient resources available for error reduction to meet the error rate targets set by the statute.

Case Record Mail-in Procedures

Comment: A few comments were received concerning the requirement to have States mail the QC and local office case records to the Federal staff. One State believed the requirement to mail local records was unreasonable because there was a potential for lost records and delayed actions.

Response: The Department believes that the request to have case records mailed to the regional offices is both reasonable and necessary. Many States have had extensive experience with case record mail-in procedures without difficulty. In addition, the Social Security Administration has had many years of experience with case record mail-in procedures between Social Security District Offices and Program Service Centers without problems. The regional offices can work with the States to establish procedures to expedite the return of cases when they are needed for case actions, such as redeterminations.

Comment: Commenters indicated that there may be a few isolated instances when the mail-in procedures may not be the quickest method for assuring the case records are available for Federal review.

Response: The Department may permit an alternate method for receiving case records in those situations when an alternate method is warranted, such as when the case records are located in the same city as the regional office. These regulations have been amended accordingly.

Comment: Some commenters were concerned that they would not be able to meet the ten-day time frame because the same case record might have already been sent to another Federal agency. They also wanted a similar time constraint placed on the Federal staff for returning records.

Response: We believe the ten-day time frame for locating and mailing case records is attainable in most situations. The short time frame is necessary to assure the timely completion of Federal rereviews. We are willing to work with the State, in limited situations, to arrange an alternate time frame. We are emphasizing that Federal staffs should review and return cases as quickly as possible. However, the ten-day time frame is not appropriate for Federal response because the Federal staff must actually review the case record. In addition, particularly where States batch and send many cases together, review of all such cases is not possible within ten days. We believe States and regional QC offices should work together to develop schedules for structured State mailing of case records which will permit more timely return of the records to the State agencies.

Comment: Several commenters pointed out that we only addressed paying for the mailing costs but did not allow for the cost of photocopying.

Response: Photocopying costs are reimbursable as an administrative cost at a 50 percent FFP rate. The reason we paid for mailing cost was because we provided franked envelopes. We are recommending that States submit the required QC case records, including review schedules, worksheets and supporting documentation, as photocopies. However, the actual Income Maintenance record should be submitted to the regional office since we agree that it is impractical to photocopy the local office record.

Sample Completion Deadlines

Comment: Many comments were received concerning the more restrictive sample completion deadlines. Commenters recognized that most cases could be completed within the time limits set; however, they felt we were stressing timeliness to the exclusion of quality. For example, they stress that some cases will take longer to complete because the State is awaiting critical evidence necessary to determine the true facts of the case. Although States recognized we were attempting to achieve more uniformity by adopting the Food Stamp completion rates, they stated that the same time frames were not appropriate for AFDC, since the AFDC program was more complex and the QC verification was more extensive and time consuming. In addition, having the same due dates for data transmission of both AFDC and Food Stamp cases created workload problems. Commenters also indicated that similar sample completion requirements should be placed on the Federal government.

Response: We have decided to modify the requirements slightly in view of the very persuasive arguments advanced by the commenters. More restrictive time frames are necessary in order to ensure an even flow of cases to the Federal staff. Therefore, we are maintaining monthly sample completion requirements. In keeping with both the State and Federal concerns that the quality of cases not be compromised, we have decided to modify the time frames to require that 90 percent or all but five cases be submitted within 75 days, 95 percent or all but five cases within 95 days, and 100 percent within 120 days after the end of each sample month. The Department has imposed similar constraints on the Federal rereview process to ensure timely completion, and is closely monitoring each region's progress. We believe that timely Federal completion will become easier as States complete their samples in a more timely fashion and transmit these cases for Federal rereview in a more phased manner.

Comment: Several commenters were concerned about their ability to meet the time frames due to the continuing hardware and software problems that impede their ability to submit edited review findings to the Washington Computer Center.

Response: The Department recognizes that there have been problems, but we have made significant progress toward correcting the problems and believe that all States can now use the hardware and software to submit the findings. Upgrades of the equipment and modifications of the transmission software are planned which will permit the State to provide the edited review findings in a timely fashion with less transmission workload. Where problems are identified, we will be reasonable in considering the submission dates of edited review findings.

Corrective Action Plans and Progress Reports

Comment: Three States objected to the change in due dates for submission of corrective action plans and progress reports on the basis that moving the due date for corrective action plans from August 15 to February 15 reduces the time needed for analysis, planning corrective actions and preparation of the corrective action plan. Several alternative due dates were recommended.

Response: We did not change the amount of time alloted for the preparation and submission of State corrective action plans and progress reports. The current regulation requires States to submit corrective action plans for the preceding April–September and October–March sample periods by August 15. This time frame allows States 135 days after the close of the October–March sample period to prepare their plans. These regulations change the length of the sample period to agree with the October 1–September 30 annual assessment period which is used to determine disallowances under TEFRA. Corrective action plans will cover this period and are due February 15 or 135 days after the close of the annual sample period. The progress report is due August 15, six months after submission of the corrective action plan. States have, for the most part, been able to develop their corrective action plans

in this 135 day time period without difficulty.

Comment: One State objected to the requirement that States submit a progress report on the annual sample by August 15 because there is no useful purpose in a six-month report.

Response: The progress report provides the status of implemented corrective actions, an evaluation of their effectiveness and any new initiatives based on current error rate data. We believe that such information must be developed by each State in order to have an effective corrective action system. Thus, the requirement does not place an extra burden on States. Further it is useful to OFA in monitoring and assisting States in error reduction.

Waiver Procedures

Comment: All commenters objected to changes in the waiver procedures, especially the 30-day notice requirement in unusual circumstance claims. States commented that this requirement would impose increased record keeping and reporting burdens on States. Furthermore, many States pointed out that the exact date when a circumstance had become a crisis (e.g., an increase in caseload) was sometimes difficult to pinpoint.

Response: We accepted the States' argument that a notice of unusual circumstance would increase their reporting burden and that it would be difficult to identify at what point an event has such an impact that it will serve as the basis for requesting a waiver. The final regulations do not require a notice requirement in unusual circumstance waiver claims.

Comment: Several States objected to the imposition of any time limit for application for a waiver which might pre-date the release of the final national error rate figures. They expressed concern that they cannot reasonably be expected to know that they have failed to meet their target error rate or that they are subject to a disallowance for that failure if final error rate figures are not available.

Response: The Department is taking steps to assure a more timely release of national error rate figures which will, in part, negate States' concerns. We recognize that the timeliness of the calculation of national error rates depends on the timeliness of State reviews, Federal rereviews and resolution of State/Federal differences. More stringent time frames for each of these steps will help expedite the release of national error rates. The Department is taking action to assure more responsive Federal processing at all levels. However, at the same time, it is clear that States in most circumstances are able to calculate their approximate error rate considerably before national Federal rates are released. Often Federal release of error rates is delayed by resolution of a few appealed difference cases in a few States.

Comment: Several commenters indicated that the existing 65 day period to prepare a waiver request was adequate and they expressed concern about the 30 day limit after the FY 1984 rates were released to prepare their waiver requests.

Response: Since the waiver request documents activities States performed in the prior year to reduce errors, the actual compilation of the waiver request should not be time consuming. Moreover, in most cases, States know well before the national error rates are released whether they will meet their targets and preparation of the waiver request should start as soon as States are aware they missed their target. The final rule modifies the threshold criteria for situations where States took necessary actions but failed to meet their targets. States now must demonstrate some reduction in error rate rather than demonstrate an error reduction equal to the median reduction, and thus States do not have to wait until the Federal error rates are released to know if they qualify to apply for a waiver. This final rule provides that States have 30 days after receipt of a notice of intent to disallow or 15 months after the end of the fiscal year, whichever is earlier, to apply for a waiver.

Comment: Several States expressed concerns over proposed changes to the conditions under which States may seek a waiver based on a good faith effort. They argue that the reduction in time to nine months after the fiscal year to file an application for a good faith waiver, and the inclusion of thresholds for determining whether an application for waiver is appropriate, are designed to limit States' rights to apply for good faith waivers.

Response: We have accepted the suggestion that time frames for applying for a good faith waiver should be modified and have revised the regulations to require that applications must be filed within 30 days of the receipt of a notice of intent to disallow or no later than 15 months after the close of the fiscal year, whichever is earlier. This is consistent with State and Federal timetables for completion of the sample, timely resolution of differences and calculation of resulting error rates.

Consistent with the intent of Congress that waivers be granted only in "limited circumstancers" the Department is compelled to make a careful examination of those requests for waivers based solely on the fact that a State took actions to meet the national standard, but these actions were unsuccessful.

It is critical that there be objective criteria for such waivers. At the same time, any objective criteria should not favor high error rate States or low error rate States—thus, the development of dual thresholds. To achieve these purposes, the threshold requirement for application for a good faith waiver based on the fact that the State had taken the action needed to meet the national standard but the national standard was not met, has been revised to require that only those States which have demonstrated one of the following may apply:

a. The State has achieved some reduction in error rate over the prior sample period, or

b. The State has achieved an error rate for the measurement period that does not exceed the target error rate by more than one-third despite an increase in error rate.

There may be circumstances which would prevent a State which has taken corrective action activity reasonably designed to meet the target error rate from actually meeting it; however, it is hard to imagine a properly designed and implemented set of error reduction activities which would not produce at least some reduction in a State's error rate, absent the type of circumstance covered by § 205.44(g)(2)(i–iii). Such unexpected circumstances are not covered by the thresholds.

Comment: Several States took issue with the basis on which the proposed thresholds would be measured, maintaining that the median test is unfair because it favored high error rate States.

Response: We accept the States' suggestion that all States with a reduction in error could possibly demonstrate some level of effort, and we have revised the threshold requirement to eliminate the median test as a basis. The regulation now requires that a State achieve a reduction in error rate over the prior period or have achieved an error rate that does not exceed the target rate by more than one-third despite an increase, to apply for a good faith waiver under the provisions of § 205.44(g)(2)(iv).

Comment: Several commenters opposed the elimination of the consideration of incorrect Federal policy interpretations as a factor upon which a State may request a waiver based on circumstances outside the State's control.

Response: AFDC quality control procedures require that when a State takes action resulting from an incorrect Federal policy interpretation which results in QC errors, those cases are not counted as errors in the final error rate calculation for that State. That "corrected" error rate figure is the basis for calculating any disallowance for failure to meet a target error rate. Incorrect Federal policy interpretations were not excluded as basis for requesting waivers in 45 CFR 205.42(g)(2)(iv) because that regulation will expire September 30, 1984.

Comment: Some States object to the expansion of the criteria for evaluating actions taken to meet the national standard to include whether a State has operated its QC system in accordance with Federally prescribed policies, procedures and time limits for sampling, conducting case reviews, and submitting QC data and reports. Some States contended that a fully functioning QC system has little to do with a good faith effort but rather measures procedural and compliance issues.

Response: A State cannot have made the appropriate effort without completing all of the necessary steps to effectively manage the operation of the program. For example, a reasonably designed corrective action planning process cannot be developed without a fully operating quality control system, for without a quality control system, a State cannot develop the data and analysis in a timely fashion to determine appropriate corrective actions. This factor was previously measured; the addition of subparagraph (g)(2)(iv)(E) is only to make the requirement more explicit. This is only one factor to be measured with all other factors to demonstrate a State's good faith effort.

Comment: A few States expressed concern over the reduction of time from 45 to 30 days for making an appeal to the Commissioner for reconsideration of a disallowance.

Response: The time frame for requesting a review of a disallowance by the Commissioner is being set at 30 days to be consistent with other appeal procedures such as the time for appeal to the Grant Appeals Board.

Appeal of Waiver Decisions

Comment: Many States recommended that the Department reconsider its position that the decisions on waivers should not be subject to review by the Grant Appeals Board (GAB).

Response: The Federal government has already matched the expenditures in question and uses disallowances to recoup such erroneous expenditures through the reduction of subsequent grant awards. Thus, States have administrative appeal procedures available to them should any disallowance be imposed. The Congress has given the Department discretionary authority to determine whether any waivers should be granted. Because waivers are discretionary actions, which in effect permit greater Federal matching than normally authorized by law, the Commissioner's decision not to grant a waiver is not appealable to the GAB.

Executive Order 12291—These regulations do not meet any of the criteria for a major regulation. Further, although levels of funding through FFP may be reduced, the reduction results from legislation, not from the terms of these regulations. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act—These regulations impose no new reporting/recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act—We certify that these regulations will not have a significant economic impact on a substantial number of "small entities" because the rules involve minor changes in State agency procedures. "Small entities" are defined by the Regulatory Flexibility Act to include small businesses, small non-profit organizations and small governmental entities. These regulations amend the existing Federal quality control system as it applies to the States' use of Federal funds in administering the AFDC program. A regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required because the Federal government will only be recouping monies that were incorrectly paid by the States.

(Catalog of Federal Domestic Assistance Programs No. 13.808 Public Assistance Maintenance Assistance (State Aid))

List of Subjects in 45 CFR Part 205

Administrative practice and procedure, Aid to families with dependent children, Family assistance office, Grant programs—social programs, Public assistance programs, Reporting and recordkeeping requirements.

Dated: August 31, 1984.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: September 14, 1984.

Margaret M. Heckler,

Secretary of Health and Human Services.

Chapter II, Title 45 of the Code of Federal Regulations is amended as set forth below:

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

1. The authority citation for Part 205 reads as follows:

Authority: Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302, unless otherwise noted.

§ 205.40 [Amended]

2. Section 205.40 is amended as follows:

a. Amend paragraph (b)(2)(i), by removing "6-month sampling" and inserting "sample" in its place and adding the following:

"Where the State choose to reduce its active case sample below the standard sample size but not below the minimum sample size specified in the Quality Control Manual, the State must provide the Department with a statement, as part of its sampling plan, accepting the reliability of the reduced sample size and agreeing not to challenge the resulting AFDC and Medicaid error rates based on the size of the sample."

b. Revise the introductory text of paragraph (b)(2)(ii) to read as follows:

"Edited review findings for the State agency's disposed of active case and negative case actions. The State shall input these findings into the computer terminal provided by the Federal government, and transmit the data to a designated host computer. For State agencies that do not have a terminal provided by the Federal government, the State agency shall submit the review findings in a format specified by the Department. The State agency shall dispose of and submit review findings in the following time frames:"

c. Revise paragraph (b)(2)(ii)(B) as follows:

"Ninety-five percent or all but five cases selected in the active and negative case samples within 95 days after the end of each sample month; and"

d. Revise paragraph (b)(2)(ii)(C) as follows:

"One hundred percent of the cases selected in the active and negative case samples within 120 days after the end of each sample month."

e. Paragraphs (b)(2) (iv) and (v) are redesignated as (b)(2) (v) and (vi) respectively.

f. Add new paragraph (b)(2)(iv) as follows:

"Original case record, i.e., the local agency record and the State QC file, legible copies of case records, or specified information contained in case records, by mail, within ten days of the State's receipt of a request for such information. The Department may grant exceptions to these requirements in limited cases."

g. Revised newly redesignated paragraph (b)(2)(v)(A) to read as follows:

"Corrective action plans for reducing case error rates for ineligibility, overpayments, underpayments, improper denials and terminations by February 15 of each year."

h. Revised newly redesignated paragraph (b)(2)(v)(B) to read as follows:

"A progress report on the status of implemented corrective actions, an evaluation of their effectiveness and any new initiatives based on current error rate data since the last annual corrective action plan by August 15 of each year."

i. In paragraph (b)(3)(i)(C), last sentence, remove "6-month sampling" and insert "sample" in its place.

j. Revise paragraph (b)(3)(i)(D) to read as follows:

"Even if the alternate plan is approved, the agency must submit edited review findings on all cases selected in the sample period within 120 days after the end of each sample month in the period."

§ 205.41 [Removed]

3. Remove § 205.41 in its entirety.

§ 205.42 [Amended]

4. Section 205.42 is amended as follows:

a. Revise the heading of § 205.42 to read as follows:

§ 205.42 Reduction in Federal financial participation (FFP) for incorrect payments made by States from October 1980 through September 1984.

b. In paragraph (a), first sentence, remove "beginning with the October 1980" and insert "from October 1980 through September 1984."

c. In paragraph (b), revise the definition of "National standard" to read as follows: "National standard" means a four percent payment error rate for the period October 1982 through September 1983 for all States; a four percent payment error rate for Guam, Puerto Rico and the Virgin Islands and a three percent payment error rate for the other States for the period October 1983 through September 1984."

d. In paragraph (c), second sentence, remove "beginning with the October 1980–September 1981 period" and insert "from October 1980 through September 1984."

e. Amend paragraph (d)(1)(i) by adding the following: "Each State other than Guam, Puerto Rico and the Virgin Islands must meet a three percent standard for the annual assessment period October 1983–September 1984."

f. In paragraph (d)(1)(ii), the last sentence of the paragraph and the last sentence of the Example which follows the paragraph, remove the words "all" and "four percent."

g. Revise paragraph (d)(2) to read as follows:

"(2) *States that have achieved the national standard.* States that achieved the four percent national standard in the base period must maintain that standard during the October 1980–September 1981 and the October 1981–September 1982 assessment periods and must meet the appropriate national standard thereafter."

§ 205.43 [Amended]

5. Section 205.43 is amended as follows:

a. In paragraph (a)(1), revise the last sentence to read as follows:

"These rules apply to all States which have an AFDC program through March 31, 1983; however, these rules will only apply to the Commonwealth of Puerto Rico, the Virgin Islands, and Guam thereafter."

b. In paragraph (a)(2), last sentence, remove "6-month" and insert "sample" in its place.

c. Amend paragraph (b) *Definitions* by adding a definition for "Sample period" immediately after the definition for "Nonpayment error rate" as follows:

"Sample period" means the 6-month periods, October–March and April–September.

d. Remove the second and third sentences in paragraph (c).

e. In paragraph (d)(1), last sentence, remove "for every 6-month period" and insert a period after "denials".

f. In paragraph (d)(2)(i), (d)(2)(ii)(A), (d)(2)(ii)(B), (d)(2)(iii), and both places in the Example following paragraph (d)(2)(iii), remove "6-month" and insert "sample" in its place.

6. A new § 205.44 is added to read as follows:

§205.44 Reduction in Federal financial participation (FFP) for incorrect payments made by States after September 1984.

(a) *Purpose and applicability.* This section provides the rules we will use beginning with October 1984 to determine whether we will reduce the amount of Federal matching funds (Federal financial participation or FFP) we give to a State, and, if so, the amount of the reduction. We will reduce the amount of our matching funds if a State makes more incorrect payments in its AFDC program than allowed under the rules in this section. These rules apply to all States which have AFDC programs.

(b) *Definitions.* For the purposes of this section—"Annual assessment period" means the 12-month period October 1–September 30.

"Incorrect assistance payments" means payments to people who are ineligible for a payment and overpayments to eligible people.

"National standard" means a four percent payment error rate for Guam, Puerto Rico and the Virgin Islands and a three percent payment error rate for all other States.

"Payment error rate" means the dollar amount of incorrect assistance payments a State has made expressed as a percentage of the State's total assistance payments.

"We," "us" or "our" mean the Department of Health and Human Services or the Social Security Administration.

(c) *General.* In these rules we are establishing national standards of four percent for Guam, Puerto Rico and the Virgin Islands and three percent for all other States for incorrect payments in the AFDC program. These standards will be used to measure performance of the states in each annual assessment period.

(d) *How we will measure a State's performance.* We will use the information provided by the Federal/State quality control system.

(1) This system measures the dollar amount of incorrect payments in each annual assessment period by reviewing a statistically valid sample of cases selected during each month of the assessment period. The sample results are then projected to the universe of all cases.

(2) If a State fails to complete a valid and reliable sample in accordance with the prescribed QC procedures and deadlines, as required by § 205.40, for any assessment period, we will notify the State of its failure and provide the State the opportunity to negotiate a solution regarding the timely completion

of its sample. Where a State is unable to negotiate a solution or fails to carry out a negotiated solution, we will assign to the State an error rate based on the best data reasonably available, including data obtained from any one or more of the following methods: error rate information for past sample periods, a partially completed State sample, a Federal subsample of completed State cases, a supplemental Federal sample, a Federal audit, and an audit conducted through a contractual agreement with a third party.

(e) *Cost of determining an error rate for States other than Guam, Puerto Rico and the Virgin Islands.* In any case where it is necessary for us to determine a State's error rate for a fiscal year because the State fails to cooperate with us by not providing the information required of the State in accordance with § 205.40 of these rules, the following procedure will apply. Pursuant to section 403(i)(3)(A) of the Act, notwithstanding any other provision of this chapter, total payments to a State under section 403(a)(3) for the proper and efficient administration of the State plan shall be reduced by the amount necessary (deducted without regard to any other reduction under this section) to offset all expenditures the Federal government has incurred in order to determine the State's error rate for any fiscal year in which that State has failed to provide the necessary error rate data. All amounts, both direct and indirect expenditures, shall be deducted generally no later than the second quarter following the quarter in which the costs of compiling the data for determining the State's error rate are available.

(f) *If a State fails to meet the established error rate.* If a State does not meet the national standard for any assessment period, we will reduce our matching funds to the State for that period, unless a State can show that it made a good faith effort to meet the national standard. If a State uses the regular Federal percentage in § 403(a)(1) of the Act for FFP and has an average monthly payment per recipient of more than $32 in an assessment period, an adjustment will be made to the State's error rate for purposes of determining the amount of reduction in our matching funds.

Example.—In fiscal year 1985, the applicable national standard for a particular State is three percent. The State's payment error rate for the assessment period, October 1, 1984 through September 30, 1985, was 4.4 percent. Because the 4.4 percent error rate exceeds the national standard by 1.4 percentage points, we will reduce our Federal matching funds by 1.4 percent of the Federal share of the dollars the State paid to recipients in the form of assistance payments under its AFDC program during that year.

(g) *When we will reduce a disallowance because a State has made a good faith effort.* (1) A State will have 30 days after receipt of a notice of intent to disallow or 15 months after the end of each fiscal year, which ever comes first, to show that it made a good faith effort to meet the national standard. If we find that the State did not meet the national standard despite a good faith effort, we will reduce the funds being disallowed in whole or in part as we find appropriate under the circumstances shown by the State. A finding may be made that a State did not meet the national standard despite a good faith effort under certain limited circumstances. The burden of proof for showing that a good faith effort was made rests entirely with the State.

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

(i) Disasters such as fire, flood or civil disorders, that require the diversion of significant personnel normally assigned to AFDC eligibility administration, or destroyed or delayed access to significant records needed to make or maintain accurate eligibility determinations.

(ii) Strikes of State staff or other government or private personnel necessary to the determination of eligibility or processing of case changes.

(iii) Sudden and unanticipated workload changes which result from changes in Federal law and regulations, or rapid, unpredictable caseload growth in excess of, for example, 15 percent for any consecutive six-month period in an assessment period;

(iv) The State has taken the action needed to meet the national standard, but the national standard was not met, and the State has demonstrated why these actions were not successful in meeting the standard. Request for a waiver under this criterion will not be considered unless a State has demonstrated some error reduction from the last assessment period or has achieved an error rate for the measurement period that does not exceed its target error rate by more than one-third despite an increase in error rate. If a State has met the error reduction requirement above, we will evaluate requests for a good faith waiver based on the following factors:

(A) Demonstrated commitment by top management to the error reduction program, e.g., priorities and goals clearly enunciated to staff and acted upon, accountability for performance, acquisition of necessary resources, implementation of statutory and regulatory provisions intended to reduce errors, e.g., monthly reporting, retrospective budgeting, direct involvement of top management in activities related to error reduction;

(B) Sufficiency and quality of manual and automated systems and the effective use of such systems, designed to reduce errors, that are operational in the State, e.g., BENDEX, FAMIS, interjurisdictional matches, account number validation, computer matches, local agency case monitoring systems, supervisory reviews, verification procedures;

(C) Use of effective systems and procedures for the statistical and program analysis of QC and related data, e.g., statistical analyses by error element, tests of significance, augmented samples, tabulations and cross-tabulations, geographic breakdown of QC and related data, error prone profiles, special studies;

(D) Effective planning, management, execution and evaluation of the corrective action process, e.g., corrective action committees, assignment of responsibilities, milestones for completing tasks, monitoring of progress in completing tasks, completion of tasks, implementation of corrective actions; and

(E) Operation of a quality control system in accordance with Federally prescribed policies, procedures, and time limits for sampling, conducting case reviews, and submitting QC data and reports.

(3) The failure of a State to act upon necessary legislative changes or to obtain budget authorization for needed resources is not a basis for finding that a State failed to meet the national standard despite a good faith effort.

(h) *Disallowances subject to appeal.* If a State does not agree with our decision to reduce (disallow) FFP, it can appeal to us within 30 days from the date of our notice. The regular procedures for appeal of a disallowance will apply, including review by the Commissioner and by the Grant Appeals Board (see 45 CFR Part 16). This appeal provision, as it applies to AFDC Quality Control disallowances, is not applicable to the Commissioner's decision on a State's "good faith" waiver request.

[FR Doc. 84-25683 Filed 9-27-84; 8:45 am]
BILLING CODE 4190-11-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

Letter Regarding Interpretation of Separations Manual

AGENCY: Federal Communications Commission.

ACTION: Interpretation letter regarding Separations Manual.

SUMMARY: Under delegated authority the Common Carrier Bureau, as the result of an audit and survey of carriers, has initiated an interpretation of the *FCC–NARUC Jurisdictional Separations Manual*, Part 67 of the FCC Rules and Regulations. The issue concerns the frozen balances of Customer Premises Equipment Categories 1, 3, 4 and 5, and the interpretation is intended to clarify the apportionment procedures in § 67.153 of the *Manual*, Phase Out and Termination of Interstate Apportionment of Customer Premises Equipment in Accounts 231, and 234. This letter has been sent to the Regional Bell Operating Companies, to major independent telephone companies, to the United States Telephone Association, and to the National Exchange Carriers Association.

FOR FURTHER INFORMATION CONTACT: Hugh L. Boyle, Audits Branch, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, Telephone No. (202) 634–1742.

William J. Tricarico,

Secretary, Federal Communications Commission.

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

September 12, 1984.

As the result of a recent audit of an operating telephone company and subsequent survey of additional companies, we have found a problem in the state/interstate apportionment of the frozen balances of customer premises equipment (CPE) Categories 1, 3, 4 and 5. This letter is to clarify the procedures for apportioning the frozen balances and is intended as an interpretation under delegated authority of the *Separations Manual (Manual)*, Part 67 of the Commission's Rules, § 67.153, Phase Out and Termination of Interstate Apportionment of Customer Premises Equipment in Accounts 231 and 234.

We have found that carriers are properly reducing the December 31, 1982, base amounts by one-sixtieth each month as required in the *Manual*, but there is a problem with the amount used for apportionment. Each month carriers are apportioning an investment amount determined by averaging the balance before the one-sixtieth reduction and the balance after the reduction. The procedure required in § 67.153, however, is as follows:

The amount of plant investment . . ., reduced by one-sixtieth, shall be apportioned between state and interstate operations in accordance with the procedures prescribed for each category under § 67.152 for the month of January 1983. Each month thereafter, the base December 31, 1982 amount shall be reduced by one-sixtieth of the base amount in each category, and the apportionment between state and interstate operations shall be made in a similar manner.

These requirements call for the apportionment each month of the actual balance after the base amount has been reduced by one-sixtieth for every month up to and including the month of apportionment, beginning with January 1983. The difference between averaging and using the actual balance is that the investment in CPE subject to apportionment each month is higher under the averaging method by 1/120 of the December 31, 1982, frozen balance.

We are aware that normal capital recovery procedures provide for a return on an average investment for any given period. However, as stated in a relevant part of the discussion of the Federal State Joint Board in their *Recommended Decision and Order* (Docket No. 80–286, FCC 81–566, Paragraphs 23–26), the focus here "is on an equitable reduction of the revenues that separations allocations of CPE contribute to other aspects of interstate operations." Further, in their discussion the Joint Board noted that the issue of removal of CPE from separations procedures and the issue of capital recovery are separate. We believe that the procedures developed to remove CPE from separations are likewise separate from those of capital recovery and should not therefore be glossed by accepted theories of depreciation. Accordingly, it is our interpretation that the requirements in the *Manual* as stated preclude averaging, and we are requiring that all carriers discontinue this practice. Further, any apportionment of the frozen CPE balances for months in 1984 based on average monthly balances should be restated to reflect apportionment of actual balances after the required reductions.

If you have any questions concerning this interpretation, please contact Hugh L. Boyle, Audits Branch, on (202) 634–1742.

Sincerely,

Jack D. Smith,

Chief, Common Carrier Bureau.

[FR Doc. 84–25748 Filed 9–27–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Parts 81 and 87

Posting of Photocopy of Operator Licenses in the Aviation and Maritime Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This order editorially amends the Aviation and Marine rules to permit a photocopy of an operator license or permit under certain conditions to satisfy posting requirements. This action results from the elimination of an FCC form used to verify an operator license. The use of photocopies is expected to be more convenient for the public.

EFFECTIVE DATE: October 29, 1984.

FOR FURTHER INFORMATION CONTACT: Robert DeYoung, Private Radio Bureau, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 81

Coast stations, Radio.

47 CFR Part 87

Aeronautical stations, Radio.

Order

In the matter of editorial amendment of §§ 81.159 and 87.97 of the rules.

Adopted: September 17, 1984.
Released: September 21, 1984.

1. The Commission is eliminating FCC Form 759, *Verification of Radio Operator License or Permit for Additional Posting.* In lieu of a Form 759, a photocopy of the original license or permit must be posted pursuant to § 13.74(b) of the rules. This order editorially amends §§ 81.159 and 87.97 of the rules to reflect this change.

2. Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r) and by § 0.231(d) of the rules, 47 CFR 0.231(d). Since the amendments are editorial in nature, the public notice, procedure, and effective date provisions of 5 U.S.C. do not apply.

3. Accordingly, it is ordered, that §§ 81.159 and 87.97 are amended as set forth in the attached appendix effective October 29, 1984.

4. Regarding questions on matters covered in this document contact Robert DeYoung, (202) 632–7175.

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

Appendix

Parts 81 and 87 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA FIXED SERVICE

Section 81.159 is revised to read as follows:

§ 81.159. Posting of operator licenses.

The original license of each station operator must be conspicuously posted at the place where the operator is on duty. When an operator is employed at more than one station at different locations, the original license must be posted at one location and a photocopy of the license at the other(s). In the case of mobile units either the operator license or a photocopy of it must be kept in the personal possession of the operator. A Restricted Radiotelephone Operator Permit (RP) must be kept in the personal possession of the operator.

PART 87—AVIATION SERVICES

Section 87.97 is revised to read as follows:

§ 87.97 Posting of operator licenses.

The original license of each station operator must be conspicuously posted at the place where the operator is on duty. In the case of mobile units either the operator license or a photocopy of it must be kept in the personal possession of the operator. A Restricted Radiotelephone Operator permit must be kept in the personal possession of the operator.

[FR Doc. 84-25749 Filed 9-27-84; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 386, 387, 390, 392, 393, 395, 396 and 397

[BMCS Amdt. No. 83-11]

Federal Motor Carrier Safety Regulations, Miscellaneous Amendments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is amending the Federal Motor Carrier Safety Regulations (FMCSR) to (1) correct spelling; (2) update regional office addresses; (3) remove obsolete references; (4) correct references in the schedule of limits for financial responsibility; (5) make technical corrections in §§ 395.8, 396.9 and 397.7; (6) correct the language in § 397.3, and clarify the intent of § 397.19(c); and (7) update the definition of special agent in Appendix B to include recent changes to titles due to organizational changes. While the revisions are nonsubstantive in nature, they will serve to update and clarify the existing regulations.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 426-9767, or Mr. Thomas P. Holian, Office of the Chief Counsel, (202) 426-0346, Federal Highway Administration, 400 Seventh 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 FHWA is making a number of revisions to the FMCSR. The amendments will update certain Regional office addresses; clarify the intent of the parking rule for Class A and B explosives; update the list of employees defined as "special agents" charged with enforcing the FMCSR; clarify the intent of the certification requirement on fuel tanks; clarify the intent of the routing requirements for vehicles transporting Class A or Class B explosives; correct the reference in § 395.8 Exemptions; and make several other miscellaneous corrections, as described below.

1. Section 386.21, Consent order, is being revised by correcting the spelling of "content" in the first sentence "When a respondent has filed an election not to content . . ." to read "contest".

2. Section 387.3, Applicability of financial responsibility is being corrected by amending the word "large" as used in paragraphs (c)(1) and (c)(2) to read "highway route controlled". This makes the regulation and schedule of limits compatible.

3. Section 387.9, Financial responsibility, minimum levels, and Section 387.15, Forms, are being amended to correct the references in the Schedule of Limits charts, the column titled "Commodity Transported", the second and last sentences ending with 49 CFR "173.455" are being changed to read "173.403", and to remove the expiration date on the forms.

4. Section 390.40, is being revised to reflect the correct name for the regional offices and the current address of Regions 4, 8, 9 and 10. The Regional Motor Carrier Safety Office is now designated as the "Office of Motor Carrier and Highway Safety."

5. Section 392.8, Emergency equipment, inspection and use, is being revised by eliminating the words "and 393.96." Section 393.96 is no longer a section in the FMCSR.

6. Section 395.8(1) Exemptions is being amended to correct the reference in paragraph (1)(v)(D) that reads "paragraph (i) of this section" to read "paragraph (j)(2) of this section" and add the word "or" between the words "time" and "intermittently" to read "time or intermittently".

7. Section 396.9 is being revised to be compatible with the current Form MCS-63, Driver—Vehicle Examination Report. Therefore, § 396.9(c)(4) is being eliminated and paragraph (d)(3)(i) is being revised to reflect the current certification requirements of Form MCS-63.

8. Section 397.7 paragraph (a) is being amended to clarify the intent of the parking requirement as set forth in the current published interpretation which states "The word 'or' between § 397.7(a)(2) and § 397.7(a)(3) requires that both subparagraphs be fully complied with". The intent was to prohibit parking of motor vehicles laden with Class A or B explosives within 300 feet of any place where people congregate or assemble except when necessities of operation require otherwise. Therefore the words "under any of the following circumstances" are being added at the end of paragraph (a).

9. Section 397.19(c) is being amended to clarify the intent of the written route plan requirement for drivers transporting Explosives A or Explosives B to make certain those drivers comply with the written route plan in addition to having possession of a copy while driving.

10. Appendix B, Special agents, is being amended to reflect changes in the organizational structure of the Bureau of Motor Carrier Safety since the last update in 1980.

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. Since the changes being adopted in this document are technical in nature and make no substantive changes in the regulations, the FHWA finds good cause to make this amendment final without prior notice and opportunity for comment and without a 30-day delay in the effective date required by the Administrative Procedures Act. Notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action would result in the receipt of useful information. Accordingly, the amendments are effective upon issuance.

It is anticipated that the economic impact of this rulemaking action, if any, will result in minimal cost savings to the motor carrier industry. Accordingly, a full regulatory evaluation is not required.

For the foregoing reasons, under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Parts 386, 387, 390, 392, 393, 395, 396, and 397

Motor carriers, Financial responsibility, Highway safety, Parts and accessories, Hours of service, Hazardous materials, and Motor vehicle safety.

In consideration of the foregoing, Title 49 Code of Federal Regulations, Subtitle B, Chapter III is amended as set forth below.

PART 386—RULES OF PRACTICE FOR MOTOR CARRIER SAFETY PROCEEDINGS

1. Section 386.21 is corrected by changing the word "content" to "contest" as follows:

§ 396.21 Consent order.

When a respondent has filed an election not to contest under . . . .

* * * * *

PART 387—MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

2. Sections 387.3 (c)(1) and (c)(2) are amended by changing the word "large" to read "highway route controlled" as follows:

§ 387.3 Applicability.

* * * * *

(c) *Exception.* (1) The rules in this part do not apply to a motor vehicle that has a gross vehicle weight rating (GVWR) of less than 10,000 pounds. This exception does not apply if the vehicle is used to transport any quantity of Class A or Class B explosives, any quantity of poison gas, or highway route controlled quantity of radioactive materials, as defined in 49 CFR 173.403, in interstate or foreign commerce.

(2) The rules in this part do not apply to the transportation of nonbulk oil, nonbulk hazardous materials, substances, or wastes in intrastate commerce except highway route controlled quantity radioactive materials, as defined in 49 CFR 173.403.

§§ 387.9 and 387.15 [Amended]

3. Sections 387.9 and 387.15 are amended by correcting the CFR references in the Schedule of Limits charts set forth therein and the expiration date in Illustration I in § 387.15 is removed as follows:

In the "Schedule of Limits" charts, second column titled "Commodity transported" the references at 4 locations reading 49 CFR 173.455, are changed to read 49 CFR 173.403. The words "Expiration Date: 06/30/83" between the words "Form MCS–90 (3/82)" and "Form Approved" immediately following "Illustration I" in Section 387.15, are removed.

* * * * *

PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS—GENERAL

4. Section 390.40 is amended by changing the name of the regional offices and updating the addresses for Regions 4, 8, 9 and 10 as follows:

§ 390.40 Locations for filing accident reports and notifications.

Motor carriers shall file the reports required by §§ 394.9 and 394.11 of this subchapter by personal service upon, or mailing by first-class mail to the Director, Office of Motor Carrier and Highway Safety, for the Federal Highway Administration Region in which the carrier's principal place of business is located as shown in the following table:

* * * * *

Region No.	Territory included	Location of regional office
	* * *	* * *
4	* * *	1720 Peachtree, NW., Atlanta, GA 30367.
	* * *	* * *
8	* * *	555 Zang St., Room 400, Lakewood, CO 80228.
9	* * *	211 Main Street, Room 1108, San Francisco, CA, 94105.
10	* * *	Mohawk Building, Room 412, 708 SW. Third Ave., Portland, OR 97204.

* * * * *

PART 392—DRIVING OF MOTOR VEHICLES

5. Section 392.8 is amended by removing the words "and § 393.96" as follows:

§ 392.8 Emergency equipment, inspection and use.

No motor vehicle shall be driven unless the driver thereof is satisfied that the emergency equipment required by § 393.95 of this subchapter is in place and ready for use; nor shall any driver fail to use or make use of such equipment when and as needed.

* * * * *

PART 395—HOURS OF SERVICE OF DRIVERS

6. Section 395.8(l)(1)(v) *Exemptions,* is amended to correct the reference to paragraph (i) in subparagraph (D) to read (j)(2) and to add "or" between the words "time" and "intermittently" as follows:

§ 395.8 Driver's record of duty status.

* * * * *

(1) Exemptions—(1) * * *

(V) * * *

(D) The total time for the preceding 7 days in accordance with paragraph (j)(2) of this section for drivers used for the first time or intermittently.

* * * * *

PART 396—INSPECTION, REPAIR AND MAINTENANCE

7. Section 396.9(c)(4) is removed and subparagraph (d)(3)(i) is revised to read as follows:

§ 396.9 Inspection of motor vehicles in operation.

* * * * *

(c) * * *

(4) [Reserved]

(d) *Motor carrier disposition.*

* * * * *

(3) * * *

(i) Certify that all violations noted have been corrected by completing the "Signature of Carrier Official, Title, and Date Signed" portions of the form; and

* * * * *

PART 397—TRANSPORTATION OF HAZARDOUS MATERIALS; DRIVING AND PARKING RULES

8. Section 397.7(a) introductory text is amended by adding the words "under any of the following circumstances", to read as follows:

§ 397.7 Parking.

(a) A motor vehicle which contains Class A or Class B explosives must not be parked under any of the following circumstances—

* * * * *

9. Section 397.19(c) introductory text is amended by adding the words "be in compliance with" to read as follows:

§ 397.19 Instruction and documents.

* * * * *

(c) A driver of a motor vehicle which contains Class A or Class B explosives must be in possession of, be familiar with, and be in compliance with—

* * * * *

Appendix B to Subchapter B—Special Agents

10. Appendix B, paragraph 3 is revised to read as follows:

* * * * *

3. *Definition of special agent.* Federal Highway Administration (FHWA) employees

charged with enforcing 49 U.S.C. 3101 *et seq;* 49 U.S.C. 1801 *et seq;* section 30 of the Motor Carrier Act of 1980, Pub. L. 96–296, 94 Stat. 793, 820, and section 18 of the Bus Regulatory Reform Act of 1980, Pub. L. 97–261, 96 Stat. 1102, 1120; section 414 of the STAA of 1982, Pub. L. 97–424, 96 Stat. 2097, 2161; and 42 U.S.C. 4917, including employees within the Bureau of Motor Carrier Safety (BMCS) and such other persons as the Federal Highway Administrator or Director of the BMCS may specify in writing, in possession of credentials issued by the FHWA, are special agents. They are hereby authorized to inspect and copy records and to inspect and examine lands, buildings, and equipment to the manner and extent provided by law.

* * * * *

(49 U.S.C. 3102; 49 CFR 1.48(b))

[Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety]

Issued on: September 24, 1984.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 84–25752 Filed 9–27–84; 8:45 am]

BILLING CODE 4910–22–M

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49 CFR Part 391

[BMCS Docket No. MC–92; Amdt. No. 83–10]

Handicapped Driver Waiver Program; Revisions

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule; technical corrections and clarification.

SUMMARY: Three technical corrections and one clarification are being made to the final rule pertaining to the FHWA's Handicapped Driver Waiver Program which was published in the **Federal Register** on Wednesday, August 24, 1983. Three petitioners proposed several technical corrections. This document responds to each proposed technical change. Also, the FHWA has taken this opportunity to correct an incorrect reference note in the rule. Lastly, clarification is made about the waiver form itself and the information contained thereon.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 426–9767; or Mrs. Kathleen S. Markman, Office of the Chief Counsel, (202) 426–0346, Federal Highway Administration, Department of Transportation, 400 Seventh St., 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 final rule pertaining to the application and granting of waivers to limb-handicapped commercial drivers operating motor vehicles in interstate or foreign commerce was published in the **Federal Register** on Wednesday, August 24, 1983, at 48 FR 38483. Subsequently, three petitions were received requesting reconsideration and clarification of the final rule. The petitioners are the American Trucking Associations, Inc. (ATA), the American Bus Association (ABA), and the National Tank Truck Carriers, Inc. (NTTC). Because of the similarity and commonality of points raised in each petition, the FHWA has prepared a single response. Further, this action corrects an incorrect reference note in the rule. Lastly, clarification of new information which is to be printed on the waiver form is given.

Discussion

All three petitioners petition for the Skill Performance Evaluation (SPE) to be mandated in the revised rule. The SPE is a demonstration of ability test given to Handicapped Driver Waiver Program (hereafter called the Waiver Program) applicants by specially trained Regional Handicapped Driver Waiver Program Specialists (RHDWPS). The SPE evaluates the performance of normal commercial driver driving and operational functions.

At present, the SPE is not mandated. The rule states that the Regional Federal Highway Administrator (RFHWA) may require the test. It was not mandated so that the RFHWA may have a degree of program flexibility. For example, some limb-handicapped drivers leave and then return to the Waiver Program. The RFHWA may not consider another SPE to be necessary. Under the present rule, the RFHWA may elect to forego the SPE in this instance. The FHWA policy concerning whether the SPE is performed is that all first time Waiver Program applicants are always given an SPE.

The petitioners believe the SPE to be a critical evaluative step in the Waiver Program. They are concerned because the decision of whether the SPE is performed is governed by a policy and not a regulation. They argue that policy can be changed without public notice, as an example, budgetary constraints or manpower requirements could cause the RFHWA to forego the SPE for some applicants.

The FHWA does not believe the issue has merit. The agency must have operational latitude when carrying out its mission or a singular program. If the state of the art changes, we must be able to change too, without necessitating a rule change. For example, recently a person applied for a waiver who previously had a waiver three year ago. The application stated the applicant was to operate a motor vehicle of the same type and specifications as previously tested in a SPE. The RFHWA did not require the SPE to be repeated. The medical appraisal and other application requirements were carried out.

Related to the request to mandate the SPE in the rule, is a proposal to mandate that the RHDWPS give the SPE. The NTTC and the ABA believe the road test certificate cited in paragraph (d) of § 391.49 permits any competent person to give the road test defined in paragraph (g) of § 391.49 (i.e., the SPE). This is incorrect. The certificate of road test in paragraph (d) is an application requirement which along with seven other application requirements demonstrates that the applicant is otherwise qualified under the driver qualifications of Part 391. This road test must be given in accordance with § 391.31. The demonstration of ability test (i.e., the SPE) in paragraph (g) of § 391.49 is always given by the RHDWPS. Our reason for not mandating the SPE be given by the RHDWPS is the same as that previously stated about mandating the SPE.

The second point, of which all three petitioners ask reconsideration, is that the rule should specifically state that the SPE be done on the type of vehicle listed in the waiver application. The ATA recommended the following language be added to § 391.49 as paragraph (g)(1).

> The skill performance evaluation shall be conducted on a truck or tractor which has all of the features and characteristics listed in the letter of application as required by § 391.49(c)(3). Testing on combination vehicles must be with loaded trailer(s) coupled to the truck or tractor. Such trailer(s) must be of the type specified in the letter of application.

If this statement is made a part of the rule, it would make the rule too rigid and would not permit the necessary degree of program discretion, that through the years we have found is required by the RHDWPS. On rare occasions, applicants who have applied for a waiver to drive a manual transmission vehicle have taken the SPE with a motor vehicle with automatic transmission. The established procedure in this case is to note the discrepancy to the applicant and inform the driver that if the waiver is granted, it will state that it is granted only for a similar type motor vehicle and transmission type that was used in the SPE.

Another example is where the initial application letter states the motor vehicle has a thirteen-speed transmission and the driver brings a nine-speed transmission equipped motor vehicle to the SPE. With the present

discretion capability in the rule, the RHDWPS may elect to give the SPE. If the RHDWPS judges that the negative points accumulated during the SPE do not reflect problems due to transmission manipulation and, the applicant passes the SPE, the RHDWPS has the discretion to not limit the waiver to a specific type of manual transmission. The training of the RHDWPS by driver training experts and rehabilitation experts have prepared them to make this type of judgment. Finally, the waiver is granted only for the vehicle type and its modifications that was utilized in the SPE.

The third point for reconsideration was proposed solely by the ATA. It proposed the rule be revised to expressly prohibit using a driver who cannot adequately perform nondriving functions. The ATA recommends that § 391.49(e)(2) be revised as follows:

> Use the driver only if s/he is evaluated and approved by the motor carrier for those non-driving safety-related job tasks associated with whatever type of trailer(s) will be used and any other nondriving safety-related or job-related tasks unique to the operations of the employing motor carrier; and.

The ATA believes that it is essential that Waiver Program drivers be able to perform nondriving safety-related job tasks. The ATA believes it is implicit in the rule that if a prospective employee is unable to adequately demonstrate the requisite ability, that person cannot be qualified as a driver.

We believe the present rule does more than imply that a driver with a waiver be able to perform nondriving safety-related job tasks associated with whatever type of trailer(s) will be used and any other nondriving safety-related or job-related tasks unique to the operations of the employing motor carrier. It is required under § 391.49(e)(3). Paragraph (e)(3) of § 391.49 allows the use of a driver with a waiver only when the driver is in compliance with the conditions and limitations of the waiver. A condition of the waiver is the aforementioned evaluation by a motor carrier. Obviously, a motor carrier who obtained evaluative results which demonstrate a driver with a waiver cannot adequately perform nondriving tasks, would not use the driver. Also, due to the fact that some job-related tasks requiring evaluation may not be entirely under the authority of the FHWA to regulate, we believe the present wording is adequate.

Point four was proposed by all petitioners. The ATA proposes to add to § 391.49 as paragraph (h)(1):

> If a waiver is granted, it will list the terms, conditions and limitations imposed by the RFHWA. It will provide a detailed description of the vehicle(s) which the waiver holder is authorized to drive. Such description shall include all the information required in the letter of application by the provisions of § 391.49(c)(3).

The waiver form presently in use lists the conditions, limitations, and vehicle type for which the waiver is granted. Stating these limitations and conditions of the waiver only on the waiver form provides for a necessary amount of administrative flexibility which permits program changes (i.e., more or different types of information on the waiver form) without resorting to formal rulemaking. The present waiver form lists vehicle type, vehicle modifications, prosthetic or orthotic device description, and other liimitations and conditions. The operational guidelines for RHDWPS in filling out these areas of the waiver form are:

Limitations:

(1) Vehicle Type—Be descriptive. Do not say tractor, instead say, "truck-tractor" or "Conventional tractor" (if the driver cannot climb into a cab-over-engine tractor).

"Small gasoline powered truck-tractor modified for transporting mobile homes."

"Bus," state seating capacity of vehicle.

(2) Vehicle Modifications—Be sure to fully describe all of the vehicle modifications that are necessary, such as:

A. "Fully automatic transmission."

B. "Semiautomatic transmission—requiring no clutch pedal."

C. "Dash mounted, hand operated headlight dimmer switch."

D. "Power steering."

E. "Headlight, windshield wiper and body light cutout switches to be of the toggle type with the toggle levers not less than one and one-half inches in length."

F. "Gear shift lever shall be extended so that the lever knob is not less than 40 inches off the cab floor when in any given gear, except reverse."

G. "Tractor to be equipped with standard westcoast mirrors and 6 inch convex mirrors mounted below both mirrors."

(3) Prosthetic or orthotic device(s) that must be worn while driving (specify—Name of manufacturer, model name, and description number).

(4) Additional Provisions—List anything that is necessary such as:

A. "Must submit a doctor's report of blood pressure reading every 90 days."

B. "All driving is limited to day light hours."

C. "No driving permitted during ice or snow conditions."

D. "Driver may not make trips requiring him to be away from home overnight."

It was the intent of the FHWA through the Waiver Program final rule to grant a waiver solely for the operation of a truck, bus, or truck-tractor. Any trailer(s) attached to a truck, bus, or truck-tractor is not a part of the waiver. However, the SPE is conducted with the type of bus, truck, or truck-tractor and the trailer(s) named in the application. It was not intended to impart on the waiver form the trailer type used in the SPE, but it appears that it makes practical sense to give this information to the employing motor carrier.

We believe a revised waiver form with the additional information on trailer-type(s) utilized in the SPE fulfills the petitioners' informational needs. No point is served by specifically stating in the rule what are administrative procedures of the program. Finally, not stating the parameters of each item in the rule permits faster updating and modification of the waiver form.

In point five, the ATA, the NTTC, and the ABA propose the rule require the driver to provide the motor carrier with a copy of the waiver form and the application information required under § 391.49(d) (1) through (4)

In this point, the petitioners would have the waiver rule require that the driver provide the employing motor carrier with all medical information initially supplied the FHWA in the waiver application. This information is required by the FHWA to determine if an SPE is feasible.

It is our belief that motor carriers do not need, nor are they trained to evaluate, the medical information in § 391.49(d) (1) through (4). A motor carrier must evaluate a driver's ability for such tasks as climbing up a ladder or a cargo tank or securing the manhole cover or opening and closing valves. None of the medical information addresses these tasks. Nor can the medical information answer whether a prospective employee can provide adequate assistance during emergency evacuation of a bus. The driver demonstrates the ability to accomplish these tasks through individual testing by the employing motor carrier. The fact that the driver has been granted waiver demonstrates that the driver can perform certain manual tasks such as hooking up air lines, climbing into a cab-over-engine (COE) configured vehicle, pulling the COE body open for engine work, and in some cases putting snow chains on tires. The motor carrier's responsibilty is to evaluate a prospective employee on its specific

trailer(s) or bus. We find no merit to this proposal.

In point six, the ABA proposes the waiver rule require information on vehicle characteristics of passenger-carrying motor vehicles. We agree that an applicant who applies for a waiver to drive a bus should list its characteristics. The omission of a requirement for specific information on passenger-carrying vehicles in the rule was an oversight. Language will be added to the rule requiring the applicant to provide the information proposed by the ABA relating to a bus: (1) Make, model, and year; (2) transmission type; (3) steering type; (4) seating capacity; and (5) vehicle modifications.

The seventh point for consideration concerns a proposal by the NTTC to require the waiver to be granted for both the power unit and the trailer unit. Under the August 1983 rule change, the waiver is granted for the power unit only. The NTTC would like the FHWA to return the waiver rule to the time prior to the final rule change of August 24, 1983 (i.e., when the waiver included both the tractor and the trailer).

In the final rule of August 1983, the reason this change was made was fully discussed. The trailer unit was held to be a significant part of a commercial motor vehicle unit, but because of the diversity of trailers and trailer related job tasks, the FHWA believed the prospective motor carrier was best suited to evaluate a driver with respect to its specific trailer types. This evaluation included road testing of the driver using the trailer type the employer intends the driver to transport, an evaluation of all nondriving safety-related job tasks associated with whatever trailer(s) will be used and any other nondriving safety-related or job-related tasks unique to the operations of the employing motor carrier.

Although it is implied in the final rule's preamble that the employing motor carrier must evaluate a driver with a road test using its specific type of trailer(s), it was not stated in the rule. Therefore, the FHWA will specifically state in the rule that the employing motor carrier must road test the driver with a waiver utilizing the trailer type the driver will be employed to transport. A motor carrier may accept a certificate of trailer road test in lieu of its trailer road test from another motor carrier, if trailer types are similar. The format of the certificate should be similar to the certificate of road test found in § 391.31(f). Also, the trailer type utilized in the SPE will be stated on the waiver form. If the trailer type utilized in the SPE is similar to the trailer type of the employing motor carrier, the motor carrier need not road test the driver. Some examples of distinct trailers types are van, flat bed, cargo tank, and pole trailers.

We do not believe trailer road testing increases the burden on the employing motor carrier. We do not believe that a motor carrier would employ a new driver who has never operated a trailer-type-combination of the motor carrier's particular type without a road test, whether the driver was handicapped or not. In summary, concerning the trailer road test, the employing motor carrier must evaluate a driver itself or accept the trailer road test certificate of another motor carrier or accept the trailer road test done during the SPE. This assumes that the trailer type in the latter two cases is similar to the trailer type of the prospective motor carrier. In all three cases, the motor carrier is still responsible for the evaluation in paragraph (e)(3) of § 391.49. It is the responsiblity of the employing motor carrier to develop the parameters of the trailer road test.

Paragraph (i)(8) of the waiver rule is followed by a "Note" for the reader to "Refer to paragraph (c)(3)(iii) of § 391.49 for conditions under § 391.41(b)(2) which may be considered medically stable." The citation of paragraph (c)(3)(iii) is incorrect. The correct citation is paragraph (d)(3)(ii) of § 391.49.

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. The changes being adopted in this document are primarily technical in nature and provide language clarifications. For these reasons and since the final rule imposes no additional burdens on the States or other Federal agencies, the FHWA finds good cause to make this regulation final without prior notice and opportunity for comments and without a 30-day delay in effective date under the Administrative Procedure Act. For the same reasons, notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action would result in the receipt of useful information. Accordingly, this final rule is effective upon issuance.

Since the changes being adopted in this document are primarily nonsubstantive in nature and merely clarify the existing regulation, the anticipated economic impact, if any, is minimal. Therefore, a full regulatory evaluation is not required.

PART 391—[AMENDED]

In consideration of the foregoing, the FHWA is amending 49 CFR 391.49 by revising paragraphs (c)(3), (e) (2) and (3), (g), and (i)(8), and adding (e)(4) as follows:

§ 391.49 Waiver of certain physical defects.

* * * * *

(c) * * *

(3) Description of the vehicle(s) the driver applicant intends to drive:

(i) Truck, truck-tractor, or bus make, model, and year (if known);

(ii) Drive train;

(A) Transmission type (automatic or manual—if manual, designate number of forward speeds);

(B) Auxiliary transmission (if any) and number of forward speeds; and

(C) Rear axle (designate single speed, 2 speed, or 3 speed).

(iii) Type of brake system;

(iv) Steering, manual or power assisted;

(v) Description of type of trailer(s) (i.e., van, flat bed, cargo tank, drop frame, lowboy, or pole);

(vi) Number of semitrailers or full trailers to be towed at one time;

(vii) For passenger-carrying vehicles, indicate seating capacity of vehicle; and

(viii) Description of any vehicle modification(s) made for the driver applicant; attach photograph(s) where applicable.

* * * * *

(e) * * *

(2) Evaluate the driver with a road test using the trailer the motor carrier intends the driver to transport or, in lieu of, accept a certificate of a trailer road test from another motor carrier if the trailer type(s) is similar or accept the trailer road test done during the Skill Performance Evaluation if it is a similar trailer type(s) to that of the prospective motor carrier;

Note.—Job tasks, as stated in paragraph (e)(3) of this section, are not evaluated in the Skill Performance Evalulation.

(3) Evaluate the driver for those nondriving safety-related job tasks associated with whatever type of trailer(s) will be used and any other nondriving safety-related or job-related tasks unique to the operations of the employing motor carrier; and

(4) Use the driver to operate the type of motor vehicle defined in the waiver only when the driver is in compliance with the conditions and limitations of the waiver.

* * * * *

(g) The Regional Federal Highway Administrator may require the driver applicant to demonstrate his or her ability to to safely operate the motor vehicle(s) the driver intends to drive to an agent of the Regional Federal Highway Administrator. The waiver form will identify the power unit (bus, truck, truck-tractor) for which the waiver has been granted. The waiver forms will also identify the trailer type used in the Skill Performance Evaluation; however, the waiver is not limited to that specific trailer type. A driver may use the waiver with other trailer types if a successful trailer road test is completed in accordance with paragraph (e)(2) of this section. Job tasks, as stated in paragraph (e)(3) of this section, are not evaluated during the Skill Performance Evaluation.

* * * * *

(i) * * *

(8) A medical evaluation summary pursuant to paragraph (d)(3) of this section if an unstable medical condition exists. All handicapped conditions classified under § 391.41(b)(1) are considered unstable.

Note.—Refer to paragraph (d)(3)(ii) of this section for the condition under § 391.41(b)(2) which may be considered medically stable.

* * * * *

(Catalog of Federal Domestic Assistance Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

(49 U.S.C. 3102; 49 CFR 1.48 and 301.60)

List of Subjects in 49 CFR Part 391

Highways and roads, Highway safety, Motor carriers, Motor vehicle safety—driver qualifications, Motor carriers—handicapped driver waiver.

Issued on: September 24, 1984.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 84-25751 Filed 9-27-84; 8:45 am]

BILLING CODE 4910-22-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1039 and 1300

[Ex Parte No. 387]

Railroad Transportation Contracts

AGENCY: Interstate Commerce Commission.

ACTION: Final rules; correction.

SUMMARY: At 47 FR 50261, November 5, 1982, the Commission published final rules which implemented provisions of the Staggers Rail Act of 1980 which provide for filing contract rates and for filing complaints related to these contracts. In setting out the final rules, an error was made in the heading for Part 1039. This notice corrects that error.

FOR FURTHER INFORMATION CONTACT: Mont Burrup, (202) 275-6447.

SUPPLEMENTARY INFORMATION: At 47 FR 50262, November 5, 1982, the heading "PART 1039—CONTRACTS" is corrected to read as follows:

PART 1039—CONTRACTS AND EXEMPTIONS

James H. Bayne,

Secretary.

[FR Doc. 84-25804 Filed 9-27-84; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 49, No. 190
Friday, September 28, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. 24255; Notice 84-18]

Temporary Suspension of Subpart L of Part 93

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: The FAA proposes to issue a Special Federal Aviation Regulation (SFAR) which would temporarily suspend the special air traffic rules and communication requirements at Airpark-Dallas Airport, in order to conduct an evaluation of the continued need for those procedures. Affected operations, during the effective period of this rule, would be covered by the appropriate provisions of Federal Aviation Regulations (FAR) Part 91, General Operating Rules. Should a determination be made that there is a need to retain the special rules for Airpark-Dallas Airport, the proposed SFAR would be allowed to expire. On the other hand, if revocation of the special rules is indicated by the evaluation, the proposed SFAR would be extended until appropriate general rulemaking action to revoke the rules can be completed.

DATES: Comments must be received on or before November 27, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC-204), 800 Independence Avenue, SW., Washington, D.C. 20591, or deliver comments in triplicate to FAA, Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the regional air traffic division.

FOR FURTHER INFORMATION CONTACT: Mr. Brent A. Fernald, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the docket and be submitted in duplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 24255." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Current Rule

Section 91.87 provides, in part, that no person may, within an airport traffic area (ATA), operate an aircraft to, from, or on an airport having a control tower operated by the United States unless two-way radio communications are maintained between that aircraft and the control tower. This provision does not apply, however, to aircraft operations under visual flight rules (VFR) to or from a satellite airport in the ATA. Section 91.85 provides, in part, that unless authorized or required by Air Traffic Control (ATC), no person may operate an aircraft within an ATA except for the purpose of landing at, or taking off from, an airport within that area. While this situation can be acceptable where traffic volume is light at the satellite airport and only light to moderate at the primary airport, it becomes unacceptable where there is a high volume of traffic to or from the primary airport. Historically, in unacceptable cases the FAA has resorted to special rulemaking under FAR Part 93 in order to maintain safety and efficient utilization of airspace.

One of these cases is Part 93, Subpart L, which requires each person operating an aircraft to or from the Airpark-Dallas Airport, Texas, to establish and maintain two-way radio communications with Addison, Texas, Airport Traffic Control Tower (ATCT). The rule requires aircraft landing at Airpark-Dallas to enter the Airpark-Dallas traffic pattern east of the airport, at or below 500 feet above ground level (AGL), and execute a left traffic pattern for a south landing or a right traffic pattern for a north landing. Aircraft departing Airpark-Dallas Airport must exit the traffic pattern to the east. In this manner segregation is accomplished between Airpark-Dallas traffic and the traffic operating to or from the Addison Airport.

Historical Background

On December 8, 1965, the FAA circularized a Notice of Proposed Establishment of a New Airport at Hebron, Texas. The proposed airport

was to be designated as a private airport, but would have limited public use. An airport airspace Notice of Determination, 65–FTW–30NR, dated April 15, 1966, was issued for Airpark-Dallas Airport. The determination stated that the FAA had no objections to the establishment of that airport provided:

1. All traffic patterns were east of the airport;

2. Two-way radio communications must be established with Addison ATCT by each aircraft prior to operating to or from the airport; and,

3. The sponsor of Airpark-Dallas Airport contact Addison ATCT Chief for the purpose of establishing traffic patterns and radio procedures.

On June 22, 1966, the airport manager implemented the provisions of 65–FTW–30NR determination.

An addison ATCT report dated May 18, 1971, indicated that more than 30 percent of the Airpark-Dallas operations did not comply with the airspace determination requirements. An Addison ATCT report dated August 2, 1976, indicated that during the period of July 1–31, 1971, 236 aircraft out of a total 786 aircraft did not comply with the airspace determination requirements.

On December 12, 1971, the FAA's Southwest Region, Air Traffic Division (ASW–500), requested an amendment to Part 93 to specify communication and traffic pattern requirements to Airpark-Dallas Airport. Part 93, Subpart L, became effective February 13, 1973.

On October 5, 1982, ASW–500 requested action be initiated for the revocation of subpart L. The request stated that in keeping with the Administrator's regulatory review, the rule is not warranted, that similar situations exist at other airports which do not require a special rule, and that the rule serves no useful purpose at the Addison Airport.

In a recent survey of activity at these airports, both the air traffic facility (Addison ATCT) and the responsible Flight Standards District Office reported that no significant problems existed. In this case, the FAA is sufficiently confident that the provisions of the present Part 157 airspace determination can safely accommodate the Airpark-Dallas traffic patterns in the Addison Airport ATA. Further, it is the FAA's policy that a Part 93 rule will be issued only in cases when noncompliance with any Part 157 airport determination will cause a safety problem. Since Subpart L procedures have been in effect for over 10 years, the FAA believes it is necessary to precede revocation with this evaluation. During the evaluation, the FAA proposes to update the Airport Facility Directory as necessary to reflect the Part 157 determination provisions.

A Request for Information

In order to evaluate the proposed revocation the following specific information is requested of pilots using Airpark-Dallas:

1. What is the traffic volume at Airpark-Dallas and how does it compare with the volume that precipitated the rule or the volume during July 1971?

2. How many aircraft based at Airpark-Dallas are not radio equipped?

3. At what airport do you operate?

4. What type of operation do you conduct, i.e., air taxi, charter, instruction, commercial, pleasure?

5. What types of aircraft do you operate?

6. How many hours per week, month, or year do you fly?

7. How long have you based your operation at your present airport?

8. How do you operate into and out of Airpark-Dallas when Addison is closed?

The FAA has determined that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 93

Air traffic control; airports; navigation (air).

The Proposed Amendment

PART 93—[AMENDED]

Accordingly, the Federal Aviation Administration proposes to amend Part 93 of the Federal Aviation Regulations (14 CFR Part 93). By adding a Special Federal Aviation Regulation as follows:

SFAR No.———————

Subpart L, Part 93, Addison (Texas) Airport Traffic Area, which governs Airpark-Dallas Airport, is suspended. This Special Federal Aviation Regulation terminates (1 year after its effective date) unless extended, superseded or rescinded.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.65)

Issued in Washington, D.C., on August 14, 1984.

R.J. Van Vuren,

Associate Administrator for Air Traffic.

[FR Doc. 25747 Filed 9–27–84; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 3, 4, and 21

Regulation of Foreign Futures Transactions in the United States

AGENCY: Commodity Futures Trading Commission.

ACTION: Advance notice of proposed rulemaking; extension of comment time.

SUMMARY: On July 25, 1984, the Commodity Futures Trading Commission ("Commission") published in the **Federal Register** an advance notice of proposed rulemaking on the regulation of foreign futures transactions in the United States. 49 FR 29903. Specifically, the Commission is seeking public comment to assist in determining the need for a more formal regulatory program with respect to foreign futures activities in the United States and to assess whether rules governing such activities need to be promulgated at the present time. The comment period on the advance notice of proposed rulemaking is to expire on September 24, 1984.

By letter dated August 29, 1984, the Futures Industry Association, a national trade association representing over 100 futures commission merchants, requested that the comment period be extended for a six week period so that it may fully address the issues raised in the advance notice of proposed rulemaking. In order to ensure that all interested parties have an opportunity to submit comments, the Commission has determined to grant the request for an extension of the comment period.

DATES: Accordingly, notice is hereby given that all comments on the Commission's advance notice of proposed rulemaking on the regulation of foreign futures transactions in the United States (49 FR 29963, July 25, 1984) must be submitted by November 5, 1984.

FOR FURTHER INFORMATION CONTACT: Robert H. Rosenfeld, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone: (202) 254–8955.

Issued in Washington, D.C., on September 25, 1984, by the Commission.

Jean A. Webb,

Deputy Secretary of the Commission.

[FR Doc. 84-25838 Filed 9-27-84; 8:45 am]

BILLING CODE 6351-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2681-5]

Approval and Promulgation of Implementation Plans; Indiana

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

ACTION: Notice of reproposal.

SUMMARY: The State of Indiana on August 19, 1983, submitted a draft State Implementation Plan (SIP) for lead. USEPA parallel processed this submittal in order to meet the schedule provided in the USEPA and Natural Resources Defense Council (NRDC) Court Order dated July 26, 1983. This previously proposed SIP revision was designed to provide for the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) for lead.

USEPA noted several deficiencies in the draft SIP. Specifically, these deficiences were the lack of an adequate ambent lead monitoring network in the vicinity of several stationary lead sources; the failure of the State to demonstrate attainment of the standard in areas where violations of the lead standard were measured since January 1, 1974; and the failure of the State to include process fugitive emissions and verify certain aspects of the emission inventory. Indiana committed itself on November 21, 1983, to correct these deficiencies and submit a plan which would meet all requirements for an approvable lead SIP.

Based on USEPA's review and analysis of the draft SIP submittal before it, USEPA proposed disapproval of the entire Indiana Lead Plan, with the exception of the lead New Source Review Program which was proposed for approval, in the December 29, 1983 (48 FR 57318) **Federal Register**. Since publication of this Notice of Proposed Rulemaking, the State of Indiana has submitted additional information to satisfy the major deficiencies in the Lead Plan. These additional State submittals and technical information were submitted to USEPA on these dates: October 18, 1983, February 20, 1984; March 1, 1984; April 13, 1984; May 4, 1984, May 7, 1984; May 21, 1984; and June 8, 1984.

The purpose of today's notice is to announce receipt of the additional information for the Indiana Lead SIP, discuss the results of USEPA's review and repropose rulemaking action on the Plan. Today, USEPA is proposing to approve the entire Indiana Lead Plan based on the additional technical information submitted by the State, with the understanding that operating permits containing emission limits and operating requirements for three companies, enforceable by the State and consistent with the SIP inventory, will be submitted prior to the close of the public comment period.

USEPA will not be addressing in today's **Federal Register** any of the public comments received in response to USEPA's December 29, 1983, notice of proposed rulemaking. All of the public comments received before today's notice of reproposal and after will be addressed in the final rulemaking.

DATE: Comments on these revisions to the Indiana Lead Plan and on the reproposed USEPA action must be received on or before November 27, 1984.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review. (It is recommended that you telephone Anne E. Tenner, at (312) 886-6036, before visiting the Region V office.)

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

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206.

Comments on this proposed rule should be addressed to: (Please submit an original and five copies if possible.) Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Anne E. Tenner, (312) 886-6036.

SUPPLEMENTARY INFORMATION:

I. Background

On October 5, 1978, USEPA promulgated National Ambient Air Quality Standards (NAAQS) for lead (43 FR 46258). Both the primary and secondary standards were set at a level of 1.5 micrograms of lead per cubic meter of air ($\mu g/m^3$) maximum arithmetic mean as averaged over a calendar quarter. Section 110(a)(1) of the Clean Air Act (Act) requires each State to submit a SIP which provides for the attainment and maintenance of the primary and secondary NAAQS.

The general requirements for a SIP are outlined in section 110(a)(2) of the Act and USEPA regulations at 40 CFR Part 51, Subpart B. Specific requirements for developing a lead SIP are set forth in 40 CFR Part 51 Subpart E and the Supplementary Guidelines for Lead SIPs. These provisions require the submission of air quality data, emission data, air quality modeling, a control strategy, demonstration that the NAAQS will be attained within the time frame specified by the Act, and provisions for insuring maintenance of the NAAQS.

An attainment demonstration is required: (1) In the vicinity of the following sources which emit 5 or more tons of lead per year—primary lead smelters, secondary lead smelters, primary copper smelters, lead gasoline additive plants, and lead-acid storage battery manufacturing plants that produce 2,000 or more batteries per day; (2) in the vicinity of any other stationary source that emits 25 or more tons of lead per year, or (3) in any other area that has had measured lead concentrations in excess of the NAAQS for lead since January 1, 1974.

In addition, USEPA established lead monitoring and data handling requirements in a September 3, 1981, notice (46 FR 44159), which was codified at 40 CFR Part 58. Indiana's response to all of these requirements is addressed in today's notice.

II. Indiana's Lead SIP

The State of Indiana submitted a draft SIP for the attainment and maintenance of the lead NAAQS on August 19, 1983. This plan included a discussion of air quality data measured since 1980, an emission inventory of lead sources, and a rollback modeling analysis for one area. Indiana believed at that time that there were no lead sources in Indiana large enough to require an attainment demonstration and stated that there were no violations of the ambient lead standard recorded since 1980 in Indiana.

Air Quality Monitoring Data

There were 14 lead monitoring sites operating in the State of Indiana as of December 31, 1982. The State submitted all available lead monitoring data for the period of 1980-1983, (including only first quarter 1983 data). Although these data show no violations of the lead standard, USEPA was not convinced that the standard was being met in all areas of the State and noted that Indiana had not submitted all relevant

data. Following the requirements for developing a lead SIP (40 CFR Part 51, Subpart E), USEPA considered all lead air quality data measured in Indiana since January 1974. These data showed violations of the ambient lead standard at two sites in East Chicago (near the Inland Steel and J&L Steel plants) in 1976, 1977, and 1979; at one site in Jeffersonville in 1978; at the Hessville Fire Station site in Hammond in 1977; and at one site in New Albany in 1978.

Indiana Lead Sources

The Indiana Plan also addresses areas of the State where there are lead sources having significant lead emission levels. According to the Plan, these geographic areas are:

A. Mobile Source Related Sites

1. Borman Expressway (I–80/94) east of Cline Avenue (Indiana 912) to a point west of Indianapolis Boulevard (Indiana 152/US–20).
2. Jeffersonville monitoring site at junction of I–65/U.S. 62 (Clark County).

B. Stationary Source Related Sites

1. Quemetco (Indianapolis in Marion County), a secondary lead smelter.
2. G.M. Delco Remy (Muncie in Delaware County), a lead acid battery manufacturing plant.
3. Hammond Lead Product (Hammond in Lake County), a lead oxide manufacturing plant.
4. Inland Steel (East Chicago in Lake County), iron and steel manufacturing plant.
5. J&L Steel (East Chicago in Lake County), iron and steel manufacturing plant.
6. U.S. Steel Corporation (Gary in Lake County), iron and steel manufacturing plant.
7. Bethlehem Steel (Burns Harbor in Porter County), iron and steel manufacturing plant.
8. Corning Glass (Bluffton in Wells County), a lead glass manufacturing plant.

Each of these areas are addressed separately below.

Mobile Source Related Sites

The Frank Borman Expressway was included as a study area due to the high volume of vehicular traffic. The geographic area was not considered to be impacted by lead emissions from any industrial source. To demonstrate that this area is attaining the NAAQS, Indiana submitted a rollback analysis for this site. The analysis demonstrated that using the highest recorded ambient quarterly lead level of 0.80 $\mu g/m^3$ (third quarter, 1982), the projected ambient lead concentration for 1985 is calculated to be 0.78 $\mu g/m^3$. This shows that the lead standard was attained in this study area in 1982 and will be maintained through continuation of the Federal program to phase down lead in leaded gasoline. Therefore, USEPA proposes approval of this portion of the plan.

USEPA has also identified the Jeffersonville monitor in Clark County at the junction of I–65 and U.S. 62 as being a mobile source related site. There are no significant lead emitting point sources in the vicinity of this monitor. The major sources of lead are highway vehicle related. A rollback analysis was conducted previously by a contractor for USEPA. The analysis demonstrated that using the highest recorded ambient quarterly average of 1.74 $\mu g/m^3$ (fourth quarter, 1978), the estimated quarterly average in 1982 would be 0.67 $\mu g/m^3$. The recent ambient air quality data verify that the standard for lead was attained at the Jeffersonville lead monitor in 1982 and will be maintained through continuation of the Federal program to phase down lead in leaded gasoline. Therefore, USEPA proposes approval of this portion of the plan.

Stationary Source Related Sites

The Bluffton study area in the vicinity of Corning Glass Company, was identified as a major significant lead source. However, no air quality impact analysis was conducted because the State indicated that this source is permanently shut down. Indiana confirmed this in a November 21, 1983, letter to USEPA. If the source will operate in the future, then Indiana confirmed it will be subject to New Source Review. Consequently, no control strategy is necessary for this source. Therefore, USEPA proposes approval of this portion of the plan.

Concerning the remaining lead stationary source areas listed, the State of Indiana in a letter to USEPA dated November 21, 1983, committed to addressing those technical deficiences identified in the December 29, 1983, **Federal Register** notice, and to provide the supplemental information needed by USEPA to complete its evaluation.

Since this additional technical information to satisfy the major deficiencies in the Lead Plan was not provided by the time the Notice of Proposed Rulemaking was published, USEPA proposed disapproval of the entire Indiana Lead Plan, with the exception of the New Source Review portion.

As a result of these actions, the State of Indiana submitted additional information to USEPA to satisfy the above mentioned deficiencies. On February 20, 1984, additional information was submitted to USEPA which consisted of revised emission estimates for Quemetco, Delco Remy, and Hammond Lead, in addition to an update on the State's progress in establishing monitors near Hammond Lead, Quemetco, Delco Remy, and Bethlehem Steel.

On March 1, 1984, the State submitted to USEPA their Lead SIP (as adopted by the Indiana Air Pollution Control Board), which consisted of a lead emission inventory, ambient lead data from 16 monitors located in East Chicago, Gary, Hammond, and Indianapolis for the period 1980–1983 (First Quarter only for 1983) and the State's Permits and New Source Review Regulations, 325 IAC 2–1, 2–2, and 2–3.

On April 13, 1984, the State submitted to USEPA additional technical support for their lead plan, which consisted of (1) a modified rollback analysis for New Albany and (2) revised emission inventories and dispersion modeling both for Quemetco and for sources in the East Chicago/Hammond area.

On May 4, 1984, the State submitted to USEPA further technical support, which consisted of (1) revised emission inventories and revised modeling both for Quemetco and for sources in the East Chicago and Hammond areas, (2) documentation of improvements to the State's ambient lead monitoring networks and (3) updated ambient data from 23 monitors located around the State for the period 1980–1983, and (4) operating permits for Quemetco.

On May 7, 1984, the State informed USEPA that its lead plan was promulgated by the State of Indiana on April 24, 1984.

Additionally, on May 21, 1984, maps showing the locations of the new monitors near Bethlehem Steel, Delco Remy, Hammond Lead and Quemetco were submitted to USEPA. On June 8, 1984, an additional operating permit for Quemetco was submitted to USEPA, and USEPA's technical review and analysis of the new information submitted by the State are discussed below for each area.

Indianapolis—Marion County (Quemetco)

a. *State's November 21, 1983, Commitment:* The State committed to re-examine the emission inventory of this facility including fugitive emissions from the lead tapping operation and casting operation. If the revised emission inventory indicates that this secondary smelter is a "point source" (a secondary smelter that has potential to emit lead to the atmosphere greater than 5 tons/year), then the State committed to model

the source and, if necessary, develop a control strategy.

State Action: The May 4, 1984, State submittal contained a revised emission inventory for Quemetco which includes all stack and process fugitive emissions. This inventory shows Quemetco emits less than 5 T./yr. of lead. USEPA reviewed and determined that the State's inventory is acceptable. The revised inventory includes emissions from two newly installed capture hoods which are vented to a baghouse on casting operations and on Reverbatory Furnace tapping. Additional information on these controls is contained in the May 4, 1984, State submittal and technical support document located at Region V's office. A permit reflecting these controls was submitted to USEPA on June 8, 1984. An Attorney General opinion on the enforceability of these controls is needed. Furthermore, the complete set of operating permits must be approved to insure that the emission level and associated controls in the Lead SIP are enforceable.

Although no lead violations have been measured in the vicinity of Quemetco and although Quemetco now emits less than 5 T./yr. of lead, 40 CFR 51.80 requires a demonstration of attainment in the vicinity of secondary lead smelters such as Quemetco, which would emit 5 or more tons of lead per year without the new control equipment. Prior to the installment of the capture hoods discussed above, emission estimates for Quemetco exceeded 5 tons/year. As a result, a demonstration of attainment is still required to ensure that control measures are adequate to protect the lead NAAQS.

On May 4, 1984, the State of Indiana submitted a dispersion modeling analysis based on the Climatological Dispersion Model (CDM). The State used CDM instead of the Industrial Source Complex Model (ISC), which is considered to be the reference model for lead SIPs. This was determined to be acceptable because the inventory did not contain the detailed information needed to take advantage of a sophisticated model like ISC (i.e., for the inventory at hand, CDM and ISC will give similar results).

The results of the modeling analysis indicated that the lead emissions from Quemetco will not result in a violation or interfere with attainment of the lead NAAQS. The maximum predicted total quarterly average was 0.65 $\mu g/m^3$. These results demonstrate attainment of the lead NAAQS in the vicinity of Quemetco.

b. *State's November 21, 1983, Commitment:* The State committed to investigate the existing monitoring site for consistency with USEPA lead siting criteria. If found to be unacceptable, then Indiana committed to move the monitor to a site acceptable to both USEPA and the State in order to measure the impact of the lead emissions from Quemetco.

State Action: In the May 4, 1984, submittal, the State of Indiana stated that a new lead monitor (located at 0.6 km NE of the plant) started operating on January 25, 1984. The location meets USEPA monitoring requirements. As a result, the new monitor satisfies the ambient monitoring requirement.

c. *State's November 21, 1983, Commitment:* The State committed to confirm that the lead blast furnace at Quemetco is permanently shut down. If it were, then the State committed to treat this furnace as a new source subject to Indiana's New Source Review procedures and requirements, if this furnace is ever reactivated.

State Action: In an October 18, 1983 submittal, the State of Indiana included a letter dated September 20, 1983, from the City of Indianapolis which stated that (1) the blast furnace last operated in February 1976, (2) the last permit for the blast furnace expired in October 1980, and (3) in order to re-operate the blast furnace, an installation permit and New Source Review would be required. The latter statement reconfirms the State's commitment in its November 21, 1983, letter.

Finally, in both the April 13, 1984, and May 4, 1984, submittals, the State indicated that the blast furnace has been deleted from the emission inventory because the State has designated it as a "process shutdown".

This deletion confirms the permanent shutdown of this source. In order for this source to re-operate, it must first satisfy all the applicable New Source Review requirements. This review will assure that NAAQS for lead will not be violated.

USEPA Finding: USEPA proposes to approve the Indiana lead SIP for the Quemetco area.

Muncie—Delaware County (Delco Remy)

a. *State's November 21, 1983, Commitment:* The State committed to investigate the adequacy of the existing control on the reverbatory furnace and determine if the roof vent above the charging door has been permanently closed. If this vent no longer has a purpose, then the State committed to ask Delco Remy to seal it permanently. The State committed to inform USEPA of the results of its investigation and request, and to take any appropriate action required by USEPA.

State Action: In the February 20, 1984 submittal, the State of Indiana Stated that (1) the existing controls on the reverbatory furnace (two baghouses) are adequate for this operation and (2) the roof vent above the charging door has been shut with steel channels, electric power to the vent has been removed, the reclaim furnace has been shutdown since July 1, 1983, and the vent will not be used when the reclaim furnace starts up again. These facts were based on a State on-site inspection report dated November 29, 1983. USEPA accepts the State's evaluation and considers this issue to be resolved.

b. *State's November 21, 1983, Commitment:* The State committed to evaluate further the adequacy of the existing monitors near Delco Remy. If the monitors operated by Delco Remy are determined to be adequately located, then Indiana committed to assure the quality of these data. If the monitors are found to be improperly located for lead monitoring, then the State committed to insure that a monitor be installed or relocated and properly operated at a mutually acceptable site to measure the impact of lead emissions from Delco Remy.

State Action: In an earlier submittal dated October 18, 1983, the State submitted lead concentrations measured at two monitors operated by Delco Remy at the Anderson and Muncie Gas Company sites from 1981 (third quarter) to 1983 (second quarter). Although these data show no violations of the NAAQS, neither of these sites are representative of the expected maximum impacts from Delco Remy (i.e., the Muncie site is about 1.8 km away and the Anderson site is over 20 km away).

In the May 4, 1984 and May 21, 1984 submittals, the State of Indiana stated that a new lead monitor (which is located at the Federal Credit Union Building across the facility's parking lot) started operating in May 1984. This location comports with EPA monitoring requirements.

As a result, the new monitor and the Muncie Gas site monitor (identified in the State's May 21, 1984, submittal (and the October 18, 1983, letter)) together provide an adequate network, which will satisfy the ambient monitoring requirement.

USEPA Finding: USEPA proposes to approve the Indiana lead SIP for the Delco Remy area.

Hammond—Lake County (Hammond Lead Products)

a. *State's November 21, 1983, Commitment:* The State committed to review and revise, as necessary, the emission inventory for Hammond Lead including the facility's fugitive emissions and the lead emissions from the new plant. Based on this revised emission inventory, the State committed to take any action required by 40 CFR Part 51, Subpart E.

State Action: In the February 20, 1984 submittal, the State of Indiana stated that no fugitive dust sources were found during a December 1, 1983, inspection. Additionally, the State noted that they had reviewed the emission estimates provided by Hammond Lead (which had been previously reviewed by the local agency) and determined that the inventory was complete and accurate.

The May 4, 1984 submittal, included a more detailed discussion of emission sources of Hammond Lead's existing (Halox/Lead Division) and new operations at the Halsted Division. As a result, USEPA has determined that the State's review and evaluation of the emission inventory is acceptable.

However, since the inventory emission limits appear to derive from the existing operating permits for Hammond Lead, it will be necessary for the State to submit and USEPA to approve as SIP requirements these permits before this portion of the strategy is fully approvable. An opinion from the Indiana Attorney General as to the enforceability of these permit conditions is also required.

Under 40 CFR 51.85, rollback at a minimum, must be performed in the vicinity of a monitor that has recorded a lead violation since January 1, 1974. During the first quarter of 1977, a concentration of 1.64 $\mu g/m^3$ was measured at the Hessville Fire Station located 2 km east of Hammond Lead (Halox/Lead Division), the largest source of lead emissions in the area. Since the Hessville monitor is not point source oriented and 2 km from Hammond Lead, it cannot be expected to measure the maximum ambient impact from Hammond Lead. As a result, rollback is not appropriate for this monitor; and dispersion modeling was required for this stationary lead source.

On May 4, 1984, the State of Indiana submitted a dispersion modeling analysis based on the CDM model. The State used the CDM instead of the ISC which is considered to be reference model for lead SIPs. This was determined to be acceptable because the inventory did not contain the detailed information needed to take advantage of a sophisticated model like ISC (i.e., for the inventory at hand, CDM and ISC will give similar results.)

The results of the modeling analysis indicate that the lead emissions from Hammond Lead will not result in a violation or interfere with attainment of the lead NAAQS. The highest predicted concentrations occurred around the Halox/Lead Division. The maximum predicted quarterly average around the Halox/Lead Division was 1.25 $\mu g/m^3$. The maximum predicted quarterly average around the Halsted Division was 0.65 $\mu g/m^3$. These results demonstrate attainment of the lead NAAQS in the vicinity of Hammond lead.

b. *State's November 21, 1983, Commitment:* The State committed to select a monitoring site consistent with USEPA's lead siting criteria and committed to install and operate a monitor at a mutually agreed upon site to measure the impact of lead emission from Hammond Lead Products. This commitment was based on the understanding that USEPA would loan Indiana APCD a Hi-Vol monitor for this purpose.

State Action: In the May 4, 1984 submittal, the State of Indiana stated that a new lead monitor which is located 0.4 km south of Hammond Lead started operating of February 12, 1984. The installation/operation of this new monitor satisfies the ambient monitoring requirement.

USEPA Finding: USEPA proposes to approve the Indiana lead SIP for the Hammond Lead area provided the State submits operating permits for Hammond Lead plants prior to the close of the public comment period. If these permits contain the individual emission limitations, operating restrictions and/or controls assumed in the Lead SIP submittal, then USEPA will approve these permits as part of the SIP, provided an opinion from the Indiana Attorney General advises that these permits are legally enforceable.

Burns Harbor—Porter County (Bethlehem Steel)

a. *State's November 21, 1983, Commitment:* The State committed to determine a monitoring site consistent with USEPA lead siting criteria, to install a monitor at a mutually agreed upon site and properly operate it to measure the impact of the lead emissions from Bethlehem Steel.

State Action: In the May 4, 1984, submittal, the State of Indiana stated that Bethlehem Steel began to analyze/report for lead in May 1983 at two sites. The installation/operation of these monitors satisfies the ambient monitoring requirement.

USEPA Finding: USEPA proposes to approve the Indiana Lead SIP for the Bethlehem Steel area.

East Chicago—Lake County (Inland and J&L Steel)

a. *State's November 21, 1983, Commitment:* Indiana committed to submit all ambient lead monitoring data collected in Lake County, as well as the rest of the State, since the State began its analysis for lead in January 1977.

State Action: The State of Indiana submitted all ambient lead monitoring data on April 13, 1984, and May 4, 1984.

b. *State's November 21, 1983, Commitment:* Indiana committed to evaluate all ambient lead data for its reliability and representativeness.

State Action: In its April 13, 1984, submittal, Indiana listed all monitoring sites having quarterly means greater than 1.5 $\mu g/m^3$ according to USEPA data. The listed violations occurred during the period from 1975 to 1979. (Although Indiana contended that all lead data collected prior to mid-1979 is highly questionable, USEPA is not persuaded that these previously measured violations can be dismissed.)

c. *State's November 21, 1983, Commitment:* Indiana committed to provide a demonstration of attainment in any area that has had valid quarterly lead air concentrations in excess of the lead standard since January 1, 1974. This demonstration of attainment, if needed, would be based on the use of dispersion modeling.

State Action: 40 CFR 51.85 requires that rollback as a minimum must be applied in the vicinity of a monitor that has recorded a violation since January 1, 1974. Violations have been measured at two sites in East Chicago: Central Fire Station—1.91 in the third quarter of 1976, 2.09 in the second quarter of 1977, 1.87 in the third quarter of 1987; and 2.19 in the third quarter of 1979; and at Field School—1.67 in the first quarter of 1979. The largest sources of lead emissions in the East Chicago area are Inland Steel and J&L Steel. The sites of the two monitors are not located so as to measure the maximum lead impact from these two sources; therefore, rollback is not appropriate and dispersion modeling is required.

On May 4, 1984, the State of Indiana submitted a dispersion modeling analysis based on the CDM model. The State used the CDM instead of ISC, which is considered to be the reference model for lead SIPs. This was determined to be acceptable because the inventory did not contain the

detailed information needed to take advantage of a sophisticated model like ISC and, under these circumstances, CDM and ISC will give similar results.

The results of the modeling analysis indicate that the lead emissions from East Chicago sources will not result in a violation or prevent attainment of the lead NAAQS. The maximum predicted quarterly average in the East Chicago area was 0.65 $\mu g/m^3$. These results demonstrate attainment of the lead NAAQS in the East Chicago area.

However, in its May 4, 1984, submittal, the State noted that major revisions for both Inland Steel and J&L Steel were made to the emissions inventory used in the modeling. The revisions appear to derive from the existing inventory for these companies. Accordingly, it will be necessary for the State to submit and USEPA to approve the emissions levels contained in the permits as SIP requirements before this portion of the strategy is fully approvable.

USEPA Finding: USEPA proposes approval of the Indiana SIP for the East Chicago area provided the State, prior to the close of the public comment period, submits as a part of its lead plan State enforceable individual emission limitations, operating restrictions, and/or controls for Inland Steel and J&L Steel reflective of the emission inventory. If such requirements are submitted, then USEPA will approve them as part of the SIP.

New Albany—Floyd County

In its review of all ambient monitoring data collected since 1974, USEPA discovered that a violation of the standard occurred during the fourth quarter of 1978 at a site in New Albany in Floyd County. This area was not included in any of the mobile source or stationary source related sites listed above because of insufficient emission data.

USEPA proposed disapproval of the New Albany plan in Floyd County in the December 29, 1983, **Federal Register** (48 FR 57318), because the State had vailed to submit information addressing this previously measured violation or to make a demonstration that the current plan would assure attainment and maintenance of the lead standard in Floyd County.

State Action: 40 CFR 51.85 requires that rollback, at a minimum, must be applied in the vicinity of a monitor that has recorded a lead violation since 1974. During the fourth quarter of 1978, a concentration of 1.78 $\mu g/m^3$ was measured at the New Albany monitor. The April 13, 1984, submittal contained a rollback analysis using a 1978 base year and a 1984 projection year. This analysis, demonstrating attainment of the lead NAAQS well before the projection year, is consistent with the general rollback procedures for lead SIPs and is considered to be acceptable.

The maximum measured quarterly average during the most recent year (1981) of available data (0.52 $\mu g/m^3$) is consistent with the projected maximum quarterly average of 0.52 $\mu g/m^3$.

USEPA Finding: USEPA proposes to approve the lead SIP for the New Albany area.

III. New Source Review (NRS)

The State indicated that the NRS requirement for the lead SIP is satisfied by its revised permit Rule 325 IAC 2–1.1, which requires that sources with potential emissions of 1 ton or more per year of lead must obtain a permit for the construction of new sources and modifications of existing sources. This regulations was submitted to USEPA as a revision to the SIP on May 7, 1984. In addition to changes from the SIP NSR regulation (1979 APC 19) in relation to lead, this revised NRS regulation contains changes in the definition of "source". USEPA will propose rulemaking on this revised regulation in a future **Federal Register** notice.

A lead SIP need only require review of any new source that has the potential to emit 5 (or more) tons of lead per year and of any modification to a point source, i.e., actual emissions greater than 5 tons per year, if the modification will result in a net increase of potential emissions of 0.6 (or more) tons per year. Therefore, provided 325 IAC 2–1.1 is otherwise approvable, Indiana has an adequate NSR plan for lead. Although USEPA proposed approval of this part of the SIP in the December 29, 1983, **Federal Register** (48 FR 57318), and it is re-proposing approval again here, it will not take final rulemaking action on this part of the lead SIP until it rulemakes on 325 IAC 2–1.1 as a whole.

IV. Monitoring Plans

On September 3, 1981 (46 FR 44159), USEPA published its final rules pertaining to Ambient Lead Monitoring and Data Handling, codified at 40 CFR Part 58. The rules call for the development of a State monitoring plan for lead and its inclusion into the surveillance and ambient monitoring program. These plans must meet USEPA's monitoring requirements, including scheduling requirements, requirements concerning the establishment of a monitoring network, and data handling and reporting procedures.

On November 30, 1981, the State of Indiana submitted to USEPA a revision to its SIP which provides for the establishment of an air quality surveillance network for lead. The submittal included a description of the proposed network and committed the State to the implementation of statewide State and Local Air Monitoring Sites Stations (SLAMS) and National Monitoring Sites Stations (NAMS), operated in accordance with the criteria given in Subpart B of 40 CFR Part 58. Each SLAMS lead monitor will meet the lead siting criteria given in 40 CFR Part 58, Appendix E, Section 7. Ambient air quality monitoring methodologies used in the SLAMS network will either follow those in 40 CFR Part 58, Appendix E, or will be equivalent. The quality assurance procedures of Appendix A to 40 CFR Part 58 will be followed while operating SLAMS sites and processing air quality data.

The lead monitoring stations will be reviewed on an annual basis and modified as needed, to eliminate unnecessary sites or to correct inadequacies indicated by the annual review. No changes will be made to the network unless prior approval is given by USEPA. The annual SLAMS summary report will be submitted to USEPA by July 1 of each year.

On July 8, 1983, USEPA approved the proposed NAMS lead network (consisting of four monitoring sites) for the State of Indiana. It should also be noted that a SLAMS network consisting of nine monitoring sites was approved, in addition to the eight new sites discussed in this notice.

USEPA's original review of the Indiana lead monitoring plan revealed that it met all applicable requirements with the exception of 40 CFR Part 58, Appendix D, Section 2.7, which requires lead monitoring in the vicinity of significant lead sources. In an October 19, 1983, letter, USEPA informed the State that they were required to install lead monitors in these areas. Per the discussion above, the State of Indiana has installed lead monitors in certain identified areas as documented in the May 4, 1984, submittal, and May 21, 1984, letter (which included maps showing locations of monitors near stationary sources). Therefore, USEPA is proposing approval of the revised Indiana Air Quality Surveillance Plan in today's **Federal Register** notice.

V. Summary

Because the State of Indiana has corrected all the major deficiencies in the lead plan, USEPA is proposing to approve the entire lead plan in today's

Federal Register notice, provided State enforceable individual emission limitations, operating restrictions, and/or controls for specified sources are submitted as plan provisions prior to final USEPA action.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 49 FR 8709).

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

List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control, Ozone, Sulfur oxides, Lead, Particulate matter, Carbon monoxides, Hydrocarbons.

(Secs. 110, 301, and 319, Clean Air Act, as amended (42 U.S.C. 7410, 7601 and 7619))

Date: August 27, 1984.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 84-25519 Filed 9-27-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 271

[OSW-FRL 2683-5]

North Carolina; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Tentative Determination on Application of North Carolina for Final Authorization, Public Hearing, and Public Comment Period.

SUMMARY: North Carolina has applied for Final authorization under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed North Carolina's application and has made the tentative decision that North Carolina's hazardous waste program satisfies all of the requirements necessary to qualify for Final authorization. Thus, EPA intends to grant Final authorization to the State to operate its program in lieu of the federal program. North Carolina's application for Final authorization is available for public review and comment, and a public hearing will be held to solicit comments on the application if significant public interest is expressed.

DATE: If significant public interest is expressed in holding a hearing, a public hearing is scheduled for 7:00 p.m., Tuesday, November 13, 1984. EPA reserves the right to cancel the public hearing if significant public interest in holding a hearing is not communicated to EPA by telephone or in writing by November 7, 1984. EPA will determine by November 9, 1984, whether there is significant interest to hold the public hearing. North Carolina will participate in the public hearing held by EPA on this subject if a hearing is to be held. All written comments on the North Carolina Final authorization application must be received by the close of business on November 13, 1984.

ADDRESSES: Copies of North Carolina's Final authorization application are available from 8:00 a.m. to 4:30 p.m. at the following addresses for inspection and copying:

Department of Human Resources, Division of Health Services, Solid & Hazardous Waste Management Branch, 306 N. Wilmington Street, P.O. Box 2091, Raleigh, North Carolina 27602-2091, Contact: O.W. Strickland, (919) 733-2178

Environmental Protection Agency, Regional Office Library, Room 121, 345 Courtland Street, NE., Atlanta, Georgia 30365, Contact: Carolyn Mitchell, (404) 881-4216

U.S. Environmental Protection Agency, Headquarters Library, PM-211A, 401 M Street, SW., Washington, DC 20460, (202) 382-5926.

Written comments on the application and written or telephoned communication of interest in EPA's holding a public hearing on the North Carolina application must be sent to: Allan E. Antley, Chief, Waste Planning Section, U.S. EPA, 345 Courtland Street NE., Atlanta, Georgia 30365, (404) 881-3016.

If you wish to find out whether or not EPA will hold a public hearing on the North Carolina application based upon EPA's decision that there was significant public interest in such a hearing, write or telephone after November 9, 1984, the EPA contact person listed below, or telephone Mr. O.W. Strickland, Head, Solid and Hazardous Waste Management Branch, Environmental Health Section, Department of Human Resources, Division of Health Services, P.O. Box 2091, Raleigh, North Carolina 27602.

If significant public interest is expressed, EPA will hold a public hearing on North Carolina's application for Final authorization on Tuesday, November 13, 1984, at 7:00 p.m. at McKimmon Center, Western Boulevard, Raleigh, North Carolina.

FOR FURTHER INFORMATION CONTACT: Allan E. Antley, Chief, Waste Planning Section, Environmental Protection Agency, 345 Courtland Steet, NE., Atlanta, Georgia 30365, (404) 881-3016.

SUPPLEMENTARY INFORMATION:

A. Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows EPA to authorize the State hazardous waste programs to operate in the State in lieu of the federal hazardous waste program. Two types of authorization may be granted. The first type, known as "interim authorization," is a temporary authorization which is granted if EPA determines that the State program is "substantially equivalent" to the federal program (Section 3006(c), 42 U.S.C. 6226(c)). EPA's implementing regulations at 40 CFR 271.121-271.137 established a phased approach to interim authorization: Phase I, covering the EPA regulations in 40 CFR Parts 260-263, and 265 (universe of hazardous wastes, generator standards, transporter standards, and standards for interim status facilities), and Phase II, covering the EPA regulations in 40 CFR Parts 124, 264, and 270 (procedures and standards for permitting hazardous waste management facilities).

Phase II, in turn, has three components. Phase II A covers general permitting procedures and technical standards for containers and tanks. Phase II B covers permitting of incinerator facilities, and Phase II C addresses permitting of landfills, surface impoundments, wastepiles, and land treatment facilities. By statute, all interim authorizations expire on January 26, 1985. Responsibility for the hazardous waste program returns (reverts) to EPA on that date if the State has not received Final authorization, as described below.

The second type of authorization is a "Final" (permanent) authorization that is granted by EPA if the Agency finds that the State program (1) is "equivalent" to the federal program, (2) is consistent with the federal program and other State programs, and (3) provides for adequate enforcement (section 3006(b), 42 U.S.C. 6226(b)). States need not have obtained interim authorization in order to qualify for Final authorization. EPA regulations for Final authorization appear at 40 CFR 271.1-271.23.

B. North Carolina

The State received interim authorization for Phase I on December 18, 1981, interim authorization for Phase II, Components A and B, on March 26, 1982, and Component C on February 7, 1984. On January 3, 1984, the State submitted a draft application for Final

authorization. The complete application for Final authorization was submitted on July 10, 1984. Prior to submission of the application to EPA, North Carolina solicited public comments and held a public hearing on June 28, 1984. The State received no written comments. Two attendees made oral comments reflecting their interest in complying with the State's rules and regulations. EPA's comments on the Final application were forwarded to the State on August 16, 1984.

The comments requested North Carolina demonstrate that naturally-occurring and accelerator-produced radioactive wastes which are also RCRA hazardous wastes are regulated under the North Carolina Radiation Protection Act in a manner equivalent to RCRA. The State was also requested to clarify in the Program Description that the Memorandum of Understanding (MOU) between the Department of Human Resources (DHR) and the Department of Natural Resources and Community Development (NRCD) does not abrogate DHR's permitting or enforcement authority. EPA requested that the State agree in the MOA not to oppose citizen intervention in enforcement actions.

North Carolina law does not extend the full range of RCRA control over naturally-occurring and accelerator-produced radioactive wastes. However, EPA has determined, through consultation with the regulated community and research organizations, that no such wastes which would also be RCRA hazardous wastes are known to exist. Therefore, EPA has concluded that it is inappropriate to require North Carolina to demonstrate control over this hypothetical category of wastes to obtain final authorization. The State has provided an addendum to the Program Description which assured EPA that the MOU between NRCD and DHR merely provided consistency between permits and in no way abrogated DHR's authority. By letter dated August 24, 1984, the State agreed in the MOA not to oppose citizen intervention in enforcement actions.

The Solid and Hazardous Waste Management Branch of the North Carolina Department of Human Resources has been evaluated to determine its capability to conduct a quality hazardous waste program. North Carolina has met or exceeded all grant commitments for permits, inspections, enforcement actions, and compliance. The North Carolina permitting program has shown initiative, aggressiveness and a high degree of quality. The State has all the enforcement mechanisms necessary for conducting an effective compliance program. The State's management practices reflect sound planning and execution. The program staff has the technical expertise, the training, and the will to control hazardous waste in North Carolina. To date, the State has operated an exemplary hazardous waste management program.

EPA has reviewed North Carolina's application, and has tentatively determined that the State's program meets all of the requirements necessary to qualify for Final authorization. Consequently, EPA intends to grant Final authorization to North Carolina. Copies of North Carolina's application are available for inspection and copying at the locations indicated in the "ADDRESSESS" section of this notice.

EPA will consider all public comments on its tentative determination. Issues raised by those comments may be the basis for a decision to deny Final authorization to North Carolina. EPA expects to make a final decision on whether or not to approve North Carolina's program by January 8, 1984, and will give notice of it in the Federal Register. The notice will include a summary of the reasons for the final determinnation and a response to all major comments.

Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(B), I hereby certify that this authorization will not have significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous wastes in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory Flexibility analysis.

Executive Order 12291

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

List of Subjects in 40 CFR Part 271

Hazardous materials, Indians-lands, Reporting and record keeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b), EPA Delegation 8-7.

Dated: September 5, 1984.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 84-25799 Filed 9-27-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 721

[OPTS-50505; FRL-2675-5]

Certain Chemicals; Proposed Determination of Significant New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing significant new use rules (SNURs) under section 5(a)(2) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2604(a)(2), for four chemical substances which were the subject of premanufacture notices (PMNs) and a TSCA section 5(e) consent order. The Agency is concerned that the substance may present an unreasonable risk to human health if the significant new uses occur.

DATE: Written comments should be submitted by November 27, 1984.

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

Comments should include the docket control number OPTS-50513. Non-confidential versions of comments received on this proposal will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Rm. E-107, at the address given above. For further information regarding the submission of comments containing CBI, see Unit XIV of the preamble.

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, DC 20460, Toll free: (800-424-9065), In Washington, DC: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: OMB control number 2070-0012.

I. Authority

Section 5(a)(2) of TSCA authorizes EPA to determine that a use of a

chemical substance is a significant new use. EPA must make this determination by rule, after considering all relevant factors, including those listed in section 5(a)(2). Once a use is determined to be a significant new use, persons must, under section 5(a)(1)(B), submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. Such a notice is subject to the same requirements and procedures as a PMN submitted under section 5(a)(1)(A) of TSCA which are interpreted at 40 CFR Part 720. In particular, these include the information submission requirements of section 5 (b) and (d), certain exemptions authorized by section 5(h), and the regulatory authorities of section 5 (e) and (f) of TSCA. If EPA does not take regulatory action under section 5, 6, or 7 to control a substance on which it has received a SNUR notice, section 5(g) of TSCA requires the Agency to explain its reasons for not taking action in the **Federal Register.**

Substances covered by proposed or final SNURs are subject to the export reporting requirements of TSCA section 12(b). EPA regulations interpreting section 12(b) requirements appear at 40 CFR Part 707. Substances subject to final SNURs are covered by TSCA section 13 import certification requirements at 19 CFR 12.18 through 12.127 and 127.28 published in the **Federal Register** of August 1, 1983 (48 FR 34734). The EPA policy in support of these requirements appears at 40 CFR Part 707 published in the **Federal Register** of December 13, 1983 (48 FR 55462).

II. Applicability of General Provisions

EPA has promulgated general provisions under 40 CFR Part 721, Subpart A which are applicable to SNURs and were published in the **Federal Register** of September 5, 1984 (49 FR 35011). These general provisions will apply to these SNURs without change except as discussed in this preamble. Interested persons should refer to that document for a detailed discussion of the general provisions.

III. Summary of This Proposal

EPA Is proposing that manufacture or processing without the use of certain personal protective equipment and certain packaging be designated as significant new uses of the four substances identified in these proposals. The substances, which are identified by their generic chemical names, were the subjects of PMNs P–83–906 (brominated aryl alkyl ether), P–83–908 (ethylated amino phenol), P–83–909 (amino phenol), and P–83–910 (anilino ether) and a TSCA section 5(e) consent order issued by EPA. The Agency is concerned that these substances may present unreasonable risks of injury to human health if the defined significant new uses occur. These uses were not allotted under the section 5(e) consent order. These four substances are being considered together because they were the subject of one section 5(e) consent order, and because they are similar in chemical structure. For purposes of clarity, these substances will be referred to by their PMN numbers throughout this preamble.

IV. Background

On July 5, 1983, EPA received the four PMN submissions which the Agency designated P–83–906, P–83–908, P–83–909, and P–83–910. EPA announced receipt of the PMNs in the **Federal Register** of July 15, 1983 (48 FR 32381). The notice submitter stated that these substances would be used as site-limited intermediates.

In each of the PMN submissions the PMN submitter claimed the following as CBI: company identity, chemical identity, production volume, and use. Under section 14(a)(4) of TSCA, the Agency may disclose confidential information relevant in any proceeding. "[D]isclosure in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding." EPA is not convinced that this rulemaking will be so impaired by these claims as to justify disclosure of CBI. Therefore, EPA has decided not to disclose any of the CBI at this time. The Agency specifically request comment on this approach for this SNUR rulemaking.

In the PMN submissions, no data were provided on the health effects of any of the four substances, and EPA's general literature searches provided no additional toxicity data on the substances themselves. However, EPA found toxicity information on chemical analogues to the four substances, which indicates that, by structural analogy, the substances may cause reproductive effects and centrolobular and diffuse hepatotoxicity in humans. These effects are presented in more detail below.

Based upon the physical/chemical characteristics of the four substances as described in the PMN submissions, EPA believes all four of these substances will be readily absorbed by all routes into the body. Based upon analogy to another substituted aminobenzene, the Agency believes that P–83–908, P–83–909, and P–83–910 may cause reproductive effects in humans. The analogue has been shown to cause reproductive effects in rats when administered in the diet for 100 days at 250–500 mg/kg/day. The no observed effect level (NOEL) for this analogue for these effects is 125–250 mg/kg/day. By analogy to a brominated aryl compound similar in structure to P–83–906, the Agency believes that this substance may be a hepatotoxic agent in humans. The analogue has been shown to cause centrolobular and diffuse hepatotoxicity in rats after acute and chronic administration, respectively.

V. Reasons for Proposing These Rules

The Agency evaluated available data and information which indicate that the four substances may present risks to human health. However, because the Agency had to rely heavily on analogue data, it concluded that there is insufficient information to perform a reasoned evaluation of the health effects of these substances at this time. The Agency determined that the substances may present unreasonable risks to human health if manufactured, processed, and distributed in commerce without restriction. The Agency concluded, however, that with certain protective equipment, exposure can be reduced sufficiently to mitigate health concerns. Based on these findings, EPA did not ban these chemical substances, but instead, chose to restrict their manufacture, processing, and distribution in commerce thereby encouraging innovation and allowing potential benefits to society while continuing to protect human health. The Agency and the PMN submitter negotiated a section 5(e) consent order which requires the use of specific personal protection equipment during manufacture and processing of each of the substances and prohibits distribution to others until appropriate data are developed to allow a reasoned evaluation of the substances. The order became effective on November 23, 1983.

The section 5(e) order applies only to the PMN submitter. The four substances will be added to the TSCA Chemical Substance Inventory when EPA received a notice of commencement of manufacture from the PMN submitter. Once the substances are added to the Inventory, other persons could begin to manufacture or process the substances without notice to EPA and without use of the protective equipment required by the section 5(e) order. This manufacturing or processing could allow exposures to occure. Therefore, EPA is proposing to designate manufacture and processing of the substances without certain protective equipment and packaging restrictions as significant new

uses so that the Agency can review those uses before they occur.

Through these SNURs, the Agency would ensure that all manufacturers, importers, and processors are subject to similar reporting requirements and that EPA has an opportunity to review exposure and toxicity information on the substances to that, if necessary, action can be taken to ensure that persons will not be exposed to potentially hazardous levels of these substances. To assist EPA in making a reasoned evaluation of the potential of P–83–906 to elicit hepatotoxic effects in humans, the Agency recommends that notices submitted under the SNUR contain appropriate test data. Notices should contain data that would allow a reasoned evaluation of the potential for P–83–908, P–83–909, and P–83–910 to produce reproductive effects in humans. Studies that would produce the data necessary to evaluate the potential effects of the substances are discussed below. In addition, the Agency would want to see exposure information and any available data to aid in assessing whether exposure can be adequately controlled by means other than those stated in the proposed significant new uses for these substances.

Because of the CBI claims by the PMN submitted, EPA is unable to discuss in greater detail its reasons for proposing these SNURs. The Agency informally spoke with the PMN submitter to see if additional information could be disclosed in connection with these proposed rules without damaging the competitive position of the submitter. The PMN submitter believes that release of any additional information could endanger its competitive position.

VI. Alternatives

EPA will consider other possible approaches to ensuring protection of human health.

1. One alternative would be to promulgate a section 8(a) reporting rule for the substances. Under such a rule, EPA could require any person to report to EPA before manufacturing or processing the substances without the protective equipment and packaging requirements. Because the substances are subject to a section 5(e) order, the normal small business exemption of section 8(a) would not apply. However, the use of section 8(a) rather than SNUR authority has drawbacks in this particular instance. If EPA received a report under section 8(a) indicating that a person intended to manufacture or process any of the subject substances without protective equipment or packaging, the Agency could not take immediate action under section 5(e), as it can under a SNUR, and therefore would not be able to regulate the substances pending development of information. Rather, in a situation such as this, EPA would have to consider regulating the substance under TSCA section 6 which would require a separate rulemaking. Moreover, in view of the current lack of data on the health effects of these substances, EPA would likely have to obtain test data on the substances under section 4 of TSCA to support an action under section 6. This approach could allow unnecessary risks to human health during the time needed for data development. In addition, the original PMN submitter would be at a competitive disadvantage because the section 5(e) consent order places restrictions only on that company.

2. The Agency has the authority to regulate substances under section 6 of TSCA. However, section 6(a) specifies that the Agency may regulate only if there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance or mixture "present or will present" an unreasonable risk of injury to health or the environment. As stated previously, at this time, there is insufficient information to perform a reasoned evaluation of the health effects of these substances. Therefore, the Agency cannot state that these substances "present or will present" unreasonable risks, but only that they "may present" unreasonable risks of injury to health. Therefore, the Agency cannot presently use section 6 to regulate these substances.

3. As another alternative, the Agency is considering defining as a significant new use (in addition to the packaging requirements in this proposal) the failure to establish a program whereby the substances are treated as a hazardous chemical substance under the Occupational Safety and Health Administration (OSHA) Hazard Communication Standards (29 CFR 1900.1200). In all labels, material safety data sheets, and employee training programs, P–83–908, P–83–909, and P–83–910 would have to be identified as substances which may cause reproductive effects in humans. P–83–906 would be identified as a potential hepatotoxic agent in humans. In addition, employers would have to indicate that the use of impervious gloves by employees who may be exposed to the substances would be required.

4. The Agency is also considering creating an abbreviated review for persons who propose to employ alternative exposure controls or worker protection equipment which may provide equivalent protection. Under this approach, the significant new use would be defined (in addition to the packaging and labeling requirements of the substances) as the failure to establish a program whereby persons who may be exposed to the substances are required to use gloves which are determined to be impervious to the substances or requiring the use of exposure controls or protective equipment which provide the "equivalent" protection. Persons would be required to notify EPA of the alternative controls to receive (in a specified time period shorter than 90 days) confirmation from the Agency that the protection provided by the equipment is "equivalent." If EPA determined that the protection was not "equivalent," significant new use reporting would be required.

EPA invites comment on these alternatives.

VII. Proposed Significant New Uses

To determine what would constitute a significant new use of these chemical substances, EPA considered relevant information about the toxicity of the substances and potential exposures associated with possible uses (such as uses other than those allowed under the section 5(e) order) and the four factors listed in section 5(a)(2) of TSCA. In particular, EPA considered the reasonably anticipated manner and methods of manufacturing and processing the substances and the extent to which these methods would affect the magnitude and duration of human exposures. In defining the proposed significant new uses, EPA drew directly from the restrictions outlined in the section 5(e) order. Based on these considerations, EPA proposes to define the following as significant new uses of P–83–906, P–83–908, P–83–909, and P–83–910:

1. Manufacture or processing of any of the four substances without requiring persons (employed by or under the control of the manufacturer or processor) who may be exposed to the substance(s) to wear gloves determined to be impervious to the particular substance under the conditions of exposure. The gloves would be determined to be impervious to the substance either by testing the equipment under the conditions of exposure, including the duration of exposure, or be evaluating the specifications supplied by the glove supplier which indicate that the gloves will be impervious to chemical substances in the class containing the

substances under the conditions of exposure, including the associated compounds, mechanical and chemical stresses, and potential durations of exposure. The gloves would be worn during all stages of manufacturing or processing where workers may potentially make dermal contact with the substance(s), including operations such as sampling, packaging, cleaning and maintenance, material handling, or transfer operations.

2. Between manufacture and processing operations the failure to package any of the substances in packaging that is designed such that the potential for spills or leaks will be minimized. For example, packaging in sealed, polyethelene-lined fiber drums or bulk containerizing will limit the potential for spills and resultant human exposure while paper bagging of dry materials would represent the potential for leaks as a result of torn bags and difficulty in closing after opening.

3. Failure to label the outside of a package to indicate that the substance should be handled only while using elbow length impervious gloves.

VIII. Recordkeeping

To ensure compliance with these proposed rules and to assist enforcement efforts, EPA is proposing under its authority in sections 5 and 8 of TSCA that certain records be maintained for five years after the date of their creation, by persons who manufacture and process any of the substances subject to this proposed rule. These records would be in addition to those required under § 721.17 of Subpart A. Persons would make the records available for inspection and copying by EPA in accordance with section 11 of TSCA. These records would include the names and addresses of persons required to wear the elbow length gloves specified in the rule, determinations that the gloves are impervious to the substances, and the names and addresses of persons to whom the substances are sold.

As an alternative, the Agency is considering requiring manufacturers and processors of the substances who do not trigger the SNUR reporting requirement to maintain "records demonstrating their compliance" with the SNUR. Therefore, manufacturers and processors would have the discretion to determine which records are needed to show compliance. In the preamble to such a rule, the Agency would provide guidance (with examples) for determining what records would adequately demonstrate compliance.

Recordkeeping requirements are expected to encourage compliance with these rules when promulgated and to support EPA's enforcement efforts. The Agency considered omitting recordkeeping requirements, but believes compliance monitoring for this proposed SNUR would be made more difficult.

Section 5(a)(2) of TSCA does not explicitly provide for recordkeeping of the type in paragraph (b)(1) of the proposed rules. However, EPA believes that such recordkeeping is necessary to implement and enforce the requirements of the SNURs effectively. EPA believes that two TSCA authorities support the recordkeeping in the proposed rules. First, EPA believes there is inherent authority in section 5 of TSCA to require the keeping of records reasonably necessary to implement the mandate of section 5. EPA has already exercised this authority in the PMN rule recordkeeping requirements (see 40 CFR 720.78) and in § 721.17 of the general SNUR provisions. Clearly, there is no way to determine whether a manufacturer or processor is undertaking a significant new use of the type in this proposed rule unless the manufacturer or processor is required to keep records of its activities to show that the significant new use has not occurred. Otherwise, EPA would not be able to determine whether a violation has occurred unless the manufacturer or processor was observed in violation.

Second, section 8(a) of TSCA provides broad authority for EPA to require manufacturers and processors of chemical substances to keep records. Generally, a section 8(a) recordkeeping requirement does not apply to small manufacturers and processors, but in this case a section 5(e) order is in effect for the chemical substances in question. Thus, under section 8(a)(3)(A)(ii) of TSCA, EPA can require recordkeeping by small manufacturers and processors as well and is proposing to do so.

EPA invites comment on this recordkeeping requirement and the alternative.

IX. Applicability of Proposal to Uses Occurring Before Promulgation of Final Rule

To establish a significant new use rule, the Agency must, among other things, determine that the use is not ongoing. In this case, the chemical substances in question have undergone premanufacture review. When the notice submitter begins manufacture of the substances, the submitter will send EPA a notice of commencement of manufacture, and the substances will be added to the Inventory. The notice submitter is prohibited by the section 5(e) order from undertaking any of the activities which the Agency is proposing be defined as significant new uses. Thus, at this time, the Agency can conclude that these uses are significant new uses. However, EPA recognizes that when the chemical substances proposed to be subject to this SNUR have been added to the Inventory, they may be manufactured, imported or processed for the significant new uses defined in this proposal by other persons before promulgation of the final rule.

If, after publication of this proposal, someone were to undertake for the first time the designated significant new uses, they could argue that the uses are no longer "new" uses at the time the rule is promulgated as final and therefore not significant new uses. EPA finds that the intent of section 5(a)(1)(B) can best be served by determining whether a use is a significant new use as of the proposal date of the SNUR. If EPA did not consider uses begun during the proposal period to be significant new uses, it would be almost impossible for the Agency to establish SNUR notice requirements, since any person could defeat the SNUR by initiating a proposed significant new use before the rule becomes final. This is contrary to the general intent of section 5(a)(1)(B).

Thus, if the substances are manufactured, imported, or processed for the first time between proposal and promulgation for a proposed significant new use, the Agency will still consider such use to be a significant new use if the definition is retained in the final rule. EPA recognizes that this interpretation may disrupt commercial activities of persons who begin manufacture, import, or processing for a significant new use during the proposal period. However, this proposal constitutes notice of that potential disruption, and persons who commence a proposed significant new use do so at their own risk.

Because the identity of the substances subject to this proposal are CBI, any person intending to manufacture or import these substances is unlikely to know whether they have been placed on the Inventory. Therefore, they are likely to submit a *bona fide* request under either 40 CFR 710.7(e) or 720.85(b) to determine whether the substances are on the Inventory. If EPA determines that the person has a *bona fide* intent to manufacture or import the substances, EPA will inform the person that the substances are subject to this proposal. This will give the person adequate notice of this proposal, will give the person an adequate chance to comment on this proposal, and will help prevent potential disruption.

X. Procedures for Informing Persons of the Existence of This Significant New Use Rule

The final rules will be published in the **Federal Register** and codified in the Code of Federal Regulations (CFR). While this will provide legal notice of the rules, EPA also intends to publish information concerning final SNURs in the TSCA Chemicals-in-Progress Bulletin, published by the TSCA Assistance Office of EPA's Office of Toxic Substances. EPA may also use the TSCA Chemical Substance Inventory to inform persons of the existence of final SNURs through footnotes to the chemical identities of substances subject to SNURs. The footnotes would refer to an Inventory Appendix which would give a **Federal Register** or CFR citation for the SNUR. As a variation of this approach, the Agency is considering publishing a list of substances subject to SNURs as an Inventory Appendix.

Any person who intends to manufacture or process a substance for the first time would check the Inventory to determine if the substance is listed. If the person found that the substance is on the Inventory, but subject to a SNUR, that person could determine whether they would be subject to reporting by contacting EPA or reviewing the rule. Because an updated Inventory is published only periodically, manufacturers and processors would also reply on the **Federal Register** and the TSCA Chemicals-in-Progress Bulletin. Since EPA maintains a current copy of the Inventory, any questions could be resolved by consulting EPA.

Determining whether a chemical substance is subject to a SNUR is more difficult when the identity of the chemical substance involved is confidential. In this case, the chemical identity of each of the four substances was claimed confidential in the PMNs. EPA is proposing to keep the specific identities of these four substances confidential in the final rules. The substances would be referred to by their generic chemical names. In printed versions of the Inventory, there would be a footnote indicating that some chemical substances masked by these generic names are subject to a SNUR.

Section 721.6 of the general SNUR provisions allows manufacturers, importers, and processors to determine whether they are subject to SNURs while protecting CBI from unnecessary disclosure. EPA has proposed several SNURs in which the specific chemical identities of the substances involved were claimed as confidential by the submitters of the PMNs for those substances. Like ths publication, in those proposals EPA has identified the substances involved by generic chemical names and PMN numbers. On a case-by-case basis, EPA will determine whether it will be necessary to reveal the specific chemical identities of such substances during the rulemaking process or in the promulgation of the final rules.

Under § 721.6 any person intending to manufacture, import, or process a chemical substance within one of these generic names would be able to ask EPA whether its chemical substance is subject to the SNUR. To make such a request, the person would have to show EPA that the person has a *bona fide* intent to manufacture, import, or process the substance in question. The process for doing so is very similar to that for manufacturers and importers to show a *bona fide* intent to manufacture or import under 40 CFR 710.7(g) (2) of the Inventory Reporting Rules and 40 CFR 720.25(b) (2) of the Premanufacture Notification Rules as published in the **Federal Register** of May 13, 1983 (48 FR 21722). EPA would evaluate the SNUR inquiry under the same criteria and would answer the inquiry by either informing the requester that the substance is or is not subject to the SNUR or informing the requester that the requester has not furnished enough information to show a *bona fide* intent to manufacture, import, or process the substance in question. If a manufacturer or importer makes an inquiry under either § 710.7(g) of the Inventory Reporting Rules or § 720.25(b) of the Premanufacture Notification Rules and EPA informs the manufacturer or importer that the substance is on the Inventory, EPA will also inform the manufacturer or importer whether the substance is subject to a SNUR.

This procedure allows manufacturers, importers, and processors to determine whether they are subject to the rule while protecting CBI from unnecessary disclosure.

XI. Required Information

A. General

Section 721.10 of the general SNUR provisions requires submitters to use the premanufacture notice form and follow the premanufacture notice rules which were published in the **Federal Register** of May 13, 1983 (48 FR 21722), except as otherwise specified in a given SNUR.

EPA urges SNUR notice submitters to provide detailed information on human exposure that will result from the significant new use. In addition, EPA urges persons to submit information on potential benefits of the substances and information on risks posed by the substances compared to risks posed by their substitutes.

B. Test Data

Persons required to submit a SNUR notice must decide what test data, if any, to develop. EPA recognizes that under TSCA section 5, a person is not required to develop any particular test data before submitting a notice. Rather, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. However, in view of the potential health risk that may be posed by a significant new use of P–83–908, P–83–909, and P–83–910, EPA encourages possible SNUR notice submitters to conduct tests that would allow a more reasoned evaluation of P–83–908, P–83–909, and P–83–910's potential to elicit reproductive toxicity in humans and, for P–83–906, hepatotoxic effects in humans. A more reasoned evaluation of such data could be made using data generated in rodent 2-generation reproduction studies with P–83–908, P–83–909, and P–83–910. A more reasoned evaluation could also be made using data generated in long-term feeding studies in rodents for hepatotoxic effects with P–83–906. Depending on EPA's calculations of the risks involved, if SNUR notice is submitted for any of the subject substances without such test data, or other information to demonstrate that exposure is adequately controlled by means other than those specified in these proposed significant new uses, EPA could take action under section 5(e) similar to that already taken for the PMN submitter.

As part of an optional prenotice consultation, EPA will discuss the test data it believes necessary to evaluate a significant new use of the substances. Test data should be developed and submitted according to the TSCA good laboratory practices (GLPs) regulation at 40 CFR Part 792 published in the **Federal Register** of November 29, 1983 (48 FR 53922). EPA encourages persons to consult with the Agency before selecting a protocol for testing the substances.

XII. EPA Review of Notice

EPA proposes to review SNUR notices the same way it reviews PMNs and to subject such notices to the procedures outlined in the final premanufacture notice rules. Under section 5(d)(2) of TSCA, EPA will issue a summary of each notice in the **Federal Register**. The review period for the notice will run 90 days from EPA's receipt of the notice. Under TSCA section 5(c), this period may be extended up to an additional 90

days for good cause. The submitter may not manufacture, import, or process the substance for the significant new use until the review period, including extensions, has expired.

The Agency may regulate the substance during the review period. If a significant new use notice is submitted for the chemical substance without information sufficient to judge the toxicity and exposure potential of that substance, EPA may issue a section 5(e) order limiting or prohibiting the new use until sufficient information is developed. In addition, section 5(f) authorizes EPA to prohibit the significant new use if it presents or will present an unreasonable risk to health or the environment. EPA may also refer information in a SNUR notice to other EPA offices and other Federal agencies. If EPA does not take action under section 5, 6, or 7 of TSCA to control, the significant new use of the substance, section 5(g) of TSCA requires that the Agency to explain in the **Federal Register** its reasons for not taking action.

XIII. Economic Analysis

The Agency has evaluated the potential costs of establishing significant new use reporting requirements for these substances. The economic analysis of the possible outcomes as a result of the promulgation of these SNURs is summarized below. The Agency's complete economic analysis is available in the public file.

After promulgation of the SNURs, the Agency believes there are four possible courses of action a company could take: (1) Produce and ship the substances with the protective equipment in place (and therefore not trigger the SNUR); (2) file a SNUR notice with information showing other methods of controlling exposures that would mitigate EPA's health concerns; (3) file a SNUR notice with the results of recommended testing already complete or be prepared to respond to a section 5(e) order requiring testing; or (4) not manufacture or process the substances. The costs of these outcomes are summarized below.

If a company decides to produce the substances using the protective equipment specified in the SNUR, it will not incur the cost of submitting a SNUR notice. The cost to the company will be the cost of the protective equipment and recordkeeping.

The present value of the costs of providing protective equipment (elbow length gloves) could be $2,226 per substance. In addition, the net present value of the annual cost of maintaining the records required in this proposed rule for 5 years could be $1,460. Furthermore, an impermeability test could cost $350 per substance for each glove material tested.

In some circumstances it could be cost effective for a company to file a SNUR notice with data which show that other means of controlling exposures could mitigate EPA's concerns. In this case the company incurs the cost of filing the SNUR notice ($1,375 to $7,950) and possibly the cost of some exposure controls which ordinarily would not be used without the existence of the SNUR. In addition, a company choosing this course of action could experience a 3.2 percent reduction in profits due to delays in manufacture or processing.

It is theoretically possible that a company could file a SNUR notice which would include the test results of the recommended testing (hepatotoxic effects testing for P–83–906 and reproductive effects testing for P–83–908, P–83–909, and P–83– 910). A company would incur the cost of filing a notice ($1,375 to $7,950), performing the test (at least $164,000 for each substance) for the four substances, and the cost of delay (probably a delay in profits of 2.5 to 3.0 years). The total cost of this option is expected to be prohibitive.

Some companies could find the cost of controlling exposures too expensive to justify beginning production or processing. Under this outcome a company would not incur any direct costs as a result of the SNUR.

EPA has not attempted to quantify the benefits of the proposed rules or of the outcomes. In general, benefits will accrue if the proposed action leads to the identification and control of unreasonable risks before significant health effects can occur. The issuance and promulgation of the SNURs provides the benefits of reduced health risks until production or processing ceases. Furthermore, these benefits would continue regardless of the outcome chosen by industry in response to the SNURs.

Given the relative cost of the recommended testing versus the required protective equipment and recordkeeping it is unlikely that testing will be performed. Some potential exists for the cost of protective equipment and recordkeeping to cause some companies to decide to forego production or processing. However, the fact that the original PMN submitter intends to produce under these restrictions indicates that at least one use of these substances could still return an acceptable profit.

XIV. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore requires a Regulatory Impact Analysis. EPA has determined that these proposed rules are not "Major Rules" because they do not have an effect on the economy of $100 million or more, and will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of these rules, EPA believes that the cost will be low. Even if EPA received 50 SNUR notices, the direct cost of the rules would be under $1 million. In addition, because of the nature of the rules and the substances subject to it, EPA believes that there will be few significant new use notices submitted. Further, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact will be limited because such factors are unlikely to discourage an innovation which has high potential value.

These regulations were submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that these proposed rules, if promulgated, will not have a significant impact on a substantial number of small businesses. EPA is unable to predict realistically whether parties affected by this proposal will be small businesses. However, the Agency believes that few manufacturers or processors will submit SNUR notices. Therefore, although the costs of preparing a notice under the rules might be significant for some small businesses, the number of such businesses affected would not be substantial.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in the proposed rules under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2070–0012.

XV. Confidential Business Information

Any person who submits comments which the person claims as CBI must mark the comments as "confidential," "trade secret," or other appropriate designation. Any comments not claimed as confidential at the time of submission

will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR Part 2. EPA requests that any person submitting confidential comments prepare and submit a sanitized version of the comments which EPA can place in the public file.

XVI. Judicial Review

When this proposal is promulgated, judicial review may be available under section 19 of TSCA in the United States Court of Appeals for the District of Columbia Circuit or for the circuit in which the person seeking review resides or has its principal place of business. To provide all interested persons an equal opportunity to file a timely petition for judicial review and to avoid so called "races to the courthouse," EPA intends to promulgate these rules for purposes of judicial review two weeks after publishing the final rules in the **Federal Register**. The effective date will be calculated from the promulgation date.

XVII. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS—50513). The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following:

1. The PMNs for these four substances.
2. The **Federal Register** notices of receipt of the PMNs.
3. A copy of the section 5(e) consent order.
4. The toxicity support document for the section 5(e) consent order.
5. The proposed SNURs for these four substances.
6. The economic support document for the proposed SNUR.

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

EPA will identify the complete rulemaking record by the date of promulgation. The Agency will accept additional materials for inclusion in the record at any time between this proposed rule and designation of the complete record.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: September 12, 1984.

Marcia E. Williams,

Acting Assistant Administrator for Pesticides and Toxic Substances.

PART 721—[AMENDED]

Therefore, it is proposed that Part 721 of Chapter I of Title 40 be amended as follows:

1. By adding and alphabetically inserting the following definitions to § 721.3 to read as follows:

§ 721.3 Definitions.

* * * * *

"Package" means a container, mobile or otherwise, to hold chemical substances or mixtures.

* * * * *

"Site" means a contiguous property unit. Property divided only by a public right-of-way is one site. There may be more than one manufacturing plant on a single site.

"Site-limited intermediate" means an intermediate manufactured, processed, and used only within a site and not distributed in commerce other than as an impurity or for disposal. Imported intermediates cannot be "site-limited."

* * * * *

2. By adding §§ 721.100, 721.104, 721.125, and 721.140 to Subpart B to read as follows:

§ 721.100 Aminophenol.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The following chemical substance, identified by premanufacture notice number and generic name, is subject to reporting under this section for the significant new uses defined in paragraph (a)(2) of this section: (P–83–909) aminophenol.

(2) The significant new uses are:

(i) Manufacture or processing, without establishing a program whereby during all stages of manufacture and processing workers (employed by or under the control of the manufacturer or processor) who may be dermally exposed to the substance (including during sampling, packaging, cleaning and maintenance, and material handling operations), must wear elbow length gloves which have been determined to be impervious to the substance under conditions of exposure. Gloves must be determined to be impervious to the substance either by testing the equipment under the conditions of exposure, including the duration of exposure, or by evaluating the data and specifications supplied by the glove manufacturer or others in context of the conditions of exposure including the associated chemicals, mechanical and chemical stresses, and potential durations of exposure.

(ii) Between manufacture and processing operations, failure to store the substance in packaging that is designed such that the potential for spills or leaks will be minimized.

(iii) Between manufacture and processing operations, failure to label packages of the substance on the exterior to indicate that the substance should be handled only while using elbow length impervious gloves.

(b) *Specific requirements.* The provisions of Subpart A of this Part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* In addition to the requirements of § 721.17, manufacturers and processors of the chemical substance identified in paragraph (a)(1) of this section must maintain records of: (i) The names and addresses of persons required to wear gloves specified in paragraph (a)(2)(i) of this section, (ii) determinations that the gloves are impervious to the substance under the conditions of exposure, and (iii) the names and addresses of persons to whom the substance is sold or transferred and the date(s) of such sale or transfer. Records must be maintained for five years from the date of their creation and shall be made available for inspection and copying by EPA in accordance with section 11 of TSCA.

(2) [Reserved].

§ 721.104 Ethylated aminophenol.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The following chemical substance, identified by premanufacture notice number and generic name, is subject to reporting under this section for the significant new uses defined in paragraph (a)(2) of this section: (P–83–908) ethylated aminophenol.

(2) The significant new uses are:

(i) Manufacture or processing, without establishing a program whereby during all stages of manufacture and processing workers (employed by or under the control of the manufacturer or processor) who may be dermally exposed to the substance (including during sampling, packaging, cleaning and maintenance, and material handling operations), must wear elbow length gloves which have been determined to be impervious to the substance under conditions of exposure. Gloves must be determined to be impervious to the substance either by testing the equipment under the conditions of exposure, including the duration of

exposure, or by evaluating the data and specifications supplied by the glove manufacturer or others in context of the conditions of exposure including the associated chemicals, mechanical and chemical stresses, and potential durations of exposure.

(ii) Between manufacture and processing operations, failure to store the substance in packaging that is designed such that the potential for spills or leaks will be minimized.

(iii) Between manufacture and processing operations, failure to label packages of the substance on the exterior to indicate that the substance should be handled only while using elbow length impervious gloves.

(b) *Specific requirements.* The provisions of Subpart A of this Part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* In addition to the requirements of § 721.17, manufacturers and processors of the chemical substance identified in paragraph (a)(1) of this section must maintain records of: (i) The names and addresses of persons required to wear gloves specified in paragraph (a)(2)(i) of this section, (ii) determinations that the gloves are impervious to the substance under the conditions of exposure, and (iii) the names and addresses of persons to whom the substance is sold or transferred and the date(s) of such sale or transfer. Records must be maintained for five years from the date of their creation and shall be made available for inspection and copying by EPA in accordance with section 11 of TSCA.

(2) [Reserved].

§ 721.140 Brominated aryl alkyl ether.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The following chemical substance, identified by premanufacture notice number and generic name, is subject to reporting under this section for the significant new uses defined in paragraph (a)(2) of this section: (P–83–906) brominated aryl alkyl ether.

(2) The significant new uses are:

(i) Manufacture or processing, without establishing a program whereby during all stages of manufacture and processing workers (employed by or under the control of the manufacturer or processor) who may be dermally exposed to the substance (including during sampling, packaging, cleaning and maintenance, and material handling operations), must wear elbow length gloves which have been determined to be impervious to the substance under conditions of exposure. Gloves must be determined to be impervious to the substance either by testing the equipment under the conditions of exposure, including the duration of exposure, or by evaluating the data and specifications supplied by the glove manufacturer or others in context of the conditions of exposure including the associated chemicals, mechanical and chemical stresses, and potential durations of exposure.

(ii) Between manufacture and processing operations, failure to store the substance in packaging that is designed such that the potential for spills or leaks will be minimized.

(iii) Between manufacture and processing operations, failure to label packages of the substance on the exterior to indicate that the substance should be handled only while using elbow length impervious gloves.

(b) *Specific requirements.* The provisions of Subpart A of this Part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* In addition to the requirements of § 721.17, manufacturers and processors of the chemical substance identified in paragraph (a)(1) of this section must maintain records of: (i) The names and addresses of persons required to wear gloves specified in paragraph (a)(2)(i) of this section, (ii) determinations that the gloves are impervious to the substance under the conditions of exposure, and (iii) the names and addresses of persons to whom the substance is sold or transferred and the date(s) of such sale or transfer. Records must be maintained for five years from the date of their creation and shall be made available for inspection and copying by EPA in accordance with section 11 of TSCA.

(2) [Reserved].

§ 721.125 Anilino ether.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The following chemical substance, identified by premanufacture notice number and generic name, is subject to reporting under this section for the significant new uses defined in paragraph (a)(2) of this section: (P–83–910) anilino ether.

(2) The significant new uses are: (i) Manufacture or processing, without establishing a program whereby during all stages of manufacture and processing workers (employed by or under the control of the manufacturer or processor) who may be dermally exposed to the substance (including during sampling, packaging, cleaning and maintenance, and material handling operations), must wear elbow length gloves which have been determined to be impervious to the substance under conditions of exposure. Gloves must be determined to be impervious to the substance either by testing the equipment under the conditions of exposure, including the duration of exposure, or by evaluating the data and specifications supplied by the glove manufacturer or others in context of the conditions of exposure including the associated chemicals, mechanical and chemical stresses, and potential durations of exposure.

(ii) Between manufacturer and processing operations, failure to store the substance in packaging that is designed such that the potential for spills or leaks will be minimized.

(iii) Between manufacture and processing operations, failure to label packages of the substance on the exterior to indicate that the substance should be handled only while using elbow length impervious gloves.

(b) *Specific requirements.* The provisions of Subpart A of this Part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* In addition to the requirements of § 721.17, manufacturers and processors of the chemical substance identified in paragraph (a)(1) of this section must maintain records of: (i) The names and addresses of persons required to wear gloves specified in paragraph (a)(2)(i) of this section, (ii) determinations that the gloves are impervious to the substance under the conditions of exposure, and (iii) the names and addresses of persons to whom the substance is sold or transferred and the date(s) of such sale or transfer. Records must be maintained for five years from the date of their creation and shall be made available for inspection and copying by EPA in accordance with seciton 11 of TSCA.

(2) [Reserved].

(Sec. 5, 8, Pub. L. 94–469, 90 Stat. 2012, (15 U.S.C. 2604, 2607))

[FR Doc. 84–24921 Filed 9–27–84; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 721

[OPTS–50514; FRL–2674–4]

Substituted Bromothiophene Proposed Determination of Significant New Use

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2604(a)(2) for a substance which were the subject of

premanufacture notice (PMN) P–83–769 and a TSCA section 5(e) consent order. The Agency is concerned that the substance may present an unreasonable risk to human health if the significant new uses occur.

DATE: Written comments should be submitted by November 27, 1984.

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

Comments should include the docket control number OPTS–50514. Non-confidential comments and sanitized versions of confidential comments received on this proposal will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Rm. E–107, at the address given above. For further information regarding the submission of confidential business information (CBI), see Unit XIV of this preamble.

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

SUPPLEMENTARY INFORMATION: OMB control number: 2070–0012.

I. Authority

Section 5(a)(2) of TSCA authorizes EPA to determine that a use of a chemical substance is a significant new use. EPA must make this determination by rule, after considering all relevant factors, including those listed in section 5(a)(2). Once a use is determined to be a significant new use, persons must, under section 5(a)(1)(B), submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. Such a notice is generally subject to the same statutory requirements and procedures as a PMN submitted under section 5(a)(1)(A). In particular, these include the information submission requirements of section 5 (b) and (d)(1), certain exemptions authorized by section 5 (h), and the regulatory authorities of section 5 (e) and (f) of TSCA. If EPA does not take regulatory action under section 5, 6, or 7 to control a substance on which it has received a SNUR notice, section 5(g) requires the Agency to explain its reasons for not taking action in the **Federal Register.**

Substances covered by proposed or final SNURs are subject to the export reporting requirements of TSCA section 12(b). EPA regulations interpreting section 12(b) requirements appear at 40 CFR Part 707. Substances subject to final SNURs are covered by TSCA section 13 import certification requirements at 19 CFR 12.118 through 12.127 and 127.28 published in the **Federal Register** of August 1, 1983 (48 FR 34734). The EPA policy in support of these requirements appears at 40 CFR Part 707.

II. Applicability of General Provisions

EPA promulgated general provisions applicable to SNURs under 40 CFR Part 721, Subpart A, published in the **Federal Register** of September 5, 1984 (49 FR 35011). EPA is proposing that these general provisions apply to this SNUR without change except as discussed in this preamble. Interested persons should refer to that document for a detailed discussion of the general provisions.

III. Summary of This Proposed Rule

EPA is proposing that manufacture, import, or processing without certain protective equipment, engineering controls, and packaging requirements be designated as a "significant new use" of the substance identified generically as substituted bromothiophene. The substance was the subject of premanufacture notice (PMN) P–83–769 and a TSCA section 5(e) consent order. EPA believes that the significant new use defined in this proposed rule may present a risk to health. This use was not permitted under the section 5(e) order.

IV. PMN Background

On May 24, 1983, EPA received a PMN which the Agency designated as P–83–769. EPA announced receipt of the PMN in the **Federal Register** of May 30, 1983 (48 FR 24967).

The notice submitter claimed its identity, the specific chemical identity, specific use, and projected production volume as CBI. The submitter requested that the intended use be generically described as "intermediate." The PMN submitter originally requested that the substance be identified generically as disubstituted heterocycle. The submitter later agreed to a more specific generic chemical identity, substituted bromothiophene. In this preamble and § 721.240 the substance will be referred to by this generic name and PMN number.

In the PMN submission, the notice submitter included test data on P–83–769 which are summarized below.

LD_{50}, rat oral—>1 g/kg
LD_{50}, rat dermal—>1 g/kg
Eye irritation, rabbit—moderate
Skin irritation, rabbit—slight

EPA's general literature search provided no additional information on the toxicity of the substance. However, the Agency identified structural analogues of the substance. Based upon the analogy of the chemical structure of P–83–769 to a substance for which there are data in the published literature, EPA believes that P–83–769 may be a potential carcinogen/mutagen. The analogous substance has been shown to cause benign hepatocellular adenomas in rats when administered in drinking water. EPA cannot disclose the identity of the analogue because to do so might reveal the identity of P–83–769. Based upon information submitted with the dermal toxicity studies, the Agency believes the substance is not likely to be dermally absorbed. However, the Agency believes that absorption may occur in the lung and gut. The Agency concluded that the uncontrolled manufacture, processing, and distribution in commerce of the substance may present an unreasonable risk of injury to human health. Therefore, EPA regulated the substance under section 5(e) of TSCA, pending the development of information sufficient to make a reasoned evaluation of its health effects.

EPA believes that use of appropriate protective equipment and engineering control during manufacture and processing will protect persons exposed to P–83–769 from any unreasonable risk. The Agency negotiated a section 5(e) consent order with the notice submitter to require such protective equipment and engineering controls, as well as packaging, labeling, and distribution restrictions until data are available to determine the risks associated with exposure to this substance more accurately. The order became effective November 8, 1983.

To protect workers from inhalation exposure to airborne quantities of the substance as a result of manufacturing and processing the substance in a dry form for use as an intermediate, the consent order requires the use of a National Institute for Occupational Safety and Health (NIOSH) approved half or full-face piece respirator, excluding "single use" or disposable-type respiratiors, during manufacture and processing of P–83–769. The order places certain packaging and

distribution restrictions on the submitter of P–83–769. In addition, the order imposes certain recordkeeping requirements.

The Agency believes that a section 5(e) consent order which allows controlled commercial production and distribution of the substance, pending the development of further data, is appreciably less burdensome than a section 5(e) order which prohibits manufacture or import of the substance until adequate data are submitted to EPA. In addition, such an approach protects human health by requiring adequate exposure controls pending the development of data.

EPA issued a section 5(e) consent order to limit manufacture, processing, and distribution of P–83–769 pending the development of further information on the substance's potential health effects. However, as a negotiated agreement with the PMN submitter, the order applies only to the notice submitter. When the notice submitter commences commercial manufacture of the substance and submits a notice of commencement of manufacture to EPA, the Agency will add the substance to the TSCA Chemical Substances Inventory. When P–83–769 is on the Inventory, another person may manufacture or process the substance without the controls imposed by the order which may present different or increased exposures to the substance. Therefore, EPA is proposing to designate manufacture, import, or processing of the substance without specified controls, packaging, and labeling a significant new use. This will ensure that the Agency can review this use before it occurs.

The notice submitter claimed the specific chemical identity of P–83–769 as CBI. The notice submitter has agreed to the use of a more descriptive generic chemical identity. Identification of the analogue EPA relied on in its analysis could reveal the specific identity of P–83–769. Therefore, EPA is unable to discuss in detail its basis for toxicity concerns for P–83–769. Under section 14(a)(4) of TSCA, the Agency may disclose CBI relevant in any proceeding. "[D]isclosure in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding." EPA is not convinced that this rulemaking will be so impaired as to justify disclosure of CBI. Therefore, EPA has decided not to disclose any such information at this time. The Agency specifically requests comments on SNUR rulemakings involving CBI.

V. Determination of Proposed Significant New Use

To determine what would constitute a significant new use of this chemical substance, EPA considered relevant information about the toxicity of the substance and likely exposures associated with possible uses (such as uses other than those permitted under the section 5(e) order), including the four factors listed in section 5(a)(2) of TSCA. In particular, EPA considered the extent to which potential uses may change the magnitude and duration of exposure of humans to P–83–769.

Based on these considerations, EPA proposes to define the significant new uses as they appear in § 721.240 below. The Agency is proposing that a significant new use of substituted bromothiophene would occur if manufacturers, importers, and processors of the substance fail to establish and enforce a program whereby: (1) Workers who may be exposed to P–83–769 in its dry form wear a NIOSH-approved half or full-face piece respirator (excluding "single use" or disposable respirators) as approved by NIOSH under Occupational Safety and Health Administration (OSHA) standards at 29 CFR 1910.134; (2) during manufacture, import, and processing of P–83–769, when workers may potentially be exposed to P–83–769 in its dry form, including collection of samples and sample preparation, such activities are conducted in areas with local exhaust ventilation; and (3) during the stages between import, manufacture, and processing, and for distribution in commerce, P–83–769 is packaged so as to minimize leakage of the substance to the environment (for example, packaged in sealed, polyethylene-lined, fiber drums or bulk containers) and is labeled conspicuously so as to indicate that the dry form of P–83–769 should be handled only while wearing a NIOSH-approved half or full-face piece respirator (excluding "single use" or disposable-type respirators) as specified in OSHA regulations at 29 CFR 1910.134.

Manufacture, import, or processing without use of the specified protective equipment is expected to increase inhalation exposure to P–83–769. Worker protections and safe handling of the substance in properly ventilated areas are expected to substantially mitigate the risk of inhalation of the substance. The labeling requirement of the rule is intended to reduce the likelihood of exposures among workers who may be exposed to P–83–769 by promoting responsible procedures for the handling and use of the substance. Proper packaging will protect against risk between manufacture and processing, included during distribution in commerce.

EPA has already determined in the section 5(e) consent order that unrestricted manufacture, processing, and distribution in commerce, of the substance may present an unreasonable risk. While such a finding is not necessary to promulgate a SNUR, it strongly supports a determination that the new use of the substance would be significant. EPA invites comments on its proposed significant new use definition and suggestions for other methods of handling these issues.

VI. Alternatives

EPA considered regulatory alternatives to a SNUR to ensure protection of human health.

1. One alternative is to promulgate a section 8(a) reporting rule for the substance. Under such a rule, EPA could require any person to report to EPA before manufacturing, importing, or processing the substance. Because the substance is subject to a section 5(e) order, the normal small business exemption of section 8(a) would not apply. A section 8(a) rule would allow the Agency to require reporting of specific information such as increases in the production volume of P–83–769. However, if EPA received a report under section 8(a) indicating that a person intended to manufacture, import, or process the substance without appropriate controls, the Agency could not take action under section 5(e) as it can under a SNUR and therefore would not be able to regulate the substance pending development of information. Rather, EPA would likely want to obtain test data under section 4 and then, if necessary, regulate the substance under section 6. This approach would allow unnecessary risks to human health during the time needed for data development. In addition, the PMN submitter would be at a competitive disadvantage because the section 5(e) order applies only to that company.

2. The Agency also has the authority to regulate substances under section 6 of TSCA. However, section 6(a) specifies that the Agency may regulate only if there is a reasonable basis to conclude that the manufacture, import, processing, distribution in commerce, use, or disposal of the chemical substance "presents or will present" an unreasonable risk of injury to health. As stated previously, there is insufficient information to perform a reasoned evaluation of the health effects of this substance. Therefore, the Agency cannot

state at this time that this substance "presents or will present" an unreasonable risk, but only that it "may present" an unreasonable risk of injury to health. Therefore, the Agency cannot presently use section 6 to regulate this substance.

3. As an alternative to the proposed significant new use definitions, the Agency is considering defining as a significant new use the failure to establish a program whereby the substance is treated as a hazardous chemical substance under the Occupational Safety and Health Administration (OSHA) Hazard Communication Standards (29 CFR 1900.1200). In all labels, material safety data sheets, and employee training programs, the substance would be required to be identified as a suspect carcinogen/mutagen. In addition, employees who may be exposed to the dry form of the substance would be required to wear the respirators specified in this proposed rule, and all activities during which workers could be exposed to the substance in its dry form must be conducted in areas with local exhaust ventilation.

4. The Agency is also considering creating an abbreviated review for persons who propose to employ alternative exposure controls or worker protection equipment which may provide equivalent protection. Under this approach, the significant new use would be defined as the failure to establish a program whereby persons who may be exposed to the dry form of the substance are required to use the respirators specified in this proposed rule and work in areas with local exhaust ventilation or employ alternative exposure controls and/or protective equipment which provide the "equivalent" protection. Before commencement of these operations, persons would be required to notify EPA of the alternative controls to receive (in a specified time period which is shorter than 90 days) confirmation from the Agency that the protection provided by the equipment is "equivalent." If EPA determined that the protection was not "equivalent," significant new use reporting would be required.

EPA invites comment on these alternatives.

VII. Recordkeeping

To ensure compliance with this SNUR and to assist enforcement efforts, EPA is proposing under its authority in sections 5 and 8(a) of TSCA that, in addition to the requirements of § 721.17, the following records be maintained for five year after the date of their creation by persons who import, manufacture, or process P-83-769:

1. The names and addresses of persons required to use respirators, the date(s) on which they were informed of that requirement, and the means by which they were informed.

2. The names and addresses of persons to whom the substance is sold or transferred and the dates of any sale or transfer.

As an alternative, the Agency is considering requiring manufacturers and processors of the substance who do not trigger the SNUR reporting requirement to "maintain records demonstrating their compliance" with the SNUR. Therefore, manufacturers and processors would have the discretion to determine which records are needed to show compliance. To provide guidance, the Agency would identify examples of those types of records which would adequately demonstrate compliance.

Recordkeeping requirements are expected to encourage compliance with this proposed rule when promulgated and to support EPA's enforcement efforts. The Agency considered omitting recordkeeping requirements, but believes compliance monitoring for this proposed SNUR would be made more difficult if the recordkeeping requirement were omitted.

Section 5(a)(2) of TSCA does not explicitly provide for recordkeeping of the type in paragraph (b) of § 721.240. However, as discussed above, EPA believes that such recordkeeping is necessary to implement and enforce effectively the requirements of the SNUR. EPA believes that two TSCA authorities support the recordkeeping in this proposed rule. First, EPA believes there is inherent authority in section 5 of TSCA to require the keeping of records reasonably necessary to implement the mandate of section 5. EPA has already exercised this authority in the PMN recordkeeping requirements (see 40 CFR 720.78) and in § 721.17 of the general SNUR provisions. Clearly, there is no way to determine whether an importer, manufacturer, or processor is undertaking a new use of the type in this proposed rule unless the importer, manufacturer, or processor is required to keep records of its activities to show that the new use has not occurred. Otherwise, EPA would not be able to determine whether a violation has occurred unless the manufacturer, importer, or processor was observed in violation.

Second, section 8(a) of TSCA provides broad authority for EPA to require manufacturers, importers, or processors of chemical substances to keep records. Generally, a section 8(a) recordkeeping requirement does not apply to small manufacturers, importers, and processors, but in this case a section 5(e) order is in effect for the chemical substance in question. Thus, under section 8(a)(3)(A)(ii) of TSCA, EPA can require recordkeeping by small manufacturers, importers, and processors as well and is proposing to do so.

EPA invites comments on these proposed recordkeeping requirements.

VIII. Applicability of Proposal to Uses Occurring Before Promulgation of Final Rule

To establish a significant new use rule, the Agency must, among other things, determine that the use is not ongoing. In this case, the chemical substance in question has just undergone premanufacture review. When the notice submitter begins manufacture of the substance, the submitter will send EPA a notice of commencement of manufacture, and the substance will be added to the Inventory. The notice submitter is prohibited by the section 5(e) order from undertaking any of the activities which the Agency is proposing be designated as a significant new use. Therefore, at this time, the Agency has concluded that this use is not ongoing.

EPA recognizes that when chemical substances proposed to be subject to a SNUR are added to the Inventory they may be manufactured, imported, or processed for a significant new use as defined in the proposal before promulgation of the final rule. If, after publication of this proposal, someone were to undertake the designated significant new use, they could argue that the use is not "new" at the time the rule is promulgated as final, and therefore not a significant new use. EPA finds that the intent of section 5(a)(1)(B) is best served by determining whether a use is a significant new use as of the proposal date of the SNUR. If uses begun during the proposal period were not considered to be significant new uses, it would be almost impossible for the Agency to establish SNUR notice requirements, since any person could defeat the SNUR by initiating the proposed significant new uses before the rule becomes final. This is contrary to the general intent of section 5(a)(1)(B).

Thus, if substances are manufactured, imported, or processed between proposal and promulgation for the proposed significant new use, the Agency will still consider such use to be "new" if that particular significant new use is included in the final rule. EPA recognizes that this interpretation may disrupt commercial activities of persons who commence manufacture, import, or processing for a significant new use

during the proposal period. However, this proposal puts those persons on notice of that potential disruption, and they commence that use at their own risk.

Because the identity of P–83–769 is CBI, any person who intends to manufacture or import the substance is unlikely to know whether or not the substance is on the Inventory and, therefore, is likely to submit a *bona fide* request under either 40 CFR 710.10(e) or 720.85(b) to determine whether the substance is on the Inventory. If EPA determines that the person has a *bona fide* intent to manufacture or import the substance, EPA will inform the person that the substance is subject to this proposal. This will give the person adequate notice of this proposal, will give the person an opportunity to comment, and will help prevent potential disruption.

IX. Informing Persons of the Existence of This Significant New Use Rule

The final rule will be published in the **Federal Register** and codified in the Code of Federal Regulations (CFR). While this will provide legal notice of the rule, EPA is exploring additional ways of informing potential SNUR notice submitters of the existence of the rule.

EPA intends to publish information concerning final SNURs in the TSCA Chemicals-in-Progress Bulletin, published by the TSCA Assistance Office of EPA's Office of Toxic Substances. EPA may also use the TSCA Chemical Substance Inventory to inform persons of the existence of final SNURs through footnotes to the chemical identities of substances subject to SNURs. The footnotes would refer to an Inventory Appendix which would give a **Federal Register** or CFR citation for the SNUR. As a variation of this approach, the Agency is considering publishing a list of substances subject to SNURs as an Inventory Appendix.

Any person who intends to manufacture, import, or process a substance for the first time should check the Inventory to determine if the substance is on the Inventory, but subject to a SNUR; that person can determine whether they would be subject to reporting by contacting EPA or reviewing the rule. Because an updated Inventory is published only periodically, manufacturers, importers, and processors would also rely on the **Federal Register** and the TSCA Chemicals-in-Progress Bulletin. Since EPA maintains a current copy of the Inventory, any questions could be resolved by consulting EPA.

Determining whether a chemical substance is subject to a SNUR is more difficult when the identity of the chemical substance involved is confidential. In this case, the chemical identity of the substance was claimed confidential in the PMN. EPA is proposing to keep the specific identity of the substance confidential in the final rule. The substance would be referred to by a generic chemical name. In printed versions of the Inventory, there would be a footnote indicating that a chemical substance masked by the generic name is subject to a SNUR.

EPA has promulgated procedures at § 721.6 of the general SNUR provisions under which any person intending to manufacture, import, or process a chemical substance within a generic name listed on the Inventory would be able to ask EPA whether its chemical substance is subject to the SNUR. To make such s request, the person would have to show EPA that the person has *bona fide* intent to manufacture, import, or process the substance in question. The process for doing so is very similar to that for manfacturers and importers to show a *bona fide* intent to manufacture or import under 40 CFR 710.7(g)(2) of the Inventory Reporting Rules and 40 CFR 720.25(b)(2) of the Premanufacture Notification Rules which were published in the **Federal Register** of May 13, 1983 (48 FR 21722). EPA will evaluate the SNUR inquiry under the same criteria and answer the inquiry by either informing the requester that the substance is or is not subject to the SNUR or informing the requester that sufficient information has not been furnished to show a *bona fide* intent to manufacture, import, or process the substance in question. If a manufacturer or importer makes an inquiry under either § 710.7(g) of the Inventory Reporting Rules or § 720.25(b) of the Premanufacture Notification Rules and EPA informs the requester that the substance is on the Inventory, EPA will also inform the manufacturer or importer whether the substance is subject to a SNUR. Substances which do not appear on the Inventory are subject to EPA's premanufacture notification rules.

This procedure will allow manufacturers, importers, and processors to determine whether they are subject to the rule while protecting CBI from unnecessary disclosure.

X. Required Information

The Agency has determined that notice submitters must use the premanufacture notification form and follow the PMN regulations (40 CFR Part 720) published in the **Federal Register** of May 13, 1983 (48 FR 21722) unless otherwise indicated in a specific SNUR or the general provisions. EPA urges SNUR notice submitters to provide detailed information on human exposure that will result from the significant new use. In addition, EPA urges persons to submit information on potential benefits of the substance and information on risks posed by the substance compared to risks posed by substitutes.

XI. Test Data

EPA recognizes that under TSCA section 5 a person is not required to develop any particular test data before submitting a notice. Rather, a person is required only to submit test data in his possession or control and to describe any other data known to him or reasonably ascertainable by him. However, in view of the potential health risks that may be posed by a significant new use of P–83–769, a more reasoned evaluation on of the risks posed by this substance would require additional data on carcinogenic effects. These data might be generated by a two-year bioassay. While this study may not be the only means of addressing the potential risks, the Agency believes that data from short-term mutagenicity studies would not be sufficient to evaluate the potential risks.

EPA encourages potential SNUR notice submitters to test the substance for these concerns or to submit other data, such as workplace exposure information, which indicate the potential risk presented to workers. SNUR notices submitted for significant new uses without test data may be subject to EPA action under section 5(e).

As part of an optional prenotice consultation, EPA will discuss the test data it believes necessary to evaluate a significant new use of the substance. EPA encourages persons to consult with the Agency before selecting a protocol for testing the substance.

Test data should be developed according to TSCA good laboratory practices regulations at 40 CFR Part 792 published in the **Federal Register** of November 29, 1983 (48 FR 53923). Failure to do so may lead the Agency to find the data to be insufficient to evaluate reasonably the health effects of the substance.

XII. Economic Analysis

The Agency has evaluated the potential costs of establishing significant new use reporting requirements for P–83–769. The economic analysis of the possible outcomes as a result of the promulgation is summarized below. The Agency's

complete analysis is in the public record.

After promulgation of this SNUR, the Agency believes there are four courses of action a company could take: (1) Import, manufacture, or process the substance using the protective equipment, labels, and packaging procedures and therefore not trigger the SNUR; (2) file a SNUR notice with information showing other methods of controlling exposures that will mitigate EPA's concern for exposure to the substance; (3) file a SNUR notice with the results of the recommended testing completed (or be prepared to respond to a section 5(e) order controlling use of the substance pending development of additional information); or (4) not import, manufacture, or process the substance for any use. The costs of these outcomes are summarized below.

Should a company decide to manufacture or process the substance using the protective equipment, that company would not incur the cost of filing a SNUR notification. The only costs to the company would be the costs of purchasing and using the personal protective equipment, recordkeeping costs, labeling, and packaging. The unit costs for respiratory protective equipment is estimated to be $31.55 per worker per year. Assuming a 10 percent interest rate, the costs over a 10-year period for 5 workers for protective equipment would be approximately $1,066. Creating and maintaining records under the SNUR proposal for a 10-year period have been estimated to cost $1,460. Assuming 5 workers were issued protective equipment, the net present value respiratory fit testing ranges from $2,100 to $2,500.

A company that wishes to manufacture or process P–83–769 for a significant new use may decide to submit a SNUR notification with sufficient information showing that it will employ other means to control exposures and mitigate EPA's concerns. Due to the large variety of potential means of controlling exposures, EPA cannot estimate their costs. Such persons would still incur the cost of filing a NSUR notification, estimated to range between $1,375 and $7,950. That person would probably incur costs associated with the delay resulting from the review process. The length of delay has been estimated by EPA to be about four months, one month for the company to prepare and file notification and three months for the EPA review process. While the cost of this delay cannot be measured in specific figures, EPA does estimate that a 3.2 percent reduction in profits could occur because of this delay. Finally, after review of a SNUR notice which contains alternative means of controlling exposures to P–83–769, EPA could take further action under TSCA. Depending on the alternatives described in the SNUR notification, and their adequacy for controlling exposure to the substance, a section 5(e) order may be an appropriate Agency action. However, estimating the costs of such an order would be speculative at this time.

A company may wish to perform the test recommended by EPA, or other tests, to demonstrate that the substance does not present the risks EPA believes it does. The cost of a two-year bioassay is approximately $850,000. The costs of delay and regulatory follow up (if any) would also be incurred.

Finally, some companies may find the cost of controlling exposure to the substance to be too expensive to justify manufacturing or processing P–83–769. There may be some lost profits and lost benefits to society as a result of this outcome. EPA's costs of promulgating and enforcing the SNUR and the benefits of reduced health risks would continue.

The Agency anticipates that companies wishing to manufacture or process the substance will either comply with the controls identified in the proposed rule or file SNUR notices which indicate other methods of controlling exposures to the substance. Given the relative cost of the recommended testing versus the protective equipment, EPA does not believe that it is likely that testing will be performed. However, the costs of the equipment and recordkeeping requirements are low and probably will not cause companies to decide not to manufacture or process P–83–769. The fact that the PMN submitter intends to comply with the protective equipment and recordkeeping requirements indicates that some uses of the substance would return an acceptable profit.

XIII. Confidential Business Information

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

XIV. Judicial Review

When this proposed rule is promulgated, judicial review may be available under section 19 of TSCA in the United States Court of Appeals for the District of Columbia Circuit or for the circuit in which the person seeking review resides or has its principle place of business. To provide all interested persons an equal opportunity to file a timely petition for judicial review and to avoid so called "races to the courthouse," EPA intends to promulgate this rule for purposes of judicial review two weeks after publication in the **Federal Register**. The effective date will be calculated from the promulgation date.

XV. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS—50514). The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following:

1. The PMN for this substance.
2. The **Federal Register** notice of receipt of the PMN.
3. A copy of the section 5(e) consent order.
4. The economic analysis of this proposed rule.
5. The proposed SNUR for this substance.

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

EPA will identify the complete rulemaking record by the date of promulgation. The Agency will accept additional materials for inclusion in the record at any time between publication of this proposed rule and designation of the complete record.

XVI. Regulatory Assessment Requirements

A. Executive Order 12291

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

cost will be low. In addition, because of the nature of the proposed rule and the substance subject to it, EPA believes that there will be few significant new use notices submitted. Further, while the expense of a notice, the suggested testing, and the uncertainty of possible EPA regulation may discourage certain innovation, that impact may be limited because such factors are unlikely to discourage an innovation which has high potential value. Finally, this SNUR may enourage innovation in safe chemical substances or highly beneficial uses.

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

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small businesses. The Agency has not determined whether parties affected by this proposed rule are likely to be small businesses. However, EPA believes that the number of small businesses affected by this proposed rule would not be substantial even of all the potential new uses were developed by small companies. EPA expects to receive few SNUR notices for the substance.

C. Paperwork Reduction Act

The information reporting requirements contained in this proposed rule have been approved by OMB under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number 2070–0012.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: September 12, 1984.

Marcia E. Williams,

Acting Assistant Administrator, for Pesticides and Toxic Substances.

PART 721—[AMENDED]

Therefore, it is proposed that Part 721 of Chapter I of Title 40 be amended as follows:

1. By adding and alphabetically inserting the following definitions to § 721.3 to read as follows:

§ 721.3 Definitions.

* * * * *

"Dry form" means a state where the chemical substance is free of moisture and has a potential to become airborne as dust or aerosol when handled.

"Local exhaust ventilation" means the removal of contaminated air through a hood, eductor, or large diameter hose from the immediate vicinity of a worker and work station where exposure to the chemical substance, either vapor or dust, may occur.

"Packaged so as to minimize leakage" means packaging in such a manner that leaks and spills from handling will not occur.

* * * * *

2. By adding a new § 721.240 to Subpart B to read as follows:

§ 721.240 Substituted bromothiophene.

(a) *Chemical substance and significant new use subject to reporting.* (1) The following chemical substance, referred to by its premanufacture notice number and generic chemical name, is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section: P–83–769, substituted bromothiophene.

(2) The significant new use is manufacture, import, or processing without establishing a program whereby:

(i) During all stages of manufacture, import, and processing of the chemical substance, any person who may be exposed to the dry form of the substance wears a National Institute for Occupational Safety and Health (NIOSH) approved half- or full-face respirator (excluding "single use" or disposable-type respirators) as approved by NIOSH in the Occupational Safety and Health Administration standards at 29 CFR 1910.134.

(ii) During manufacture, import, and processing of the chemical substance, when workers may potentially be exposed to the substance in the dry form, including the collection of samples and sample preparation, such activity is conducted in areas with local exhaust ventilation.

(iii) During the periods between import, manufacture, and processing, and for distribution in commerce, the chemical substance is packaged so as to minimize leakage of the substance to the environment.

(iv) Packages containing the chemical substance are conspicuously labeled on the exterior of each package and such labeling indicates that the dry form of the substance should be handled only while using a respirator of the kind described in paragraph (a)(2)(i) of this section.

(b) *Specific requirements.* The provisions of Subpart A of this part apply to this secton except as modified by this paragraph.

(1) *Recordkeeping.* Manufacturers, importers, and processors of the chemical substance identified in paragraph (a)(1) of this section must maintain the following records for five years from their creation:

(i) The names and addresses of persons required to wear protective equipment in accordance with paragraph (a)(2)(i) of this section, the date(s) on which they were informed of that requirement, and the means by which they were informed.

(ii) The names and addresses of any persons to whom the substance is sold or transferred and the date(s) of any such sale or transfer.

(2) [Reserved]

(Sec. 5, 8, Pub. L. 94–469, 90 Stat. 2012 (15 U.S.C. 2604, 2607))

[FR Doc. 84–24914 Filed 9–27–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

46 CFR Parts 502, 512 and 531

[General Orders 11, 16 and 38; Docket No. 84–2]

Amendment of Certain Regulations Governing Common Carriers by Water in the Domestic Offshore Commerce of the United States

AGENCY: Federal Maritime Commission.

ACTION: Notice of discontinuance.

SUMMARY: The Federal Martime Commission discontinues this rulemaking proceeding on the basis that the proposed regulation amendments cannot be adopted given existing statutory requirements. This discontinuance will result in no modifications to current regultory requirements.

DATE: This action is effective September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritme Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION:

Proceeding

On January 26, 1984, the Federal Maritime Commission [1] (Commission or FMC) issued a notice of proposed rulemaking (January Notice) in the above-captioned proceeding proposing amendments to its regulations

[1] Commissioner Moakley dissented to the issuance of the Notice of Proposed Rulemaking on the basis that the releif sought is beyond the Commission's statutory authority to grant.

implementing the Intercoastal Shipping Act, 1933 (ISA) (46 U.S.C. app. 843 *et seq.*). Essentially, these amendments would exempt carriers serving the Puerto Rico/Virgin Islands domestic offshore trade from the otherwise applicable financial data reporting requirements and 60-day advance notice requirement for the implementation of general rate increases and decreases.

The January Notice was issued in response to a Petition for Rulemaking filed by Sea-Land Service, Inc. (Sea-Land Petition) on September 12, 1983, requesting the same relief. A notice of filing of the Sea-Land Petition was published in the **Federal Register**, 48 FR 44091 of September 27, 1983, and comments of interested parties were solicited.

Although twenty-two parties responded to the Sea-Land Petition, the responses failed to provide sufficient information for assessing the impact of the proposal on Commission programs. This rulemaking was instituted to provide interested parties with that opportunity.

The January Notice requested commentators to specifically address the following matters:

1. If no financial data are submitted by carrriers in the Puerto Rico/Virgin Islands trade, how can the Commission effectively review the reasonableness of a general rate increase prior to its effective date?

a. If this proposed rule is adopted, how will interested persons effectively exercise their statutory right to protest general rate increases?

2. If the proposed rule were adopted, can an adequate system of general rate increase review operate within 60 days as required by the statute?

a. Assuming authority exists to establish a thirty-day review period as Sea-Land has proposed, can the requisite rate review be accomplished within thrity days?

3. If the Commission should order an investigation of a proposed general rate increase, can such an investigation be completed within 180 days as required by the statute in the absence of pre-filed financial data and supporting evidentiary materials by the carrier?

4. To what extent is port-to-port service competitive with intermodal service by carriers in the Puerto Rico/Virgin Islands trades?

a. What the regulatory requirements imposed on carriers subject to ICC jurisdiction in these trades?

b. What specific differences between ICC and FMC regulatory requirements impose a competitive disadvantage on FMC regulated carriers?

c. Can the needs of shippers in this trade be adequately served if carriers offer only intermodal service subject to ICC jurisdication.

This request, however, was without prejudice to the commentators addressing any other matters which they viewed as warranting consideration. The Commission's Bureau of Hearing Counsel was directed to participate in the proceeding.

Sixteen parties filed comments in response to the January Notice. Ten parties generally supported the rulemaking proposal,[2] while seven opposed it.[3]

The threshold issue addressed by most parties is whether section 35 of the Shipping Act, 1916 (46 U.S.C. app. 833a) gives the Commission the authority to grant the relief requested by Sea-Land. Those supporting the proposal argue an interpretation of section 35 that would allow the Commission substantial authority, while those opposing the proposal argue an interpretation which would allow exemptions that have only a *de minimis* effect on commerce. While Hearing Counsel states that section 35 gives the Commission sufficient authority to implement the proposed amendments, it also is of the opinion that such amendments are "contrary to the intent of Congress" and "would leave the Commission in a position of being unable to meaningfully review the propriety of rate increase applications within the required statutory time frame." DOT urges an *ad hoc* carrier-by-carrier approach rather than a trade-wide approach.

With regard to the Commission's specific questions concerning pre-effective date review and the 180-day investigation limitation, opinions were divided along similar lines. Parties supporting the proposed amendments argue that there should be no problem in meeting the deadlines or that the deadlines are irrelevant because competition the trade supplemented by shipper complaint proceedings are sufficient in themselves to regulate rates. Those opposing the amendments argue that adequate review would be impossible, that competition in the trade is inadequate to regulate rates and that the statutory right to protest rate increases would be effectively abrogated by this rulemaking. Hearing Counsel takes the position that the Commission's staff could not properly evaluate rate increases under the proposed amendments, but did not express an opinion on the general need for rate of return regulation in the domestic offshore trades.

The Commission's questions in the January Notice concerning the relationship between port-to-port and intermodal services in these trades also prompted a similar division of opinions. Those supporting the rulemaking are generally of the opinion that Interstate Commerce Commission (ICC) regulatory requirements are very minimal, that Sea-Land as the only port-to-port service offeror in the trade is at a competitive disadvantage, and that the Commission should reduce its regulatory requirements to the level of the ICC. Those opposing the rulemaking generally argue that the services are not directly in competition with each other, that while there are differences between ICC and FMC regulation, they impose no competitive disadvantage on any one carrier in the trade, and that rather than reduce its regulatory requirements, the FMC should seek none effective jurisdiction in the trade to strengthen its regulatory control over rates. The only matter the parties agree upon here is that there is a clear and continuing need for port-to-port service in the trade.

Few alternatives to the proposed amendments were offered. One suggestion advanced is that the Commission should utilize a data-base computer model to establish reasonable rate levels in the trade on the basis of industry-average cost, revenue and financial data. Hearing Counsel proposed that, in lieu of the proposed amendments, consideration should be given to alternative avenues of regulatory relief including: (1) Increasing the threshold level of trade revenue for financial data filing requirements; (2) increasing the threshold level of individual and annual aggregate general rate increases for financial data filing requirements from 3% and 9% to 15% and 25%, respectively; and (3) eliminating the requirement that carriers file historical data with general rate increases.

Discussion

The Commission has determined that it could not adopt the amendments proposed in this rulemaking and still carry out the statutory duties and responsibilities imposed by sections 3 and 4 of the Intercoastal Shipping Act,

[2] Comments in support of the rulemaking proposal were filed by Sea-Land Service, Inc., the U.S. Department of Transportation, The Transportation Institute, Houston Port Bureau, Inc., Jacksonville Port Authority, Delaware River Port Authority, E.I. DuPont DeNemours & Co., R.J. Reynolds Tobacco Co., Lubrizol Corporation and PPG Industries, Inc.

[3] Comments in opposition to the rulemaking proposal were filed by the Government of the Virgin Islands, the Legislature of the Virgin Islands, Hawaii Department of Commerce and Consumer Affairs, U.S. Military Sealift Command, Puerto Rico Manufacturers Association, IBP, Inc., and Hearing Counsel.

1933, particularly as amended in 1978 by Pub. L. 95–475.[4]

Contrary to the assertions of the parties supporting this proposal, the effect of this rulemaking would not be the removal of "unnecessary regulations." Obtaining financial data from a carrier and giving interested parties as well as the Commission adequate time to review such materials prior to the effective date of a general rate increase would, in the context of other requirements and limitations of the Act, appear necessary to determining "what constitutes a just and reasonable rate of return or profit for common carriers" serving this trade. 46 U.S.C. 845(a). *See* S. Rep. No. 1240, 95th Cong., 2d Sess. 9–10 (1978).

In this regard, we agree with the position taken by Hearing counsel and others that both elements of the Commission's regulatory activity which Sea-Land wishes abandoned, *i.e.* advance 60-day notice and financial information reporting requirements, are critical and complementary to the statutory scheme contemplated by the ISA. It does not appear economically or practically possible for the Commission's staff and interested third parties to review and respond to a proposed general revenue rate increase prior to its effective date without the benefit of some advance on-going carrier financial data of the kind provided in the periodic reports and without an adequate notice period. Without the data and the time to analyze it, the Commission would be without the means to make an assessment to the reasonableness of the rate increase as contemplated by the statute.

Nor does the suggested "investigate and refund" alternative advanced by Sea-Land appear viable under the circumstances. Section 3 of the ISA imposes certain statutory conditions and requirements on the initiation and conduct of rate investigations instituted pursuant to that section. One of these mandates that:

> The commission shall not order a hearing . . . unless the Commission publishes in the **Federal Register** *the reasons, in detail, why it considers such a hearing to be necessary and the specific issues to be resolved by such hearing.* (Emphasis added).

The lack of advance carrier supplied financial data would, in our opinion, render the Commission unable to meet this threshold statutory requirement that the Commission indicate up front the scope of any rate investigation. Without the necessary data, the Commission would not be in a position to give reasons for the investigation, specify "in detail" the issues to be investigated, or fashion an appropriate hearing order. Accordingly, Sea-Land's recommendation that the Commission in lieu of requiring advance notice and pre-filed financial data, could investigate all general rate increases and utilize the refund authority of the Act to compensate shippers if the rates are found too high is not an acceptable alternative.

Moreover, even if the Commission were somehow able to specify the investigation issues without the benefit of pre-filed carrier data, it is not likely that the Commission could obtain the data during the course of the investigation and complete that investigation within the 180-day limit imposed by the statute.

Therefore, the proposed amendments to the advance notice and reporting requirements taken together would, if adopted, generally render section 3 of the ISA unenforceable as it applies to the Puerto Rico/Virgin Islands trades. The ultimate effect would be to discontinue FMC review functions and shift the burden of proof in all general revenue rate proceedings to shippers and the domestic offshore governments in complaint cases. This would be contrary to the regulatory scheme contemplated by the ISA and the legislative determinations made in connection with the 1978 amendments to the ISA *See.* S. Rep. No. 1240, 95th Cong., 2d Sess. 6–7 (1978).

To the extent the Intercoastal Shipping Act, 1933 prescribes a clear and definite statutory scheme of regulation which the Commission is charged with enforcing, neither the exemption provision of section 35 nor the rulemaking provision of section 43 of the Shipping Act, 1916 (46 U.S.C. app. 841a) provides the authority to repeal or substantially amend that scheme. The legislative history of section 35 indicates that the exemption authority was to be used to exempt requirements "which are *not of significance* in the overall design of regulation contemplated" (emphasis added). *See* H. Rep. No. 2248, 89th Cong., 2d Sess. 1, 4 (1966). Therefore, any "deregulation" initiatives must still comport with the legislative intent underlying the Act, be harmonized with the statutory scheme, and rely upon a rational factual basis. *See generally, Motor vehicle Man. Assn. of U.S. Inc.* v. *State Farm Mut. Automobile Ins. Co.*, 103 S. Ct. 2856, 51 U.S.L.W. 4945, 4956–4957 (1983); *U.S.* v. *Vogel Fertilizer Co.*, 455 U.S. 16, 26 (1982). That standard could not be met on the basis of the record established in this proceeding.

The major focus of many of the comments submitted in support of the proposed amendments has been to argue the virtues of deregulation generally, or specifically in the U.S./Puerto Rico-Virgin Islands trades,[5] and the alleged disadvantage that Sea-Land's FMC regulated services are experiencing vis-a-vis those regulated by the ICC. Whatever the merits of these arguments, and the commentators offer differing and opposing views, they do not address the central issue raised by the rulemaking or the more critical questions posed by the Commission in its January Notice. The issue here is not whether existing rate regulation is good or bad or having an adverse impact on carriers subject to it, but rather *whether the "deregulation" contemplated by the Sea-Land proposals can properly be effected within the framework of the current statutorily mandated scheme.* It is on this point that the record in this proceeding fails to provide critical information. The comments favoring the rulemaking generally consist of little more than broad conclusory statements of position on the desirability of the Sea-Land proposals. None of these comments is informative or responsive to the January Notice to the extent that they explain how the Commission could adopt the Sea-Land proposals and still make a meaningful assessment of general rate increases consistent with statutory requirements. *See generally, Farmers Union Cent. Exchange.* v. *F.E.R.C.*, 734 F.2d 1486 (D.C. Cir 1984); *Cross-Sound Ferry Services, Inc.* v. *I.C.C.* No. 83–2155 (D.C. Cir. July 6, 1984).

The Commission, notwithstanding its efforts to give interested parties every opportunity to do so, has simply not been provided with the manner or method by which it can accommodate

[4] The 1978 amendments to the ISA are the source of many of the Commission regulations which Sea-Land and this rulemaking proposed to change or eliminate. The features of the 1978 amendments most relevant here are those which: (1) Require that the Commission, "by regulation," prescribe guidelines for the determination of what constitutes a just and reasonable rate of return; (2) require the Commission to give reasons for any rate hearing instituted and strictly delineate the issues to be resolved in that hearing; and (3) impose restrictive time limits on the completion of the various phases of the hearing. Many of the specific regulations put at issue in this rulemaking were promulgated in direct fulfillment of these amendments; most as a means of enabling the Commission to meet the strict statutory scheduling deadlines established.

[5] The level of competition in the U.S.-Puerto Rico/Virgin Islands trades is offered as a reason for reducing or eliminating existing rate regulation. While the Commission recognizes the competitive realities of this trade it must also be recognized that Congress was aware of the extent of such competition when it formulated the 1978 amendments to the ISA which established the substance of the present regulatory approach. *See* S. Rep. No. 1240, 95th Cong., 2d Sess. 2–3 (1978).

Sea-Land's proposals and at the same time carry out its statutory duty to oversee the validity of general rate increases. The proposals would simply leave the Commission in the position of being unable to review, and make reasoned decisions with respect to, these rate increases within the required statutory time frame.

Conclusion

The record of this proceeding does not demonstrate any legal or factual basis upon which the Commission could properly adopt the proposals under consideration.

Therefore, it is ordered, that this proceeding is discontinued.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-25796 Filed 9-27-84; 8:45 am]

BILLING CODE 6730-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1102

[Ex Parte No. 290 (Sub-4)]

Railroad Cost Recovery Procedures; Productivity Adjustment

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In an Advance Notice of Proposed Rulemaking published at 47 FR 32176 (July 26, 1982) we instituted this proceeding, and requested comments on the use of a productivity adjustment factor in the determination of the quarterly Rail Cost Adjustment Factor (RCAF), proposals for measuring productivity, and proposals for the implementation of a productivity adjustment. Comments were due October 15, 1982 (extended to October 25, 1984 at 47 FR 38946, September 3, 1982).

The Commission is seeking additional comments on the use of a productivity adjustment in the quarterly Rail Cost Adjustment Factor because the record is not adequate for an informed judgment to be made at this time. The Commission is also seeking comments on the time period to be used in measuring productivity and whether a productivity adjustment should be made at all.

DATES: Comments are due by November 13, 1984. Replies are due 30 days after the filing of comments.

ADDRESSES: To obtain copies of the full decision contact: Office of the Secretary, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, D.C. 20423, (202) 275-7428.

Comments (original and 15 copies) should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 12th and Constitution Ave., NW., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: William T. Bono (202) 275-7354

or

Robert C. Hasek (202) 275-0938.

SUPPLEMENTARY INFORMATION: Comments on the use of a productivity factor in the determination of the quarterly Rail Cost Adjustment Factor (RCAF) were iniitially solicited through an Advance Notice of Proposed Rulemaking. Responding to that notice were the Association of American Railroads (AAR), the U.S. Department of Transportation (USDOT), the New York State Department of Transportation individual shippers, shipper associations, groups of shippers, and various trade associations.

AAR opposes the concept of a productivity adjustment believing that such an adjustment is unsound economic policy, accurate measurement of railroad productivity is impossible and overestimation of productivity gains could inflict heavy losses on the railroad industry. USDOT supports the development of a methodology but opposes the adoption of a productivity adjustment at this time because it believes that existing methologies are not reliable.

Shipper and trade association parties generally but not unaminously support the inclusion of a productivity adjustment. They note that there are other provisions in the Staggers Rail Act of 1980 which permit profit enhancement and that adequate measurement of productivity exist today.

Three specific proposals are made for the measurement of productivity. Harris and Fauth each submitted a proposal based on Rail Form A. Both attempt to use Rail Form A to measure the productivity changes of the railroad industry. The third proposal was submitted by Caves and Christensen. It relies on a ratio of change in output to change in input which they define as productivity. There methodology is presented on both a forecasted and a historic basis.

Although the method proposed by Douglas Caves and Laurtis Christensen (Caves and Christensen) may have merit no determination can be made from the existing record. The methodologies proposed by Frank Harris (Harris) and Gerald Fauth (Fauth) appear to be inappropriate because they measure a composite of factors rather than productivity alone.

Comments should address the timeliness, accuracy, feasibility and verifiability of the Caves and Christensen methodology and any other methodology that may be proposed. Any party favoring the Harris or Fauth methodologies may submit further comments addressing our concern that they measure more than productivity and thus are inappropriate for determining proper productivity adjustments.

In a Notice of Proposed Rulemaking in Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures*, the Commission stated that comments concerning the discounting of the index for a profit element would be handled in this proceeding.

Comments are requested on the propriety of adjusting or discounting the index for a profit element. Parties favoring this concept are invited to submit specific proposals together with supporting data.

We certify that the inclusion of a productivity adjustment in the index will not have a significant adverse impact on a substantial number of small entities because only Class I railroads and their trade association, AAR, participate in the construction of index data, and because a productivity adjustment would generally tend to reduce the level of rate increases railroads are permitted to take under the cost recovery index.

This decision will not significantly affect the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 10321 and 10707a, and 5 U.S.C. 553 and 559.

List of Subjects in 49 CFR Part 1102

Railroads, Freight.

Decided: September 18, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio. Commissioner Simmons, Lamboley, and Strenio did not participate.

James H. Bayne,

Secretary.

[FR Doc. 84-25805 Filed 9-27-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Public Hearing and Extension of Comment Period on Proposed Endangered Status and Critical Habitat for the Amber Darter, Trispot Darter, and Conasauga Logperch

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and extension of comment period.

SUMMARY: The Service has received a request, as provided for by section 4(b)(5) of the Endangered Species Act, for a public hearing on the Service's proposal to list the amber darter (*Percina antesella*), trispot darter (*Etheostoma trisella*), and Conasauga logperch (*Percina* sp.) as endangered, with critical habitat. This notice announces a public hearing for the proposal and extends the comment period until 10 days after the date of the public hearing.

DATES: Comments on this proposal must be received by October 26, 1984. A public hearing on the proposal will be held October 16, 1984, from 7:30 p.m. to 10:00 p.m.

ADDRESSES: Comments should be sent to the Supervisor, Endangered Species Field Station, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801. The public hearing will be held at the Dalton Utilities Building Auditorium, 1200 South Harris Street, Dalton, Georgia.

FOR FURTHER INFORMATION CONTACT: Mr. Richard G. Biggins at the above Field Station address (704/259–0321 or FTS 672–0321).

SUPPLEMENTARY INFORMATION:

Background

The amber darter (*Percina antesella*), trispot darter (*Etheostoma trisella*), and the Conasauga logperch (*Percina* sp.) are small fish known only for the upper Conasauga River basin in Georgia and Tennessee. The continued existence of these fishes could be threatened if a flood control and water development project now being considered for the Conasauga River is implemented without adequately considering the requirements of the species. Due to the limited distribution of these three fishes, any factor that degrades habitat and water quality in the short river reach they inhabit, i.e., chemical spills, land use changes, and increases in agricultural or urban runoff, could threaten the survival of these species. On July 13, 1984, the Service proposed all three species as endangered, with critical habitat, in the **Federal Register** (49 FR 28572). Section 4(b)(5) of the Endangered Species Act provides for a public hearing on such proposed listings, if requested. On September 4, 1984, the Service received a letter requesting a hearing from Mr. Larry Vanden Bosch of the North Georgia Area Planning and Development Commission.

The Service has scheduled a public hearing on the proposal to list the amber darter, trispot darter, and Conasauga logperch as endangered, with critical habitat. The hearing will be held at the Dalton Utilities Building Auditorium, 1200 South Harris Street, Dalton, Georgia, on October 16, 1984, from 7:30 p.m. to 10:00 p.m.

Those parties wishing to make statements for the record should have available a copy of their statements to be presented to the Service at the start of the hearing.

Author

The primary author of this notice is Mr. Richard G. Biggins, U.S. Fish and Wildlife Service, Endangered Species Field Station, 100 Otis Street, Room 224, Asheville, North Carolina 28801.

Dated: September 21, 1984.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–25754 Filed 9–27–84; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 49, No. 190
Friday, September 28, 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

Meat Import Limitations; Fourth Quarterly Estimate

Public Law 88–482, enacted August 22, 1964, as amended by Pub. L. 96–177 (hereinafter referred to as the "Act"), provides for limiting the quantity of fresh, chilled, or frozen meat of cattle, sheep except lamb, and goats (TSUS 106.10, 106.22, and 106.25), and certain prepared or preserved beef and veal products (TSUS 107.55, 107.61, and 107.62), which may be imported into the United States in any calendar year. Such limitations are to be imposed when the Secretary of Agriculture estimates that imports of articles provided for in TSUS 106.10, 106.22, 106.25, 107.55 and 107.62 (hereinafter referred to as "meat articles"), in the absence of limitations under the Act during such calendar year, would equal or exceed 110 percent of the estimated aggregate quantity of meat articles prescribed for calendar year 1984 by subsection 2(c) as adjusted under subsection 2(d) of the Act.

As published on December 30, 1983 (48 FR 57576), the estimated aggregate quantity of meat articles prescribed by subsection 2(c), as adjusted by subsection 2(d) of the Act for calendar year 1984, is 1,117 million pounds.

In accordance with the requirements of the Act, I have determined that the fourth quarterly estimate for 1984 of the aggregate quantity of meat articles which would, in the absence of limitations under the Act, be imported during calendar year 1984, is 1,190 million pounds.

Done at Washington, D.C., this 25th day of September, 1984.

John R. Block,
Secretary.

[FR Doc. 84–25860 Filed 9–27–84; 8:45 am]
BILLING CODE 3410–01–M

Statistical Reporting Service

Proposed Change in Date of Fall Potato Production Estimate

The only forecast of fall potto production currently prepared by the Statistical Reporting Service is from data collected around October 1 and published in the Crop Production report about October 10. The preliminary end-of-season estimate is prepared from data collected around December 1, after harvest is complete, and published in the Potato Stocks report about December 14. The estimate published around December 14 is repeated in the Annual Crop Summary released around January 13.

The National Potato Council has requested that the Statistical Reporting Service discontinue the October estimate and publish the season's only forecast of production around November 10. This estimate would be based on data collected around November 1. The December estimate would remain as it currently exists. If this new program of reports is adopted, it would become effective in the fall of 1985. Comments from data users regarding this proposed change in the fall potato production forecasting schedule are invited.

Done at Washington, D.C., this 25th day of September 1984.

W. E. Kibler,
Administrator.

[FR Doc. 84–25831 Filed 9–27–84; 8:45 am]
BILLING CODE 3410–20–M

CIVIL RIGHTS COMMISSION

Pennsylvania Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Pennsylvania Advisory Committee to the Commission will convene at 1:00 p.m. and will end at 4:30 p.m., on October 26, 1984, at the Federal Building, Room 200, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222. The purpose of the meeting is to discuss a briefing on proceedings of Mid-Atlantic Regional Conference, briefing on proceedings of National Conference of Advisory Committee Chairpersons, and the status of a proposed project on violence and bigotry in Southwestern Pennsylvania.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Mid-Atlantic Regional Office at (202) 254–6670.

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

Dated at Washington, D.C., September 25, 1984.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 84–25776 Filed 9–27–84; 8:45 am]
BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Economic Analysis
Title: Initial Report on a Foreign Person's Direct or Indirect Acquisition, Establishment or Purchase of the Operating Assets, of a U.S. Business Enterprise, Including Real Estate
Form Number: Agency—BE–13 and BE–14; OMB—0608–0035
Type of Request: Revision of a currently approved collection
Burden: 1,300 respondents; 1,300 reporting hours
Needs and Uses: Secures information and data on U.S. companies at the time they are established or acquired by foreign persons, and information on the foreign parent. The information consists of data on assets and income, amount of the investment, acres of land owned and number of employees. This information is required for the preparation of the international investment accounts of the U.S.
Affected Public: Businesses or other for-profit institutions; small businesses or organizations
Frequency: On occasion
Respondent's Burden: Mandatory
OMB Desk Officer: Timothy Sprehe, 395–4814

Agency: International Trade Administration
Title: Application for License to Enter Watches and Watch Movements into the Customs Territory of the U.S.
Form Numbers: Agency—ITA 334P; OMB—0625–0040
Type of Request: Extension of the expiration date of a currently approved collection
Burden: 7 respondents; 7 reporting hours
Needs and Use: Public Law 97–446 requires that the Department of Commerce and the Department of the Interior administer the distribution of duty-exemption and duty-refunds involving up to 5 million annually to watch-producers in the U.S. territories. The information collected is used to administer the program.
Affected Public: Businesses or other for-profit institutions; small businesses or organizations
Frequency: Annually
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Sheri Fox, 395–3785

Agency: National Oceanic and Atmospheric Administration
Title: Report of Radio Transmitting Antenna Construction, Alteration, or Removal
Form Number: Agency—NOAA 76–10; OMB—0648–0096
Type of Request: Extension of the expiration date of a currently approved collection.
Burden: 780 respondents; 195 reporting hours
Needs and Uses: The National Ocean Survey (NOS) of the Department of Commerce is charged with the collection, verification, compilation, printing, and distribution of aeronautical charts. Any construction, alteration, or removal of a radio transmitting antenna must be reported. The information is used to produce accurate aeronautical charts.
Affected Public: Businesses or other for-profit institutions; small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Mandatory
OMB Desk Officer: Sheri Fox, 395–3785

Agency: National Oceanic and Atmospheric Administration
Title: Fish Tagging Report
Form Number: Agency—NOAA 88–162; OMB—0648–0009
Type of Request: Reinstatement of a previously approved collection for which approval has expired
Burden: 2,833 respondents; 85 reporting hours
Needs and uses: Data is used to determine growth rates and migratory patterns of billfish. The information is used in developing fishery management plans.
Affected Public: Individuals and households
Frequency: On occasion
Respondent's Obligation: Voluntary
OMB Desk Officer: Sheri Fox, 395–3785

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20203.

Dated: September 21, 1984.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 84–25771 Filed 9–27–84; 8:45 am]

BILLING CODE 3510–CW–M

International Trade Administration

Computer Systems Technical Advisory Committee; Partially Closed Meeting

A meeting of the Computer Systems Technical Advisory Committee will be held October 16, 1984, 3:00 p.m., Herbert C. Hoover Building, Room 1851, 14th Street and Constitution Avenue, NW., Washington, D.C. The Committee advises the Office of Export Administration with respect to technical questions which affect the level of export controls applicable to computer systems or technology.

General Session:

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Review of progress on Committee's 1984 annual plan.
4. Report on current work program of the subcommittees:
   a. Foreign Availability,
   b. Licensing Procedures.
5. Input for 1985 Plan.
6. Nomination and election of Committee Chairman.
7. New Business.
8. Action items underway.
9. Action items due at next meeting.

Executive Session:

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

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

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on Feberary 6, 1984, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the General Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202–377–4217. For further information or copies of the minutes contact Margaret A. Cornejo 202–377–2583.

Dated: September 24, 1984.

Milton M. Baltas,

Director, Technical Programs Staff, Office of Export Administration.

[FR Doc. 84–25733 Filed 9–27–84; 8:45 am]

BILLING CODE 3510–DT–M

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

A meeting of the Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee will be held October 16, 1984, 9:30 a.m., Herbert C. Hoover Building, Room 1851, 14th Street and Constitution Avenue, NW., Washington, D.C. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

Agenda:

1. Introduction of members and guests.
2. Opening remarks by the Chairman.
3. Presentation of papers or comments by the public.
4. Update from DOC on the establishment of the Foreign Availability Division.
5. Discussion of the FAAD questions to DOC General Counsel.
6. Review of DOC written response to the Subcommittee's letter dated July 25, 1984 concerning deregulation of West-West trade based on foreign availability.
7. Discussion of the 1985 annual plan.
8. New Business.
9. Action items underway.
10. Action items due at next meeting.

Executive Session:

11. Discussion of matters properly classified under Executive Order 12356.

dealing with the U.S. and COCOM control program and strategic criteria related thereto.

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

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 6, 1984, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meeting and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202-377-4217. For further information or copies of the minutes contact Margaret A. Cornejo 202-377-2583.

Dated: September 24, 1984.

Milton M. Baltas,

Director, Technical Programs Staff, Office of Export Administration.

[FR Doc. 84-25735 Filed 9-27-84; 8:45 am]

BILLING CODE 3510-DT-M

Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

A meeting of the Licensing Procedures Subcommittee of the Computer systems Technical Advisory Committee will be held October 16, 1984, 1:00 p.m., Herbert C. Hoover Building, Conference Room D, 14th Street and Constitution Avenue, NW., Washington, D.C. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

Agenda

1. Opening remarks by the Subcommittee Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of:
   a. Distribution license rule,
   b. Public rule-making recommendations, and
   c. Discussion with GAO.
4. Submission of 1984 annual report.
5. 1985 Plan.
6. Action items underway.
7. Action items due at next meeting.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Margaret A. Cornejo, (202) 377-2583.

Dated: September 24, 1984.

Milton M. Baltas,

Director, Technical Programs Staff, Office of Export Administration.

[FR Doc. 84-25734 Filed 9-27-84; 8:45 am]

BILLING CODE 3510-DT-M

[A-122-005]

Carbon Steel Bars and Structural Shapes From Canada; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on carbon steel bars and structural shapes from Canada. The review covers carbon steel bars and structural shapes manufactured by Western Canada Steel Limited, its subsidiary, Vancouver Rolling Mills Ltd., the six other known exporters of this merchandise to the United States and the period September 1, 1982 through August 31, 1983.

Where company-supplied information provided in response to our questionnaire was inadequate, we used the best information available for assessment and estimated antidumping duties cash deposit purposes.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Sheila Forbes or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-2923/5255.

SUPPLEMENTARY INFORMATION:

Background

On April 5, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 13567) the final results of its last administrative review of the antidumping finding on carbon steel bars and structural shapes from Canada (29 FR 13319, September 25, 1964) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act") the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of carbon steel bars, bar-shapes under 3 inches, and structural shapes 3 inches and over, currently classifiable under items 606.8300 and 609.8000 of the Tariff Schedules of the United States Annotated, manufactured by Western Canada Steel Limited and/or its subsidiary, the Vancouver Rolling Mills Limited of Vancouver, Canada.

The review covers Western Canada Steel Limited, its subsidiary, Vancouver Rolling Mills Limited, the six other known exporters of this merchandise to the United States and the period September 1, 1982 through August 31, 1983.

Five firms did not ship such Canadian carbon steel bars and structural shapes to the United States during the period. The estimated antidumping duties cash deposit rates for those firms will be the most recent rate for each firm. Western Canada Steel Ltd./Cam Chain Co. Ltd. and Western Canada Steel Ltd./Chatham Steel Ltd. failed to provide adequate responses to our questionnaire. For those non-responsive firms we used the best information available to determine the assessment and estimated antidumping duties cash deposit rates. The best information available is the most recent rate for each firm.

Preliminary Results of the Review

As a result of our review we preliminarily determine that the following margins exist for the period September 1, 1982 through August 31, 1983:

Manufacturer/exporter	Margin (percent)
Western Canada Steel Ltd.	[1] 40.64
Western Canada/A.J. Forsyth Co., Ltd.	[1] 0.01
Western Canada/Mitsubishi Canada Ltd.	[1] 0.01
Western Canada/Mitsui & Co. (Canada) Ltd.	[1] 0.01
Western Canada/Tudor Sales Ltd.	[1] 0.01
Western Canada/Cam Chain Co., Ltd.	[1] 3.20
Western Canada/Chatham Steel Ltd.	3.20

[1] No shipments during the period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing with 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must

be made within 5 days of the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, dumping duties on all appropriate entries. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required for those firms. Since the margins for A.J. Forsyth Co., Ltd., Mitsubishi Canada Ltd., Mitsui & Co. (Canada) Ltd., and Tudor Sales Ltd. are less than 0.5 percent and, therefore, *de minimis* for cash deposit purposes, the Department shall waive the deposit requirement for shipments of carbon steel bars and structural shapes from those firms. For any future entries from a new exporter not covered in this or prior administrative reviews, whose first shipments of carbon steel bars and structural shapes manufactured by Western Canada Steel, Ltd., or its subsidiary, Vancouver Rolling Mills Ltd., occurred after August 31, 1983, and who is unrelated to any reviewed firm, a cash deposit of 3.20 percent shall be required. These deposit requirements and waivers are effective for all shipments of carbon steel bars and structural shapes manufactured by Western Canada Steel Ltd. or its subsidiary, Vancouver Rolling Mills Ltd., entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: September 18, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-25813 Filed 9-27-84; 8:45 am]

BILLING CODE 3510-DS-M

Advisory Committee on East-West Trade; Termination

Having accomplished its mission, the Advisory Committee on East-West Trade will be terminated effective September 30, 1984. For additional information, please contact JeNelle Matheson, International Trade Administration, 377-2462.

Roger Severance,

Acting Deputy Assistant Secretary for East Asia and Pacific.

[FR Doc. 84-25812 Filed 9-27-84; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Marine Mammals; Fish Import Certification From Sweden

Regulations established in accordance with the Marine Mammal Protection Act of 1972, 16 U.S.C. 1361 *et seq* (45 FR 72178-72196, October 31, 1980) provide that a nation may certify that vessels fishing under its flag are: (1) Fishing in conformance with U.S. regulations, or (2) if not in conformance, were not fishing in a manner prohibited for U.S. fishermen under these regulations. This certification is necessary in order to permit the importation into the United States of certain of its fish and fish products.

The Assistant Administrator for Fisheries, National Marine Fisheries Service, has received and accepted a certification from the Government of Sweden that vessels fishing for salmon under Swedish flag are fishing in conformance with U.S. regulations in regard to the taking of marine mammals incidental to commercial fishing operations. Therefore, salmon from Sweden are hereby exempt to the United States without an accompanying Standard Form 369-1 (Fisheries Certificate of Origin).

Copies of the certification are on file and available for review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.

Dated: September 19, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 84-25851 Filed 9-27-84; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Receipt of Application for Permit; Belfast Zoological Gardens

Notice is hereby given that an Applicant has applied in due from for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1.Applicant:

a. Name Belfast Zoological Gardens (P344).

b. Address Antrim Road, Belfast Northern Ireland BT36 7PN.

2. Type of Permit Public Display.

3. Name and Number of Animals: California sea lions *(Zalophus californianus)*, 4.

4.Type of Take: Rehabilitated beached and stranded animals for captive maintenance.

5. Location of Activity: Rehabilitation facilities in California.

6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S., Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concering such applications (40 FR 11619, March 12, 1975). In this regard, no application will be considered unless:

(a) It is submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the appropriate agency of the foreign government;

(b) It includes;

i. A Certification from such appropriate government agency

verifying the information set forth in the application;

ii. A certification from such government agency that the laws and regulations of the government involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms;

iii. A statement that the government concerned will afford comity to a National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Department of Agriculture for Northern Ireland have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: September 21, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 84-25850 Filed 9-27-84; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Notice of Receipt of Application for Permit; Kolmardens Djurpark

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-14007), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Kolmardens Djurpark (P205B).

b. Address: SA-618 00, Kolmarden, Sweden.

2. Type of Permit: Public Display.

3. Name and Number of Animals: bottlenose dolphin (*Tursiops truncatus*), 4.

4. Type of Take: Captive Maintanance.

5. Location of Activity: Waters of Gulf of Mexico, Florida.

6. Period of Activity: 2 Years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11619, March 12, 1975). In this regard, no application will be considered unless:

(a) It is submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the appropriate agency of the foreign government;

(b) It includes:

i. A certification from such appropriate government agency verifying the information set forth in the application;

ii. A certification from such government agency that the laws and regulations of the government involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms;

iii. A statement that the government concerned will afford comity to a National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Head of Division for Contagious Animal Diseases of Sweden have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: September 21, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 84-25849 Filed 9-27-84; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1984; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1984 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

DATE: Comments must be received on or before: October 31, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1984, October 18, 1983 (48 FR 48415):

Class 1015

Staff Section: 1015-00-699-0633

Class 1025

Staff Section: 1025-01-044-2587, 1025-00-563-7232

Class 8340

Cover, Tent, General Purpose: 8340-00-262-2397

SIC 7349

Janitorial/Custodial: Scotia Depot Complex, Buildings 2, 3, 12, 13, 14 & 22, Scotia, New York

Janitorial/Custodial: Phillip J. Philbin Federal Building, 885 Main Street, Fitchburg, Massachusetts.

E.R. Alley, Jr.,

Acting Executive Director.

[FR Doc. 84-25778 Filed 9-27-84; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1984; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1984 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: September 28, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On June 8, June 22, June 29, July 9, July 13, July 20, and August 3, 1984, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (49 FR 23908, 49 FR 25664, 49 FR 26790, 49 FR 27969, 49 FR 28596, 49 FR 29441 and 49 FR 31126) of proposed additions to Procurement List 1984, October 18, 1983 (48 FR 48415).

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce or provide the commodities and services procured by the Government.

Accordingly, the following commodities and services are hereby added to Procurement List 1984:

Class 5140

Belt, Tool, Repairman's: 5140-00-529-2517, 5140-00-529-2694, 5140-00-529-2691

Class 8105

Bag, Currency: 8105-00-NIB-0006
(Requirements of the Bureau of Engraving and Printing, Washington, D.C. only)

SIC 0782

Grounds Maintenance: DOT/FAA, Airway Facilities Sector, 1100 South Service Road, Atlanta, Georgia

SIC 7349

Janitorial Service: John E. Moss Federal Building, 650 Capitol Mall, Sacramento, California

Janitorial Service: Federal Building-U.S. Courthouse, 401 S.E. First Avenue, Gainesville, Florida

Janitorial Service: Federal Building, 20 Washington Place, Newark, New Jersey

Janitorial Service: Federal Building and Courthouse, 228 Walnut Street, Harrisburg, Pennsylvania

Janitorial Service: U.S. Courthouse, 10th and Main Streets, Richmond, Virginia

SIC 7369

Commissary Shelf Stocking and Custodial, Cannon Air Force Base, New Mexico.

E.R. Alley, Jr.,

Acting Executive Director.

[FR Doc. 84-25777 Filed 9-27-84; 8:45 am]

BILLING CODE 6820-33-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing the Intention To Provide Proper Category Coverage for All Garments Classified in Schedule 3, Part 6, Subpart f, to the Tariff Schedules of the United States, Annotated

September 25, 1984.

The purpose of this notice is to announce that, effective on January 1, 1985, new statistical annotations to the Tariff Schedules of the United States, Annotated (T.S.U.S.A.), will be created which will provide for the proper category placement of all garments classified in Schedule 3, part 6, subpart f. For example, an ornamented woman's jacket, of a fabric blend of linen and polyester, in which the polyester is 50 percent or more by weight of the fabric, currently is classified in Textile Category 659 because no proper statistical annotation exists for such jackets in the current T.S.U.S.A. Effective January 1, 1985, a new annotation will be created which will provide for proper placement of this jacket in Textile Category 635. Similarly, all other garments, for which proper textile category annotations do not currently exist at this time, will be provided for statistically in the T.S.U.S.A. on January 1, 1985. These annotations will be effective for all garments classified in Schedule 3, Part 6, Subpart f, to the T.S.U.S.A. entered for consumption, withdrawn from warehouse for consumption, or entered into warehouse on or after January 1, 1985. No waivers of the proper category requirement will be made by CITA.

A listing and description of the new T.S.U.S.A. annotations will be published in the **Federal Register** as soon as they are available from the International Trade Commission.

Effective Date: January 1, 1985.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-25841 Filed 9-27-84; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Exchange Proposal To Trade Commodity Options; New York Mercantile Exchange

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions for trading commodity options on the New York Mercantile Exchange heating oil futures contract.

SUMMARY: The New York Mercantile Exchange ("NYMEX") has submitted an application to trade options on commodity futures contracts for heating oil under the three-year pilot program adopted by the Commodity Futures Trading Commission ("Commission"). The Commission believes that public comment on the proposal is in the public interest and is consistent with its option regulations and with the purposes of the Commodity Exchange Act.

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

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the NYMEX Heating Oil options contract.

FOR FURTHER INFORMATION CONTACT: Richard Shilts, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254-7303.

SUPPLEMENTARY INFORMATION: The Commission has previously adopted

regulations to govern a three-year pilot program under which options on certain commodity futures contracts are permitted to be traded on domestic boards of trade designated by the Commission as contract markets for options trading (46 FR 54500 (November 3, 1981)). Initially, the pilot program provided that each board of trade would be approved for trading in no more than one futures option contract. These regulations were subsequently amended to allow the approval of two options on certain futures contracts for each domestic board of trade (48 FR 41575 (September 16, 1983)).[1] The New York Mercantile Exchange ("NYMEX") previously submitted an application for designation as a contract market in options on crude oil futures contracts which currently is pending before the Commission. (49 FR 31935 (August 9, 1984)).

NYMEX has applied for contract market designation, pursuant to Section 6 of the Commodity Exchange Act, 7 U.S.C. 8 (1982), ("Act") and Commission Regulation 33.5, to trade options on heating oil futures contracts.

A copy of the terms and conditions of the proposed NYMEX option on heating oil futures contracts will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by NYMEX in support of its application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1983)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by NYMEX in support of its application, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by October 29, 1984. Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on September 24, 1984.

Jean A. Webb,

Deputy Secretary of the Commission.

[FR Doc. 84-25839 Filed 9-27-84; 8:45 am]

BILLING CODE 6351-01-M

[1] The Commission has further amended the regulations governing the option pilot program to permit boards of trade to be designated for up to five options on certain futures contracts (49 FR 33641 (August 24, 1984)). The rule amendment was transmitted to Congress on August 29, 1984 and will become effective upon the expiration of 30 calendar days of continuous session of Congress but not before further notice of the effective date is published in the **Federal Register**. In addition, the Commission has amended its regulations to permit each board of trade to be designated in up to two options on domestic agricultural futures contracts in addition to the five permissible designations noted above (49 FR 2752 (January 23, 1984)).

CONSUMER PRODUCT SAFETY COMMISSION

All-Terrain Vehicles (ATVs); Meeting With Manufacturers/Importers

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of meeting.

SUMMARY: The Commission has scheduled a public meeting with manufacturers and importers of three-wheeled all-terrain vehicles and the Specialty Vehicle Institute of America (SVIA). Participation by interested manufacturers is invited.

DATES: (1) The meeting will begin at 10:00 a.m. on October 23, 1984. (2) Requests from manufacturers to participate, and copies of their presentations, should be received by the Office of the Secretary no later than October 11, 1984.

ADDRESSES: The meeting will be in the third floor conference room at 1111 18th Street, NW., Washington, D.C.

Requests from manufacturers to participate, and copies of their presentations, should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6800.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haught, Corrective Actions Division, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6608.

SUPPLEMENTARY INFORMATION: Three-wheeled all-terrain vehicles, often called "ATVs", are small motorcycles with three large, soft tires and are designed for off-road use on a variety of terrains. In recent years, the popularity and sales of these vehicles have greatly expanded. Information from the Commission's National Electronic Injury Surveillance System (NEISS) indicates that the estimated number of ATV-related injuries treated in hospital emergency rooms jumped from 8,500 in 1982 to 27,500 in 1983. The Commission estimates that there have been 30,000 injuries during the first half of 1984.

The Commission is interested in receiving information and views from industry about the safe use of these 3-wheeled vehicles and the ways in which these injuries can be reduced. The Commission is specifically interested in learning more about and discussing the following areas:

- Rider Training Programs
- Minimum Age Recommendations
- Development of a Model Code for ATV Use in Recreational Areas and for State and Local Jurisdictions
- Development of Voluntary Standards for Vehicle Labeling and Instructions and Design and Performance Standards
- Consumer Education
- Future Research to Make ATVs Safer

An additional purpose of this meeting is to obtain information from the ATV industry as to the actions they will take to address the hazards associated with ATVs.

The Commission is contacting manufacturers of ATVs and the Specialty Vehicle Institute of America, an industry trade association, concerning participation in the meeting. Representatives of manufacturers who want to participate should call or write Sadye E. Dunn, Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6800, not later than October 11, 1984. Copies of the participants' presentations should be provided to the Secretary by that date. The Commission reserves the right to impose time limitations on the presentations of the participants and to limit duplicative or irrelevant comments. The meeting will consist of presentations by the participants, followed by questions by the Commissioners.

Dated: September 25, 1984.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 84-25864 Filed 9-27-84; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Women in the Services (DACOWITS) Meeting

September 25, 1984.

Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of the Defense Advisory Committee on Women in the Services (DACOWITS) will be held 13–17 November 1984 at the Pensacola Hilton, Pensacola, FL.

The purpose of the DACOWITS Committee is to assist and advise the Secretary of Defense on matters relating to women in the Services. The Committee meets semiannually.

Sessions will be conducted daily as indicated and will be open to the public. The agenda will include the following meetings and discussions:

Tuesday, 13 November 1984—Pensacola Hilton

11:00 a.m.–4:00 p.m.—Registration
12:00 Noon–1:00 p.m.—Executive Committee Meeting
1:00 p.m.–2:30 a.m.–"Get Acquainted" Luncheon (DACOWITS Members Only) MILREP Luncheon (MILREPS and Liaison Officers Only)
2:30 p.m.–3:00 p.m.—Chair's Procedural Session
3:00 p.m.–4:00 a.m.—OSD/Service Briefings
4:00 p.m.– 6:00 p.m.—Subcommittee Meetings
7:00 p.m.–8:30 p.m.—"No-Host" Social buffet

Wednesday, 14 November 1984—Pensacola Hilton

7:45 a.m.–8:15 a.m.—Official Coffee
8:15 a.m.–8:45 a.m.—Official Opening
9:00 a.m.–11:45 a.m.–OSD/Service Briefings
12:00 noon–1:30 p.m.—Official Department of Defense Luncheon (By invitation only)
1:45 p.m.–3:15 p.m.—OSD/Service Briefings
3:30 p.m.–6:00 a.m.—Subcommittee Meetings
7:00 p.m–10:30 p.m.—Official Department of Defense Reception and Dinner (By invitation only)

Thursday, 15 November 1984

7:45 a.m.–6:30 p.m.—Field Trip to the Pensacola Naval Air Station (By invitation only)

Friday, 16 November 1984—Pensacola Hilton

8:00 a.m.–10:15 a.m.—OSD/Service Briefings
10:15 a.m.–10:45 a.m.—Presentations by Members of the Public
11:00 a.m.–1:00 p.m.—"No-Host" Luncheon
1:15 p.m.–6:00 p.m.—Subcommittee Meetings

Saturday, 17 November 1984—Pensacola Hilton

7:30 a.m.–10:30 a.m.—General Business Session—Adjourn
10:30 a.m.–11:30 a.m.—Executive Committee Meeting
12:00 noon–2:00 p.m.—Blue Angels Air Show

The following rules and regulations will govern the participation by members of the public at the meeting:

(1) Members of the public will not be permitted to attend the Official Department of Defense Luncheon or Dinner.

(2) All business sessions, to include the Executive Committee Meetings, will be open to the public.

(3) Interested persons may submit a written statement and/or make an oral presentation for consideration by the Committee during the meeting.

(4) Persons desiring to make an oral presentation or submit a written statement to the Committee must notify Captain Marilla J. Brown, USA, DACOWITS Executive Secretary, OASD (Manpower, Installations and Logistics), Room 3D769, the Pentagon, Washington, D.C. 20301–4000, (202) 697–2122 by 30 October 1984.

(5) Length and number of oral presentations to be made will depend on the number of requests received from the members of the public.

(6) Oral presentations by members of the public will be permitted only from 10:15 a.m. to 10:45 a.m. on Friday, 16 November 1984, before the full Committee.

(7) Each person desiring to make an oral presentation or submit a written statement must provide the DACOWITS Secretariat with a copy of the presentation or 60 copies of the statement by 30 October 1984.

(8) Persons submitting a written statement only for inclusion in the minutes of the meeting must submit one (1) copy either before or during the meeting or within five (5) days after the close of the meeting.

(9) Other new items from members of the public may be presented in writing to any ADCOWITS member for transmittal to the DACOWITS Chair or Executive Secretary to consider, as feasible.

(10) Members of the public will not be permitted to enter into oral discussion conducted by the Committee members at any of the sessions; however, they will be permitted to reply to questions directed to them by the members of the Committee.

(11) Members of the public will be permitted to orally question the scheduled speakers if recognized by the Chair and if time allows after the official participants have asked questions and/or made comments.

(12) Questions from the public will not be accepted during the Subcommittee Sessions, the Executive Committee Meetings, or the Business Session on Saturday, 17 November 1984.

Additional information regarding the Committee and/or this meeting may be obtained by contracting the DACOWITS Executive Secretary, OASD (MI&L), the Pentagon, Room 3D769, Washington, D.C. 20301–4000, (202) 697–2122.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84–25833 Filed 9–27–84; 8:45 am]

BILLING CODE 3810–01–M

Privacy Act of 1974, Amendments to Systems of Records Notice

AGENCY: Office of the Secretary, Defense.

ACTION: Notice of amendments to system of records.

SUMMARY: The Office of the Secretary of Defense proposes to amend a notice for system of records subject to the Privacy Act of 1974. The specific changes to the notice being amended are set forth below, followed by the system notice, as amended, published in its entirety.

DATE: This shall be effective without further notice October 29, 1984, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to the System Manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Norma Cook, Privacy Act Officer, ODASD(A), Room 5C–315, Pentagon, Washington, D.C. 20301–1155, Telephone: 202/695–0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense (OSD) systems of records notices are prescribed by the Privacy Act of 1974, Title 5, United States Code Section 552a (Pub. L. 93–579; 44 Stat. 1896. *et seq.*) have been published in the **Federal Register** at:

FR Doc. 83–12048 (48 FR 25827) June 6, 1983
FR Doc. 84–4418 (49 FR 6145) February 17, 1984
FR Doc. 84–17736 (49 FR 27602) July 5, 1984
FR Doc. 84–20096 (49 FR 30560) July 31, 1984
FR Doc. 84–22569 (49 FR 33700) August 24, 1984
FR Doc. 84–24410 (49 FR 36133) September 14, 1984

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires

the submission of an altered system report.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

AMENDMENTS

DGC 05

System Name

Administrative Files on Active Psychiatric Consultants to Department of Defense (DOD) (48 FR 25830, June 6, 1983).

Changes

Delete Paragraph under heading *"System Location"* and add "Directorate for Industrial Security Clearance Review (DISCR), Defense Legal Services Agency (DLSA), DoD."

Delete eighteenth through twenty-fourth words under heading *"Authority for Maintenance of the system"* and add"and Deputy Secretary of Defense Memorandum dated October 20, 1965, Subject: Employment of Psychiatric Consultants for Industrial Security Program."

Add the following heading *"PURPOSES(S)"* before the heading *"Routine Uses of Records Maintained in the System, Including Categories of Users and Purposes of Such Uses."*

Add the following paragraph under the above heading.

"To be used by psychiatric consultants having active professional service agreement with and having been granted security clearance by the Department of Defense (DOD) are used by DISCR, and Defense Industrial Security Clearance Office (DISCO), Defense Investigative Service (DIS), in processing requests for industrial personnel clearance of individuals.

Delete the heading "*Routine Uses of Records Maintained in the System, Including Categories of Users and Purposes of Such Uses."*

Delete the paragraph under the above heading.

Delete the heading "*Internal Users, Uses, and Purposes."*

Delete the paragraphs under the above heading.

Delete the heading *"External Users, Uses, and Purposes"* and add the heading "Routine uses of Records Maintained in the System, Including Categories of Users and Purposes of Such Uses."

Delete paragraph under "*System Manger(s) and Address*" and add "Director, Directorate for Industrial Security Clearance Review, 4019 Wilson Boulevard, Suite 101, Arlington, VA. 22203–1995."

Delete Paragraph under "*Notification Procedure*" and add "Information may be obtained from the State Manager, DISCR, at the above address, Telephone number: 202–696–4598."

Delete last eight words of first paragraph under "*Record Access Procedures*" and add "DISCR, at the above address."

Delete last three lines of the last paragraph and add "above address."

System DGC reads as follows:

DCG 05

SYSTEM NAME:

Administrative Files on Active Psychiatric Consultants to Department of Defense (DoD).

SYSTEM LOCATION:

Directorate for Industrial Security Clearance Review (DISCR), Defense Legal Services Agency (DLSA), DoD.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Psychiatric consultants who have entered into agreement with the Department of Defense to conduct psychiatric examination of individuals applying for industrial security clearance for access to classified information required in the performance of their work for classified Government contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records filed alphabetically by last name of psychiatrist, consisting of correspondence concerning agreement to conduct psychiatric examinations requested by the Government; and initiation and confirmation of security clearance is issued to psychiatrists.

Current list of active DoD psychiatric consultants.

Alphabetical card index file for identification and address of active psychiatric consultants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

DoD Directive 5220.6, "Industrial Personnel Security Clearance Program," December 20, 1976; Executive Order 10865, February 20, 1960, and Deputy Secretary of Defense Memorandum dated October 20, 1965, Subject: Employment of psychiatric consultants for Industrial Security Program.

PURPOSES(S):

To be used by Psychiatric consultants having active professional service agreements with and having been granted security clearance by the Department of Defense (DoD) are used by DISCR, and Defense Industrial Security Clearance Office (DISCO), Defense Investigative Service (DIS), in processing requests for industrial personnel security clearance of individuals.

ROUTINE USES OF RECORD MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSE OF SUCH USES:

See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, vertical file cards.

RETRIEVABILITY:

Alphabetically by surname.

SAFEGUARDS:

Records are stored in security combination locked file cabinets accessible only to DISCR authorized personnel.

RETENTION AND DISPOSAL:

Destroy six months after agreement between consultant and DoD has been terminated.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Directorate for Industrial Security Clearance Review, 4019 Wilson Boulevard, Suite 101, Arlington, VA 22203–1995.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager, DISCR, at above address, Telephone: 202–696–4598.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to DISCR, at above address.

Written requests should include the individual's full name, date and place of birth, and notarized signature.

The records requested may be made available to individuals for review at the above address.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR Part 286b and OSD Administrative Instructions No. 81.

RECORD SOURCE CATEGORIES:

Copy of Letter of Conset (for Security clearance), DISCO Form 560, and correspondence with individual psychiatrists.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84-25835 Filed 9-27-84; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

September 25, 1984.

Summary: 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; and (8) The point of contact from whom a copy of the information proposal may be obtained.

New

- 1985 DOD Survey of Military Spouses

This will be the first large-scale canvass of the spouses of active-duty military personnel ever conducted. The purpose of this effort is to fulfill needs for information on the total population directly involved in the military way of life. The information obtained will aid the Department of Defense and the individual Services to assess the status and usefulness of their family-related programs and policies; requirements for new or modified policies and programs; need for shifts in resources allocated among the various programs; the composition of the total population involved in the military way of life; the impact of families on readiness and retention of active-duty personnel; the situations of dual-service couples and single parents; and information relevant to the formulation and justification of programs and budgets.

Respondents: Spouses of active-duty military members
Responses: 70,100
Burden: 35,050 hours

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503, and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, Room 1C535, The Pentagon, Washington, DC 20301-1155, telephone (202) 694-0187.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mr. Robert L. Newhart, OASD MI&L(PI), Room 3C800, Pentagon, Washington, DC 20301, telephone (202) 695-0643.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-25834 Filed 9-27-84; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Filing and Availability of Final Environmental Impact Statement; Proposed Stationing of a Seventeenth Active Component Division

AGENCY: Department of the Army, DOD.

ACTION: Notice of filing and availability of final environmental impact statement.

SUMMARY: The Department of the Army has filed with the Environmental Protection Agency a Final Environmental Impact Statement on the stationing of a seventeenth Active Component division.

SUPPLEMENTARY INFORMATION: On April 6, 1984 (49 FR 13738), the Department of the Army announced its intent to prepare an Environmental Impact Statement on stationing its seventeenth Active Component division, now designated as the 10th Infantry Division. Availability of the draft statement was announced on May 25, 1984 (49 FR 22133). The Final Environmental Impact Statement is now available for public and interagency review. Eight army installations (Fort Benning, Georgia; Fort Campbell, Kentucky; Fort Drum, New York; Fort Lewis, Washington; Fort Ord, California; and Forts Wainwright, Richardson, and Greely, Alaska) are being considered as sites for stationing all or part of the new light infantry division. The new division will begin organizing during Fiscal Year 1985. As part of the Final Environmental Impact Statement, the preferred alternative for stationing the 10th Infantry Division has been identified as Fort Drum, NY, with temporary stationing of an infantry brigade with associated support units at Fort Benning, GA until facilities at Fort Drum become available.

The final decision on stationing the division will be made after public and interagency review of the Final EIS and consideration of all operational, economic and environmental factors. Copies of the FEIS have been forwarded to concerned federal, state, and local agencies in accordance with 40 CFR 1502.19. Interested organizations or individuals may obtain copies of the FEIS from: U.S. Army Engineer District, Mobile ATTN: James B. Hildreth, (SAMPD-EE), P.O. Box 2288, Mobile, Alabama 36628, Telephone (205) 694-4141.

Comments concerning this action should be directed to the above on or before 28 October 1984.

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health, OASA (I&L).

[FR Doc. 84-25445 Filed 9-27-84; 8:45 am]

BILLING CODE 3710-08-M

Adoption of Final Environmental Impact Statement; Proposed Stationing of an Eighteenth Active Component Division

AGENCY: Department of the Army, DOD.

ACTION: Adoption of final environmental impact statement.

SUMMARY: Notice is given that the Department of the Army adopts the Final Environmental Impact Statement (FEIS) prepared for stationing of a seventeenth Active Component division as the FEIS for and stationing of an eighteenth Active Component division.

SUPPLEMENTARY INFORMATION: The Department of the Army proposes the stationing of an eighteenth Active Component division (designated as the 6th Infantry Division). The proposed 6th Infantry Division would be designed as a light Infantry Division consisting of three (3) infantry brigades, one (1) artillery brigade, one (1) combat aviation brigade, and associated support units. Total troop strength of the division would be approximately 10,000 military personnel. This new division would be "rounded out" with one of its infantry brigades and some associated support units drawn from the Army Reserve Component which will train and participate in division exercises. The remainder of the 6th Infantry Division would be built incrementally from the Active Component, as spaces become available from other force structure actions. The division's light design is intended to permit its use quickly as threats arise, and it may also be employed on a sustained basis when augmented and employed as part of a larger force. The 6th Infantry Division would be considerably smaller than traditional divisions, which range in size from 14,000 to 18,00 soldiers. It would also be less dependent upon heavy equipment such as tanks and armored weaponry, relying instead upon

specialized forces and quick response troops.

Pursuant to the National Environmental Policy Act (NEPA), the Department of the Army has previously prepared a Final Environmental Impact Statement (FEIS) for stationing of a seventeenth Active Component division (designated as the 10th Infantry Division). The Army published its Notice of Intent to prepare this FEIS on April 6, 1984 (49 FR 13738), and filed the draft statement with the Environmental Protection Agency, as announced on May 25, 1984 (49 FR 22133). In a separate notice in today's issue of the Federal Register, the Army announces the filing and availability of the FEIS for stationing of the 10th Infantry Division, the Army's seventeenth Active Component division.

Pursuant to the Council on Environmenmtal Quality regulations (40 CFR 1506.3) implementing NEPA, the Department of the Army adopts the FEIS prepared for the 10th Infantry Division, the Army's seventeenth Active Component division, as the FEIS for the 6th Infantry Division, the Army's eighteenth Active Component division. Stationing alternatives for the 6th Infantry Division are the same as those considered for the 10th Infantry Division; and the 10th Infantry Division FEIS adequately describes environmental effects which may be anticipated from the proposed stationing of the 6th Infantry Division. The preferred alternative for stationing the 6th Infantry Division is at Forts Wainwright and Richardson, AK.

A final decision on stationing of the 6th Infantry Division will not be made until after public circulation of the adopted FEIS. Copies of the FEIS have been circulated to concerned federal, state, and local agencies in accordance with 40 CFR 1502.19. Interested organizations or individuals may obtain copies of the FEIS and Record of Environmental Consideration (32 CFR 651.7) explaining its adoption and considering the no action alternative, by contacting: U.S. Army Engineer, District, Mobile Attn: James B. Hildreth, (SAMPD-EE), P.O. Box 2288, Mobile, AL 36628, Telephone (205) 694-4141. Comments concerning this action should be directed to the above on or before 28 October 1984.

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health, OASA (I&L).

[FR Doc. 84-25446 Filed 9-27-84; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Public Information Collection Requirement Submitted to OMB for Review

September 25, 1984.

Summary: 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.

Extension

• Employment in Private Shipyards under Cognizance of Supervisors of Shipbuilding, Conversion and Repair (SUPSHIPS) NAVSEA 4350-2, NAVSEA 4350/2.

To collect information on employment in private shipyards to make a determination of the capabilities of the shipbuilding industry and its ability to meet the shipbuilding, conversion and repair needs for Navy and Merchant ships. It is collected from firms that build, convert or repair ships.

Businesses or other for profit
Responses 115
Burden hours 11,040

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503 and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, Room 1C535, The Pentagon, Washington, DC. 20301-1155, telephone (202) 694-0187.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mr. Kenneth C. Harris, Commander, Naval Sea Systems Command, National Center #3, Washington, D.C. 20360, telephone (202) 692-9198.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-25830 Filed 9-27-84; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Strengthening Program, Special Needs Program, Endowment Grant Program; Closing Date for Transmittal of Requests for Designation as an Eligible Institution for Fiscal Year 1985

Institutions of higher education that wish to apply for a grant under the Strengthening, Special Needs, or Endowment Grant Programs in Fiscal Year 1985 are invited to apply for designation as an "eligible institution" under one or more of these programs by submitting a "Request for Designation as an Eligible Institution" form (ED Form 1049-6). The Strengthening Program, Special Needs Program, and Endowment Grant Programs are authorized under sections 301-347 of Title III of the Higher Education Act of 1965, as amended (HEA).

(20 U.S.C. 1051-1069c)

The above programs help eligible institutions of higher education to become self-sufficient by providing Federal grant funds to improve their academic quality; strengthen their planning, management, and fiscal capabilities; and establish or expand their endowment funds.

To apply for a grant under one or more of the above programs, an institution must first be designated as an eligible institution under the applicable regulations for each program.

Closing Date for Transmittal of Requests

A "Request for Designation as an Eligible Institution" must be mailed or hand-delivered to the U.S. Department of Education by October 29, 1984.

Requests Delivered by Mail

A request sent by mail must be addressed to the U.S. Department of Eduation, Application Control Center, Attention: 84.031 H (Title III—Designation), Washington, D.C. 20202.

A request must show proof of mailing, consisting of one of the following:

1. A legibly dated U.S. Postal Service postmark;

2. A legible mail receipt with the date of mailing stamped by the U.S. Postal Service;

3. A dated shipping label, invoice, or receipt from a commercial carrier;

4. Any other proof of mailing acceptable to the U.S. Secretary of Education.

If a request is sent through the U.S. Postal Service, the Secretary does *not* accept a private metered postmark or a private mail receipt as proof of mailing.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified by the Application Control Center that its request for designation as an eligible institution will not be considered.

Requests Delivered by Hand

A request that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered request between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

A request that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Request Forms

A copy of the "Request for Designation as an Eligible Institution" form (ED Form 1049–6) will be mailed to all institutions of postsecondary education on or about October 1, 1984. Copies of the request form may be obtained by writing to the Division of Eligibility and Agency Evaluation, Attention: 84:031H (Title III—Designation), Room 3522, Regional Office Building 3, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Approved by the Office of Management and Budget under Control Number 1840–0103.)

Program Information

Under the Strengthening and Special Needs Programs, the Secretary determines an institution's eligibility based, in part, upon an institution's education and general (E&G) expenditures, together with the amount of Pell Grants (for the Strengthening Program) and the amount of Title IV, HEA, student financial assistance (for the Special Needs Program) that was awarded to students attending that institution during a particular award year. In order to qualify for a grant under the Endowment Grant Program, an applicant institution must in effect qualify as an "eligible institution" under the eligibility requirements of the Strengthening Program or the Special Needs Program.

For Fiscal Year (FY) 1985 grant awards, the Secretary will use award year 1981–1982 (July 1, 1981–June 30, 1982) as the base year for calculating an institution's eligibility to apply for a grant under the Strengthening Program (34 CFR 625.2(a) (2), (3), and (4)); the Special Needs Program (34 CFR 626.2(a) (2), (3), and (4)); and the Endowment Grant Program (34 CFR 628.2). This is the same base year that was used to establish eligibility for the FY 1984 Endowment Program. Accordingly, if an institution applied for designation as an "eligible institution" under the Strengthening Program or Special Needs Program in connection with the FY 1984 Endowment Grant Program funding competition, it does not need to re-apply for that designation. The decisions that were made for the FY 1984 Endowment Grant Program regarding an institution's eligibility to apply (based on 1981–1982 award data) for Strengthening, Special Needs, and Endowment Program grants will apply to the FY 1985 funding competitions for these programs.

If an institution was declared ineligible for the Strengthening or Special Needs Program in connection with the FY 1984 Endowment Grant Program funding competition, it is suggested that the institution review the 1981–1982 base-year data that it submitted for that competition. If any of the data have changed, the institution may re-apply under this notice.

If an institution did not apply for designation as an "eligible institution" under the Strengthening Program or Special Needs Program in connection with the FY 1984 Endowment Grant Program funding competition, it may apply for that designation under this notice.

In completing the "Request for Designation as an Eligible Institution" form (ED Form 1049–6), an institution must submit its E&G expenditure data for the same 12-month period (July 1, 1981–June 30, 1982) as is covered by the "Higher Education General Information Survey (HEGIS XVI), Financial Statistics of Institutions of Higher Education for Fiscal Year Ending 1982."

The Secretary will use Pell grant award data which are currently on file in the Department for base year 1981–82 to make determinations under the financial aid eligibility criteria, as set forth in 34 CFR 625.2 and 626.2.

Conversion tables and eligibility thresholds on which, in part, the Secretary will make a determination of an institution's eligibility are published as an appendix to this notice. These are the same conversion tables and eligibility thresholds that were published in the **Federal Register** on June 20, 1984 for the FY 1984 Endowment Program.

Any institution that plans to request designation as an eligible institution is urged to apply by submitting ED Form 1049–6 well in advance of the October 29, 1984 closing date. After the closing date, the Secretary will not accept any new information or adjustments to the information that has been submitted on the "Request for Designation as an Eligible Institution" form.

Applicable Regulations

Regulations applicable to the eligibility process include the Institutional Aid Programs—General Provisions Regulations (34 CFR 624.2, 624.3 and 624.20); the Strengthening Program Regulations (34 CFR 625.2 and 625.3); the Special Needs Program Regulations (34 CFR 626.2 and 626.3); and the Endowment Grant Program Regulations (34 CFR 628.2). These regulations were published in the **Federal Register** of January 5, 1982, 47 FR 540–557, and of July 12, 1984, 49 FR 28520–28536.

Further Information: For further information, contact the Division of Eligibility and Agency Evaluation, Room 3030, Regional Office Building 3, Washington, D.C. 20202. Telephone (202) 245–9873.

(20 U.S.C. 1051–1069c)

(Catalog of Federal Domestic Assistance Number: 84.031 Institutional Aid Programs)

Dated: September 21, 1984.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

BILLING CODE 4000-01-M

The Secretary of Education uses the following tables to determine Title III Institutional Eligibility for the Strengthening Program, Special Needs Program, and Endowment Grant Program for Fiscal Year 1985 (based on 1981-1982 data).

PART-A : STRENGTHENING

2 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 - 0.0615	0.01 - 368.04	12826.90+
2	0.0616 - 0.0829	368.05 - 400.42	12826.89 - 9957.15
3	0.0830 - 0.0991	400.43 - 415.11	9957.14 - 8861.19
4	0.0992 - 0.1090	415.12 - 427.86	8861.18 - 7606.61
5	0.1091 - 0.1127	427.87 - 440.05	7606.60 - 7321.91
6	0.1128 - 0.1163	440.06 - 446.50	7321.89 - 7153.44
7	0.1164 - 0.1225	446.51 - 449.29	7153.43 - 6755.29
8	0.1226 - 0.1299	449.30 - 459.75	6755.28 - 6382.41
9	0.1300 - 0.1366	459.76 - 463.89	6382.39 - 6238.02
10	0.1367 - 0.1419	463.90 - 467.86	6238.01 - 6060.24
11	0.1420 - 0.1454	467.87 - 471.12	6060.23 - 5839.29
12	0.1455 - 0.1501	471.13 - 476.21	5839.28 - 5776.19
13	0.1502 - 0.1566	476.22 - 481.97	5776.18 - 5619.09
14	0.1567 - 0.1626	481.98 - 484.64	5619.08 - 5523.21
15	0.1627 - 0.1697	484.65 - 490.02	5523.20 - 5364.95
16	0.1698 - 0.1768	490.03 - 493.56	5364.94 - 5260.52
17	0.1769 - 0.1833	493.57 - 495.94	5260.51 - 5219.23
18	0.1834 - 0.1875	495.95 - 499.77	5219.21 - 5056.63
19	0.1876 - 0.1963	499.78 - 503.11	5056.62 - 4989.19
20	0.1964 - 0.1984	503.12 - 509.36	4989.18 - 4931.50
21	0.1985 - 0.2072	509.37 - 515.35	4931.49 - 4898.99
22	0.2073 - 0.2120	515.36 - 517.45	4898.98 - 4832.35
23	0.2121 - 0.2173	517.46 - 520.73	4832.34 - 4766.30
24	0.2174 - 0.2235	520.74 - 524.29	4766.29 - 4689.61
25	0.2236 - 0.2295	524.30 - 529.44	4689.60 - 4615.10
26	0.2296 - 0.2358	529.45 - 532.38	4615.09 - 4576.72
27	0.2359 - 0.2424	532.39 - 535.16	4576.71 - 4534.21
28	0.2425 - 0.2481	535.17 - 537.99	4534.20 - 4496.61
29	0.2482 - 0.2565	538.00 - 543.39	4496.60 - 4446.84
30	0.2566 - 0.2617	543.40 - 545.79	4446.83 - 4426.86
31	0.2618 - 0.2660	545.80 - 551.14	4426.85 - 4366.07
32	0.2661 - 0.2687	551.15 - 554.83	4366.05 - 4321.45
33	0.2688 - 0.2735	554.84 - 559.27	4321.44 - 4278.71
34	0.2736 - 0.2778	559.28 - 561.82	4278.70 - 4209.76
35	0.2779 - 0.2813	561.83 - 565.14	4209.75 - 4160.49
36	0.2814 - 0.2839	565.15 - 568.64	4160.48 - 4136.48
37	0.2840 - 0.2875	568.65 - 571.56	4136.46 - 4078.06
38	0.2876 - 0.2912	571.57 - 573.89	4078.05 - 4023.56
39	0.2913 - 0.2940	573.90 - 576.92	4023.55 - 3973.27
40	0.2941 - 0.2985	576.93 - 578.42	3973.26 - 3949.22
41	0.2986 - 0.3011	578.43 - 580.69	3949.21 - 3907.57
42	0.3012 - 0.3053	580.70 - 583.52	3907.56 - 3860.54
43	0.3054 - 0.3076	583.53 - 584.59	3860.53 - 3824.30
44	0.3077 - 0.3106	584.60 - 588.53	3824.29 - 3799.70
45	0.3107 - 0.3170	588.54 - 589.91	3799.69 - 3769.37
46	0.3171 - 0.3207	589.92 - 594.64	3769.36 - 3759.32
47	0.3208 - 0.3289	594.65 - 596.53	3759.31 - 3732.35
48	0.3290 - 0.3338	596.54 - 598.74	3732.34 - 3708.53
49	0.3339 - 0.3367	598.75 - 599.98	3708.52 - 3687.74
50	0.3368 - 0.3407	599.99 - 602.48	3687.73 - 3631.23

PART-A : CONTINUE

2 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0.3408 - 0.3439	602.49 - 604.96	3631.22 - 3590.61
52	0.3440 - 0.3485	604.97 - 606.19	3590.60 - 3570.10
53	0.3486 - 0.3554	606.20 - 608.77	3570.09 - 3538.79
54	0.3555 - 0.3601	608.78 - 611.75	3538.78 - 3509.44
55	0.3602 - 0.3650	611.76 - 614.07	3509.43 - 3476.22
56	0.3651 - 0.3679	614.08 - 616.03	3476.21 - 3447.80
57	0.3680 - 0.3740	616.04 - 618.57	3447.79 - 3409.89
58	0.3741 - 0.3788	618.58 - 619.29	3409.88 - 3400.70
59	0.3789 - 0.3832	619.30 - 620.18	3400.69 - 3371.08
60	0.3833 - 0.3877	620.19 - 623.20	3371.07 - 3333.41
61	0.3878 - 0.3916	623.21 - 626.75	3333.40 - 3289.25
62	0.3917 - 0.3953	626.76 - 634.02	3289.24 - 3264.32
63	0.3954 - 0.3987	634.03 - 638.60	3264.31 - 3233.12
64	0.3988 - 0.4018	638.61 - 640.70	3233.11 - 3212.84
65	0.4019 - 0.4052	640.71 - 643.10	3212.83 - 3185.09
66	0.4053 - 0.4117	643.11 - 647.54	3185.08 - 3149.68
67	0.4118 - 0.4174	647.55 - 651.65	3149.67 - 3138.24
68	0.4175 - 0.4246	651.66 - 653.06	3138.23 - 3116.24
69	0.4247 - 0.4291	653.07 - 654.20	3116.23 - 3097.86
70	0.4292 - 0.4357	654.21 - 657.42	3097.85 - 3059.72
71	0.4358 - 0.4404	657.43 - 660.25	3059.71 - 3018.07
72	0.4405 - 0.4462	660.26 - 664.09	3018.06 - 3003.71
73	0.4463 - 0.4530	664.10 - 665.87	3003.70 - 2991.18
74	0.4531 - 0.4595	665.88 - 671.16	2991.18 - 2942.65
75	0.4596 - 0.4636	671.17 - 673.55	2942.64 - 2902.00
76	0.4637 - 0.4746	673.56 - 675.78	2901.99 - 2878.91
77	0.4747 - 0.4836	675.79 - 677.89	2878.90 - 2864.57
78	0.4837 - 0.4962	677.90 - 682.52	2864.56 - 2813.61
79	0.4963 - 0.5021	682.53 - 685.72	2813.60 - 2787.36
80	0.5022 - 0.5112	685.73 - 690.28	2787.35 - 2754.49
81	0.5113 - 0.5168	690.29 - 693.46	2754.48 - 2737.91
82	0.5169 - 0.5289	693.47 - 698.17	2737.90 - 2722.29
83	0.5290 - 0.5340	698.18 - 702.56	2722.28 - 2683.10
84	0.5341 - 0.5480	702.57 - 707.54	2683.09 - 2662.00
85	0.5481 - 0.5598	707.55 - 713.14	2661.99 - 2640.26
86	0.5599 - 0.5713	713.15 - 720.59	2640.25 - 2625.91
87	0.5714 - 0.5874	720.60 - 725.53	2625.90 - 2576.94
88	0.5875 - 0.6030	725.54 - 729.37	2576.93 - 2547.06
89	0.6031 - 0.6260	729.38 - 733.48	2547.05 - 2523.46
90	0.6261 - 0.6425	733.49 - 740.97	2523.45 - 2499.34
91	0.6426 - 0.6693	740.98 - 748.39	2499.33 - 2432.26
92	0.6694 - 0.6884	748.40 - 756.74	2432.25 - 2390.07
93	0.6885 - 0.7302	756.75 - 764.67	2390.06 - 2345.09
94	0.7303 - 0.7520	764.68 - 774.90	2345.08 - 2292.83
95	0.7521 - 0.8106	774.91 - 787.19	2292.82 - 2271.01
96	0.8107 - 0.8809	787.20 - 794.80	2271.00 - 2224.39
97	0.8810 - 0.9526	794.81 - 808.93	2224.38 - 2098.02
98	0.9527 - 1.0530	808.94 - 840.65	2098.01 - 2041.67
99	1.0531 - 1.4319	840.66 - 887.99	2041.66 - 1900.13
100	1.4320+	888.00+	1900.12 - 1.00

PART-B : SPECIAL NEEDS

2 YR PUBLIC

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0.0001 - 0.0576	0.01 - 418.19	9957.15+
2	0.0577 - 0.0683	418.20 - 457.27	9957.14 - 7606.61
3	0.0684 - 0.0740	457.28 - 478.80	7606.60 - 7153.44
4	0.0741 - 0.0816	478.81 - 490.90	7153.43 - 6382.41
5	0.0817 - 0.0868	490.91 - 506.58	6382.39 - 6060.24
6	0.0869 - 0.0944	506.59 - 520.84	6060.23 - 5776.19
7	0.0945 - 0.0993	520.85 - 530.67	5776.18 - 5523.21
8	0.0994 - 0.1124	530.68 - 541.02	5523.20 - 5260.52
9	0.1125 - 0.1223	541.03 - 548.25	5260.51 - 5056.63
10	0.1224 - 0.1281	548.26 - 553.12	5056.62 - 4931.50
11	0.1282 - 0.1364	553.13 - 560.21	4931.49 - 4832.35
12	0.1365 - 0.1440	560.22 - 565.83	4832.34 - 4689.61
13	0.1441 - 0.1535	565.84 - 574.49	4689.60 - 4576.72
14	0.1536 - 0.1567	574.50 - 583.94	4576.71 - 4496.61
15	0.1568 - 0.1613	583.95 - 590.08	4496.60 - 4426.86
16	0.1614 - 0.1652	590.09 - 593.26	4426.85 - 4321.45
17	0.1653 - 0.1725	593.27 - 598.99	4321.44 - 4209.76
18	0.1726 - 0.1766	599.00 - 603.83	4209.75 - 4136.48
19	0.1767 - 0.1808	603.84 - 609.98	4136.46 - 4023.56
20	0.1809 - 0.1863	609.99 - 616.83	4023.55 - 3949.22
21	0.1864 - 0.1925	616.84 - 623.02	3949.21 - 3860.54
22	0.1926 - 0.1972	623.03 - 630.45	3860.53 - 3799.70
23	0.1973 - 0.2027	630.46 - 635.29	3799.69 - 3759.32
24	0.2028 - 0.2059	635.30 - 643.16	3759.31 - 3708.53
25	0.2060 - 0.2133	643.17 - 648.40	3708.52 - 3631.23
26	0.2134 - 0.2172	648.41 - 652.36	3631.22 - 3570.10
27	0.2173 - 0.2235	652.37 - 657.14	3570.09 - 3509.44
28	0.2236 - 0.2276	657.15 - 662.09	3509.43 - 3447.80
29	0.2277 - 0.2328	662.10 - 667.62	3447.79 - 3400.70
30	0.2329 - 0.2395	667.63 - 675.70	3400.69 - 3333.41
31	0.2396 - 0.2472	675.71 - 679.36	3333.40 - 3264.32
32	0.2473 - 0.2548	679.37 - 684.97	3264.31 - 3212.84
33	0.2549 - 0.2641	684.98 - 687.63	3212.83 - 3149.68
34	0.2642 - 0.2723	687.64 - 692.47	3149.67 - 3116.24
35	0.2724 - 0.2820	692.48 - 701.34	3116.23 - 3059.72
36	0.2821 - 0.2890	701.35 - 708.64	3059.71 - 3003.71
37	0.2891 - 0.2996	708.65 - 714.00	3003.70 - 2942.65
38	0.2997 - 0.3102	714.01 - 724.49	2942.64 - 2878.91
39	0.3103 - 0.3236	724.50 - 730.73	2878.90 - 2813.61
40	0.3237 - 0.3341	730.74 - 737.97	2813.60 - 2754.49
41	0.3342 - 0.3482	737.98 - 746.75	2754.48 - 2722.29
42	0.3483 - 0.3583	746.76 - 752.19	2722.28 - 2662.00
43	0.3584 - 0.3735	752.20 - 762.81	2661.99 - 2625.91
44	0.3736 - 0.3906	762.82 - 772.20	2625.90 - 2547.06
45	0.3907 - 0.4207	772.21 - 787.30	2547.05 - 2499.34
46	0.4208 - 0.4642	787.31 - 806.21	2499.33 - 2390.07
47	0.4643 - 0.5051	806.22 - 835.07	2390.06 - 2292.83
48	0.5052 - 0.5606	835.08 - 885.98	2292.82 - 2224.39
49	0.5607 - 0.7103	885.99 - 941.43	2224.38 - 2041.67
50	0.7104+	941.44+	2041.66 - 1.00

PART-A : STRENGTHENING

2 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 - 0.1145	0.01 - 603.47	17341.83+
2	0.1146 - 0.1160	603.48 - 625.34	17341.82 -14175.57
3	0.1161 - 0.1697	625.35 - 648.14	14175.55 -11153.14
4	0.1698 - 0.1791	648.15 - 696.77	11153.13 - 9234.77
5	0.1792 - 0.1890	696.78 - 715.20	9234.76 - 8704.02
6	0.1891 - 0.2047	715.21 - 723.53	8704.01 - 8335.66
7	0.2048 - 0.2221	723.54 - 750.53	8335.64 - 8097.48
8	0.2222 - 0.2307	750.54 - 759.69	8097.46 - 7923.25
9	0.2308 - 0.2358	759.70 - 764.35	7923.24 - 7567.53
10	0.2359 - 0.2443	764.36 - 769.29	7567.52 - 7183.89
11	0.2444 - 0.2536	769.30 - 785.17	7183.88 - 6907.50
12	0.2537 - 0.2646	785.18 - 793.02	6907.49 - 6481.62
13	0.2647 - 0.2723	793.03 - 795.74	6481.61 - 6403.98
14	0.2724 - 0.2780	795.75 - 798.05	6403.96 - 6208.09
15	0.2781 - 0.2856	798.06 - 806.15	6208.08 - 5993.69
16	0.2857 - 0.2891	806.16 - 808.47	5993.68 - 5913.12
17	0.2892 - 0.3011	808.48 - 810.46	5913.11 - 5785.20
18	0.3012 - 0.3050	810.47 - 818.67	5785.19 - 5652.44
19	0.3051 - 0.3084	818.68 - 822.05	5652.43 - 5539.07
20	0.3085 - 0.3164	822.06 - 828.25	5539.05 - 5225.32
21	0.3165 - 0.3219	828.26 - 830.97	5225.30 - 5193.42
22	0.3220 - 0.3260	830.98 - 838.93	5193.41 - 5111.98
23	0.3261 - 0.3290	838.94 - 849.11	5111.96 - 5074.24
24	0.3291 - 0.3332	849.12 - 857.74	5074.23 - 5046.27
25	0.3333 - 0.3385	857.75 - 864.26	5046.26 - 4972.50
26	0.3386 - 0.3444	864.27 - 866.03	4972.49 - 4941.55
27	0.3445 - 0.3541	866.04 - 871.10	4941.54 - 4865.97
28	0.3542 - 0.3703	871.11 - 874.25	4865.96 - 4775.70
29	0.3704 - 0.3760	874.26 - 875.33	4775.69 - 4659.55
30	0.3761 - 0.3792	875.34 - 876.95	4659.54 - 4653.02
31	0.3793 - 0.3849	876.96 - 880.34	4653.01 - 4641.16
32	0.3850 - 0.3922	880.35 - 882.07	4641.14 - 4411.79
33	0.3923 - 0.3945	882.08 - 883.41	4411.78 - 4384.00
34	0.3946 - 0.4012	883.42 - 886.50	4383.99 - 4348.14
35	0.4013 - 0.4076	886.51 - 888.90	4348.13 - 4324.23
36	0.4077 - 0.4143	888.91 - 891.87	4324.21 - 4286.21
37	0.4144 - 0.4166	891.88 - 892.91	4286.20 - 4267.52
38	0.4167 - 0.4187	892.92 - 895.66	4267.51 - 4226.27
39	0.4188 - 0.4206	895.67 - 898.12	4226.26 - 4177.36
40	0.4207 - 0.4309	898.13 - 901.40	4177.35 - 4146.02
41	0.4310 - 0.4453	901.41 - 903.88	4146.01 - 4094.33
42	0.4454 - 0.4612	903.89 - 909.34	4094.32 - 4049.68
43	0.4613 - 0.4680	909.35 - 913.50	4049.67 - 3988.36
44	0.4681 - 0.4731	913.51 - 914.99	3988.35 - 3953.84
45	0.4732 - 0.4761	915.00 - 920.66	3953.83 - 3849.56
46	0.4762 - 0.4800	920.67 - 923.15	3849.55 - 3767.77
47	0.4801 - 0.4859	923.16 - 927.50	3767.76 - 3710.23
48	0.4860 - 0.4892	927.51 - 929.75	3710.22 - 3685.69
49	0.4893 - 0.4960	929.76 - 930.80	3685.68 - 3535.52
50	0.4961 - 0.5020	930.81 - 934.16	3535.51 - 3456.81

PART-A : CONTINUE

2 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0.5021 - 0.5058	934.17 - 936.60	3456.80 - 3397.16
52	0.5059 - 0.5124	936.61 - 939.02	3397.15 - 3322.68
53	0.5125 - 0.5271	939.03 - 944.37	3322.67 - 3306.27
54	0.5272 - 0.5344	944.38 - 948.43	3306.26 - 3289.45
55	0.5345 - 0.5483	948.44 - 951.75	3289.44 - 3252.96
56	0.5484 - 0.5612	951.76 - 955.73	3252.95 - 3239.81
57	0.5613 - 0.5637	955.74 - 961.99	3239.80 - 3228.12
58	0.5638 - 0.5753	962.00 - 969.31	3228.11 - 3167.07
59	0.5754 - 0.5829	969.32 - 970.93	3167.06 - 3112.96
60	0.5830 - 0.5901	970.94 - 973.89	3112.95 - 3015.97
61	0.5902 - 0.5931	973.90 - 975.93	3015.96 - 3007.76
62	0.5932 - 0.5999	975.94 - 978.67	3007.75 - 2917.90
63	0.6000 - 0.6213	978.68 - 982.63	2917.89 - 2877.93
64	0.6214 - 0.6377	982.64 - 984.62	2877.92 - 2824.46
65	0.6378 - 0.6421	984.63 - 986.59	2824.45 - 2800.12
66	0.6422 - 0.6643	986.60 - 990.45	2800.11 - 2776.17
67	0.6644 - 0.6877	990.46 - 994.82	2776.16 - 2750.58
68	0.6878 - 0.6919	994.83 - 995.29	2750.57 - 2709.42
69	0.6920 - 0.6942	995.30 - 999.02	2709.41 - 2643.99
70	0.6943 - 0.7254	999.03 -1002.65	2643.98 - 2628.94
71	0.7255 - 0.7316	1002.66 -1006.10	2628.93 - 2567.53
72	0.7317 - 0.7515	1006.11 -1010.08	2567.52 - 2532.26
73	0.7516 - 0.7766	1010.09 -1011.22	2532.25 - 2459.68
74	0.7767 - 0.7934	1011.23 -1014.29	2459.67 - 2428.28
75	0.7935 - 0.8020	1014.30 -1018.73	2428.27 - 2424.44
76	0.8021 - 0.8175	1018.74 -1024.46	2424.43 - 2342.15
77	0.8176 - 0.8325	1024.47 -1025.37	2342.14 - 2320.02
78	0.8326 - 0.8489	1025.38 -1029.16	2320.01 - 2282.39
79	0.8490 - 0.8570	1029.17 -1043.82	2282.38 - 2218.12
80	0.8571 - 0.8696	1043.83 -1049.36	2218.11 - 2136.58
81	0.8697 - 0.8921	1049.37 -1054.28	2136.57 - 2105.07
82	0.8922 - 0.9108	1054.29 -1057.85	2105.06 - 2068.95
83	0.9109 - 0.9350	1057.86 -1061.48	2068.94 - 2034.49
84	0.9351 - 0.9847	1061.49 -1062.16	2034.48 - 2014.33
85	0.9848 - 1.0045	1062.17 -1064.89	2014.32 - 1987.21
86	1.0046 - 1.0507	1064.90 -1073.48	1987.20 - 1938.79
87	1.0508 - 1.0778	1073.49 -1081.49	1938.78 - 1910.38
88	1.0779 - 1.0896	1081.50 -1083.86	1910.37 - 1889.79
89	1.0897 - 1.1285	1083.87 -1093.10	1889.78 - 1791.28
90	1.1286 - 1.1621	1093.11 -1099.05	1791.27 - 1733.02
91	1.1622 - 1.2013	1099.06 -1107.98	1733.01 - 1664.15
92	1.2014 - 1.2479	1107.99 -1113.53	1664.14 - 1629.05
93	1.2480 - 1.3749	1113.54 -1125.46	1629.04 - 1505.72
94	1.3750 - 1.4670	1125.47 -1138.10	1505.71 - 1361.07
95	1.4671 - 1.5129	1138.11 -1148.27	1361.06 - 1169.11
96	1.5130 - 1.6181	1148.28 -1175.35	1169.10 - 1133.29
97	1.6182 - 1.6499	1175.36 -1212.43	1133.28 - 1046.43
98	1.6500 - 1.6500	1212.44 -1240.05	1046.42 - 940.53
99	1.6500 - 1.6500	1240.06 -1275.35	940.52 - 799.16
100	1.6500+	1275.36+	799.15 - 1.00

PART-B : SPECIAL NEEDS

2 YR PRIVATE

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0.0001 - 0.0786	0.01 - 549.93	14175.57+
2	0.0787 - 0.1245	549.94 - 622.78	14175.55 - 9234.77
3	0.1246 - 0.1414	622.79 - 660.02	9234.76 - 8335.66
4	0.1415 - 0.1629	660.03 - 692.77	8335.64 - 7923.25
5	0.1630 - 0.1738	692.78 - 707.91	7923.24 - 7183.89
6	0.1739 - 0.1871	707.92 - 715.95	7183.88 - 6481.62
7	0.1872 - 0.1971	715.96 - 723.51	6481.61 - 6208.09
8	0.1972 - 0.2053	723.52 - 738.32	6208.08 - 5913.12
9	0.2054 - 0.2142	738.33 - 749.49	5913.11 - 5652.44
10	0.2143 - 0.2275	749.50 - 758.97	5652.43 - 5225.32
11	0.2276 - 0.2380	758.98 - 773.14	5225.30 - 5111.98
12	0.2381 - 0.2456	773.15 - 785.61	5111.96 - 5046.27
13	0.2457 - 0.2486	785.62 - 789.41	5046.26 - 4941.55
14	0.2487 - 0.2529	789.42 - 798.73	4941.54 - 4775.70
15	0.2530 - 0.2741	798.74 - 806.18	4775.69 - 4653.02
16	0.2742 - 0.2800	806.19 - 815.61	4653.01 - 4411.79
17	0.2801 - 0.2875	815.62 - 825.82	4411.78 - 4348.14
18	0.2876 - 0.2943	825.83 - 840.22	4348.13 - 4286.21
19	0.2944 - 0.2987	840.23 - 846.47	4286.20 - 4226.27
20	0.2988 - 0.3121	846.48 - 850.61	4226.26 - 4146.02
21	0.3122 - 0.3188	850.62 - 860.87	4146.01 - 4049.68
22	0.3189 - 0.3282	860.88 - 866.03	4049.67 - 3953.84
23	0.3283 - 0.3405	866.04 - 880.79	3953.83 - 3767.77
24	0.3406 - 0.3499	880.80 - 888.67	3767.76 - 3685.69
25	0.3500 - 0.3570	888.68 - 891.48	3685.68 - 3456.81
26	0.3571 - 0.3787	891.49 - 901.59	3456.80 - 3322.68
27	0.3788 - 0.3837	901.60 - 906.68	3322.67 - 3289.45
28	0.3838 - 0.4020	906.69 - 914.03	3289.44 - 3239.81
29	0.4021 - 0.4081	914.04 - 918.71	3239.80 - 3167.07
30	0.4082 - 0.4281	918.72 - 925.13	3167.06 - 3015.97
31	0.4282 - 0.4354	925.14 - 930.31	3015.96 - 2917.90
32	0.4355 - 0.4524	930.32 - 937.40	2917.89 - 2824.46
33	0.4525 - 0.4684	937.41 - 942.26	2824.45 - 2776.17
34	0.4685 - 0.4841	942.27 - 945.19	2776.16 - 2709.42
35	0.4842 - 0.5096	945.20 - 961.89	2709.41 - 2628.94
36	0.5097 - 0.5358	961.90 - 976.42	2628.93 - 2532.26
37	0.5359 - 0.5545	976.43 - 994.98	2532.25 - 2428.28
38	0.5546 - 0.5935	994.99 -1005.11	2428.27 - 2342.15
39	0.5936 - 0.6072	1005.12 -1016.67	2342.14 - 2282.39
40	0.6073 - 0.6465	1016.68 -1030.45	2282.38 - 2136.58
41	0.6466 - 0.6677	1030.46 -1040.55	2136.57 - 2068.95
42	0.6678 - 0.7123	1040.56 -1060.72	2068.94 - 2014.33
43	0.7124 - 0.7474	1060.73 -1081.48	2014.32 - 1938.79
44	0.7475 - 0.8181	1081.49 -1104.23	1938.78 - 1889.79
45	0.8182 - 0.8723	1104.24 -1137.32	1889.78 - 1733.02
46	0.8724 - 0.9725	1137.33 -1164.38	1733.01 - 1629.05
47	0.9726 - 1.1174	1164.39 -1191.24	1629.04 - 1361.07
48	1.1175 - 1.3231	1191.25 -1264.32	1361.06 - 1133.29
49	1.3232 - 1.6499	1264.33 -1471.51	1133.28 - 940.53
50	1.6500+	1471.52+	940.52 - 1.00

PART-A : STRENGTHENING

4 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 - 0.0939	0.01 - 538.24	26103.34+
2	0.0940 - 0.1260	538.25 - 607.09	26103.33 -20855.06
3	0.1261 - 0.1345	607.10 - 620.21	20855.05 -17768.36
4	0.1346 - 0.1432	620.22 - 629.21	17768.35 -13151.79
5	0.1433 - 0.1528	629.22 - 646.97	13151.78 -11143.16
6	0.1529 - 0.1632	646.98 - 660.26	11143.14 -10509.04
7	0.1633 - 0.1684	660.27 - 666.76	10509.03 -10326.05
8	0.1685 - 0.1744	666.77 - 674.54	10326.04 - 8674.21
9	0.1745 - 0.1774	674.55 - 681.46	8674.20 - 8464.98
10	0.1775 - 0.1803	681.47 - 688.18	8464.96 - 8325.39
11	0.1804 - 0.1867	688.19 - 692.86	8325.38 - 8074.47
12	0.1868 - 0.1925	692.87 - 698.95	8074.46 - 7710.76
13	0.1926 - 0.1932	698.96 - 701.26	7710.75 - 7411.33
14	0.1933 - 0.1985	701.27 - 703.39	7411.32 - 7141.99
15	0.1986 - 0.2008	703.40 - 710.34	7141.98 - 7039.90
16	0.2009 - 0.2051	710.35 - 713.87	7039.89 - 6835.25
17	0.2052 - 0.2091	713.88 - 722.62	6835.24 - 6747.85
18	0.2092 - 0.2155	722.63 - 726.04	6747.84 - 6594.07
19	0.2156 - 0.2201	726.05 - 730.95	6594.05 - 6500.36
20	0.2202 - 0.2226	730.96 - 737.42	6500.35 - 6349.40
21	0.2227 - 0.2258	737.43 - 742.67	6349.39 - 6273.22
22	0.2259 - 0.2277	742.68 - 745.49	6273.21 - 6174.54
23	0.2278 - 0.2324	745.50 - 754.87	6174.53 - 6025.75
24	0.2325 - 0.2355	754.88 - 757.34	6025.74 - 5910.54
25	0.2356 - 0.2375	757.35 - 764.06	5910.53 - 5841.65
26	0.2376 - 0.2396	764.07 - 768.99	5841.64 - 5619.45
27	0.2397 - 0.2410	769.00 - 772.78	5619.44 - 5580.54
28	0.2411 - 0.2477	772.79 - 775.95	5580.53 - 5475.40
29	0.2478 - 0.2513	775.96 - 778.46	5475.39 - 5382.95
30	0.2514 - 0.2527	778.47 - 784.29	5382.94 - 5350.45
31	0.2528 - 0.2561	784.30 - 787.11	5350.44 - 5307.20
32	0.2562 - 0.2592	787.12 - 789.91	5307.19 - 5272.98
33	0.2593 - 0.2612	789.92 - 790.56	5272.96 - 5143.76
34	0.2613 - 0.2668	790.57 - 794.49	5143.75 - 5052.06
35	0.2669 - 0.2710	794.50 - 797.99	5052.05 - 4984.24
36	0.2711 - 0.2733	798.00 - 798.90	4984.23 - 4970.58
37	0.2734 - 0.2785	798.91 - 801.23	4970.57 - 4907.09
38	0.2786 - 0.2802	801.24 - 803.19	4907.08 - 4828.87
39	0.2803 - 0.2831	803.20 - 803.97	4828.86 - 4800.98
40	0.2832 - 0.2854	803.98 - 805.46	4800.96 - 4759.69
41	0.2855 - 0.2879	805.47 - 808.97	4759.68 - 4673.50
42	0.2880 - 0.2899	808.98 - 810.95	4673.49 - 4652.00
43	0.2900 - 0.2921	810.96 - 813.99	4651.99 - 4612.53
44	0.2922 - 0.2953	814.00 - 814.62	4612.52 - 4561.15
45	0.2954 - 0.2988	814.63 - 816.44	4561.14 - 4520.18
46	0.2989 - 0.3005	816.45 - 821.94	4520.17 - 4490.61
47	0.3006 - 0.3039	821.95 - 825.11	4490.60 - 4453.80
48	0.3040 - 0.3059	825.12 - 827.09	4453.79 - 4403.72
49	0.3060 - 0.3079	827.10 - 827.66	4403.71 - 4383.87
50	0.3080 - 0.3100	827.67 - 830.65	4383.86 - 4338.86

PART-A : CONTINUE

4 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0.3101 - 0.3133	830.66 - 831.68	4338.85 - 4317.64
52	0.3134 - 0.3140	831.69 - 833.65	4317.63 - 4304.37
53	0.3141 - 0.3164	833.66 - 835.65	4304.36 - 4273.67
54	0.3165 - 0.3179	835.66 - 836.87	4273.66 - 4241.81
55	0.3180 - 0.3193	836.88 - 840.35	4241.80 - 4202.61
56	0.3194 - 0.3205	840.36 - 841.09	4202.60 - 4164.98
57	0.3206 - 0.3279	841.10 - 844.16	4164.96 - 4022.91
58	0.3280 - 0.3297	844.17 - 846.37	4022.90 - 3985.47
59	0.3298 - 0.3304	846.38 - 847.87	3985.46 - 3969.92
60	0.3305 - 0.3325	847.88 - 852.09	3969.91 - 3930.62
61	0.3326 - 0.3345	852.10 - 852.63	3930.61 - 3875.61
62	0.3346 - 0.3375	852.64 - 855.02	3875.60 - 3838.91
63	0.3376 - 0.3438	855.03 - 859.02	3838.90 - 3808.48
64	0.3439 - 0.3461	859.03 - 862.33	3808.47 - 3775.92
65	0.3462 - 0.3479	862.34 - 864.68	3775.91 - 3756.35
66	0.3480 - 0.3523	864.69 - 866.07	3756.34 - 3738.02
67	0.3524 - 0.3601	866.08 - 867.68	3738.01 - 3726.95
68	0.3602 - 0.3664	867.69 - 868.16	3726.94 - 3714.73
69	0.3665 - 0.3743	868.17 - 874.39	3714.72 - 3679.20
70	0.3744 - 0.3800	874.40 - 877.36	3679.19 - 3649.10
71	0.3801 - 0.3880	877.37 - 879.42	3649.09 - 3618.91
72	0.3881 - 0.3967	879.43 - 883.52	3618.90 - 3601.65
73	0.3968 - 0.4012	883.53 - 886.91	3601.64 - 3577.04
74	0.4013 - 0.4083	886.92 - 888.20	3577.03 - 3526.79
75	0.4084 - 0.4125	888.21 - 891.51	3526.78 - 3472.81
76	0.4126 - 0.4204	891.52 - 894.22	3472.80 - 3411.82
77	0.4205 - 0.4282	894.23 - 896.23	3411.81 - 3394.44
78	0.4283 - 0.4367	896.24 - 900.57	3394.43 - 3378.48
79	0.4368 - 0.4419	900.58 - 902.76	3378.47 - 3340.15
80	0.4420 - 0.4511	902.77 - 908.31	3340.14 - 3296.89
81	0.4512 - 0.4641	908.32 - 913.56	3296.88 - 3254.01
82	0.4642 - 0.4806	913.57 - 917.25	3254.00 - 3209.33
83	0.4807 - 0.4905	917.26 - 921.77	3209.32 - 3179.35
84	0.4906 - 0.4982	921.78 - 926.81	3179.34 - 3094.70
85	0.4983 - 0.5081	926.82 - 931.72	3094.69 - 3013.87
86	0.5082 - 0.5261	931.73 - 933.55	3013.86 - 2975.51
87	0.5262 - 0.5537	933.56 - 944.88	2975.50 - 2901.89
88	0.5538 - 0.5601	944.89 - 952.59	2901.88 - 2850.12
89	0.5602 - 0.5988	952.60 - 957.96	2850.11 - 2829.72
90	0.5989 - 0.6265	957.97 - 968.08	2829.71 - 2742.87
91	0.6266 - 0.6700	968.09 - 976.60	2742.86 - 2709.33
92	0.6701 - 0.6903	976.61 - 986.27	2709.32 - 2668.29
93	0.6904 - 0.7403	986.28 - 992.93	2668.28 - 2625.96
94	0.7404 - 0.7557	992.94 -1006.21	2625.95 - 2573.02
95	0.7558 - 0.7716	1006.22 -1024.05	2573.01 - 2557.19
96	0.7717 - 0.8065	1024.06 -1045.97	2557.18 - 2500.10
97	0.8066 - 0.8439	1045.98 -1062.99	2500.09 - 2444.41
98	0.8440 - 0.9079	1063.00 -1074.30	2444.40 - 2377.48
99	0.9080 - 1.0112	1074.31 -1126.64	2377.47 - 2135.41
100	1.0113+	1126.65+	2135.40 - 1.00

PART-B : SPECIAL NEEDS

4 YR PUBLIC

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0.0001 - 0.0885	0.01 - 672.41	20855.06+
2	0.0886 - 0.1106	672.42 - 697.35	20855.05 -13151.79
3	0.1107 - 0.1199	697.36 - 726.89	13151.78 -10509.04
4	0.1200 - 0.1230	726.90 - 734.53	10509.03 - 8674.21
5	0.1231 - 0.1265	734.54 - 750.26	8674.20 - 8325.39
6	0.1266 - 0.1330	750.27 - 766.84	8325.38 - 7710.76
7	0.1331 - 0.1450	766.85 - 776.04	7710.75 - 7141.99
8	0.1451 - 0.1519	776.05 - 781.96	7141.98 - 6835.25
9	0.1519 - 0.1607	781.97 - 787.35	6835.24 - 6594.07
10	0.1608 - 0.1672	787.36 - 794.40	6594.05 - 6349.40
11	0.1673 - 0.1736	794.41 - 798.13	6349.39 - 6174.54
12	0.1737 - 0.1774	798.14 - 805.95	6174.53 - 5910.54
13	0.1775 - 0.1816	805.96 - 813.62	5910.53 - 5619.45
14	0.1817 - 0.1834	813.63 - 819.71	5619.44 - 5475.40
15	0.1835 - 0.1863	819.72 - 823.31	5475.39 - 5350.45
16	0.1864 - 0.1909	823.32 - 833.17	5350.44 - 5272.98
17	0.1910 - 0.1944	833.18 - 842.22	5272.96 - 5052.06
18	0.1945 - 0.1980	842.23 - 847.87	5052.05 - 4970.58
19	0.1981 - 0.2016	847.88 - 854.33	4970.57 - 4828.87
20	0.2017 - 0.2073	854.34 - 857.99	4828.86 - 4759.69
21	0.2074 - 0.2104	858.00 - 864.74	4759.68 - 4652.00
22	0.2105 - 0.2134	864.75 - 871.44	4651.99 - 4561.15
23	0.2135 - 0.2182	871.45 - 876.94	4561.14 - 4490.61
24	0.2183 - 0.2239	876.95 - 882.44	4490.60 - 4403.72
25	0.2240 - 0.2307	882.45 - 888.24	4403.71 - 4338.86
26	0.2308 - 0.2341	888.25 - 893.05	4338.85 - 4304.37
27	0.2342 - 0.2402	893.06 - 898.87	4304.36 - 4241.81
28	0.2403 - 0.2429	898.88 - 902.98	4241.80 - 4164.98
29	0.2430 - 0.2463	902.99 - 915.95	4164.96 - 3985.47
30	0.2464 - 0.2504	915.96 - 926.10	3985.46 - 3930.62
31	0.2505 - 0.2577	926.11 - 929.93	3930.61 - 3838.91
32	0.2578 - 0.2672	929.94 - 937.10	3838.90 - 3775.92
33	0.2673 - 0.2747	937.11 - 947.77	3775.91 - 3738.02
34	0.2748 - 0.2808	947.78 - 955.95	3738.01 - 3714.73
35	0.2809 - 0.2956	955.96 - 971.61	3714.72 - 3649.10
36	0.2957 - 0.3026	971.62 - 981.36	3649.09 - 3601.65
37	0.3027 - 0.3113	981.37 - 984.46	3601.64 - 3526.79
38	0.3114 - 0.3305	984.47 - 994.26	3526.78 - 3411.82
39	0.3306 - 0.3396	994.27 -1005.43	3411.81 - 3378.48
40	0.3397 - 0.3554	1005.44 -1016.53	3378.47 - 3296.89
41	0.3555 - 0.3736	1016.54 -1034.23	3296.88 - 3209.33
42	0.3737 - 0.3969	1034.24 -1044.54	3209.32 - 3094.70
43	0.3970 - 0.4305	1044.55 -1056.84	3094.69 - 2975.51
44	0.4306 - 0.4525	1056.85 -1065.52	2975.50 - 2850.12
45	0.4526 - 0.4880	1065.53 -1075.80	2850.11 - 2742.87
46	0.4881 - 0.5544	1075.81 -1105.73	2742.86 - 2668.29
47	0.5545 - 0.6263	1105.74 -1132.80	2668.28 - 2573.02
48	0.6264 - 0.6699	1132.81 -1156.43	2573.01 - 2500.10
49	0.6700 - 0.7792	1156.44 -1229.61	2500.09 - 2377.48
50	0.7793+	1229.62+	2377.47 - 1.00

PART-A : STRENGTHENING

4 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 - 0.0569	0.01 - 698.17	21317.37+
2	0.0570 - 0.0897	698.18 - 760.33	21317.36 -15038.08
3	0.0898 - 0.1051	760.34 - 784.50	15038.07 -13594.30
4	0.1052 - 0.1250	784.51 - 810.64	13594.29 -12102.52
5	0.1251 - 0.1363	810.65 - 818.63	12102.51 -11115.52
6	0.1364 - 0.1431	818.64 - 827.63	11115.51 -10642.75
7	0.1432 - 0.1474	827.64 - 836.09	10642.74 -10276.52
8	0.1475 - 0.1526	836.10 - 841.98	10276.51 -10186.97
9	0.1527 - 0.1601	841.99 - 847.80	10186.96 - 9681.36
10	0.1602 - 0.1659	847.81 - 852.54	9681.35 - 9418.54
11	0.1660 - 0.1711	852.55 - 856.43	9418.53 - 9160.14
12	0.1712 - 0.1782	856.44 - 860.69	9160.13 - 8833.39
13	0.1783 - 0.1821	860.70 - 863.70	8833.38 - 8703.32
14	0.1822 - 0.1901	863.71 - 868.72	8703.30 - 8294.02
15	0.1902 - 0.1937	868.73 - 871.57	8294.01 - 8160.92
16	0.1938 - 0.1991	871.58 - 876.43	8160.91 - 8074.15
17	0.1992 - 0.2033	876.44 - 879.19	8074.14 - 7952.78
18	0.2034 - 0.2077	879.20 - 884.02	7952.77 - 7766.44
19	0.2078 - 0.2131	884.03 - 886.77	7766.43 - 7636.25
20	0.2132 - 0.2175	886.78 - 891.40	7636.24 - 7522.10
21	0.2176 - 0.2231	891.41 - 894.66	7522.09 - 7389.64
22	0.2232 - 0.2270	894.67 - 898.74	7389.63 - 7289.51
23	0.2271 - 0.2297	898.75 - 902.26	7289.50 - 7160.73
24	0.2298 - 0.2336	902.27 - 906.02	7160.71 - 7070.71
25	0.2337 - 0.2390	906.03 - 908.33	7070.70 - 6998.64
26	0.2391 - 0.2427	908.34 - 911.16	6998.63 - 6897.70
27	0.2428 - 0.2487	911.17 - 913.49	6897.69 - 6791.72
28	0.2488 - 0.2528	913.50 - 917.12	6791.71 - 6705.99
29	0.2529 - 0.2571	917.13 - 919.46	6705.98 - 6602.59
30	0.2572 - 0.2617	919.47 - 922.29	6602.58 - 6500.73
31	0.2618 - 0.2656	922.30 - 925.58	6500.71 - 6421.55
32	0.2657 - 0.2684	925.59 - 928.18	6421.54 - 6367.62
33	0.2685 - 0.2741	928.19 - 932.11	6367.61 - 6292.60
34	0.2742 - 0.2803	932.12 - 935.72	6292.59 - 6224.40
35	0.2804 - 0.2860	935.73 - 938.24	6224.39 - 6162.72
36	0.2861 - 0.2894	938.25 - 941.17	6162.71 - 6108.21
37	0.2895 - 0.2938	941.18 - 943.96	6108.20 - 6019.20
38	0.2939 - 0.2979	943.97 - 946.36	6019.19 - 5934.93
39	0.2980 - 0.3026	946.37 - 947.55	5934.92 - 5879.34
40	0.3027 - 0.3058	947.56 - 949.27	5879.33 - 5815.29
41	0.3059 - 0.3095	949.28 - 951.95	5815.28 - 5757.80
42	0.3096 - 0.3136	951.96 - 954.30	5757.79 - 5707.27
43	0.3137 - 0.3179	954.31 - 957.19	5707.26 - 5635.34
44	0.3180 - 0.3220	957.20 - 960.58	5635.33 - 5587.76
45	0.3221 - 0.3256	960.59 - 962.46	5587.75 - 5509.07
46	0.3257 - 0.3288	962.47 - 964.54	5509.05 - 5435.68
47	0.3289 - 0.3354	964.55 - 966.56	5435.67 - 5367.75
48	0.3355 - 0.3403	966.57 - 968.76	5367.74 - 5322.77
49	0.3404 - 0.3454	968.77 - 972.50	5322.76 - 5288.41
50	0.3455 - 0.3492	972.51 - 975.29	5288.39 - 5235.43

PART-A : CONTINUE

4 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0.3493 - 0.3543	975.30 - 976.93	5235.42 - 5185.90
52	0.3544 - 0.3595	976.94 - 979.86	5185.89 - 5137.48
53	0.3596 - 0.3640	979.87 - 981.94	5137.46 - 5093.57
54	0.3641 - 0.3666	981.95 - 984.17	5093.55 - 5043.03
55	0.3667 - 0.3706	984.18 - 987.55	5043.02 - 4998.78
56	0.3707 - 0.3764	987.56 - 991.16	4998.77 - 4948.31
57	0.3765 - 0.3830	991.17 - 993.87	4948.30 - 4895.10
58	0.3831 - 0.3850	993.88 - 997.60	4895.09 - 4867.81
59	0.3851 - 0.3899	997.61 -1000.18	4867.80 - 4835.55
60	0.3900 - 0.3946	1000.19 -1003.24	4835.54 - 4798.70
61	0.3947 - 0.3999	1003.25 -1005.35	4798.69 - 4735.62
62	0.4000 - 0.4046	1005.36 -1008.00	4735.61 - 4684.24
63	0.4047 - 0.4097	1008.01 -1010.55	4684.23 - 4616.48
64	0.4098 - 0.4131	1010.56 -1013.55	4616.46 - 4578.07
65	0.4132 - 0.4172	1013.56 -1015.55	4579.05 - 4532.66
66	0.4173 - 0.4209	1015.56 -1019.23	4532.64 - 4495.82
67	0.4210 - 0.4301	1019.24 -1025.77	4495.80 - 4421.48
68	0.4302 - 0.4351	1025.78 -1029.31	4421.46 - 4354.18
69	0.4352 - 0.4420	1029.32 -1033.93	4354.17 - 4298.42
70	0.4421 - 0.4508	1033.94 -1038.28	4298.41 - 4230.77
71	0.4509 - 0.4569	1038.29 -1042.70	4230.76 - 4180.80
72	0.4570 - 0.4604	1042.71 -1045.19	4180.79 - 4137.60
73	0.4605 - 0.4669	1045.20 -1049.92	4137.59 - 4091.83
74	0.4670 - 0.4721	1049.93 -1052.92	4091.82 - 4041.84
75	0.4722 - 0.4775	1052.93 -1057.60	4041.83 - 3998.01
76	0.4776 - 0.4870	1057.61 -1063.49	3998.00 - 3941.60
77	0.4871 - 0.4924	1063.50 -1068.15	3941.59 - 3900.75
78	0.4925 - 0.5022	1068.16 -1074.88	3900.74 - 3824.10
79	0.5023 - 0.5092	1074.89 -1080.07	3824.09 - 3775.62
80	0.5093 - 0.5262	1080.08 -1083.18	3775.61 - 3708.14
81	0.5263 - 0.5347	1083.19 -1087.87	3708.13 - 3633.77
82	0.5348 - 0.5462	1087.88 -1095.59	3633.76 - 3593.12
83	0.5463 - 0.5555	1095.60 -1100.45	3593.11 - 3523.54
84	0.5556 - 0.5690	1100.46 -1110.48	3523.53 - 3471.47
85	0.5691 - 0.5832	1110.49 -1119.17	3471.46 - 3401.47
86	0.5833 - 0.6058	1119.18 -1129.29	3401.46 - 3331.50
87	0.6059 - 0.6249	1129.30 -1138.17	3331.49 - 3228.58
88	0.6250 - 0.6474	1138.18 -1152.87	3228.57 - 3165.26
89	0.6475 - 0.6737	1152.88 -1171.10	3165.25 - 3088.15
90	0.6738 - 0.6957	1171.11 -1188.30	3088.14 - 3010.37
91	0.6958 - 0.7185	1188.31 -1208.41	3010.36 - 2890.30
92	0.7186 - 0.7537	1208.42 -1221.25	2890.29 - 2770.60
93	0.7538 - 0.8025	1221.26 -1241.51	2770.59 - 2655.30
94	0.8026 - 0.8497	1241.52 -1262.74	2655.29 - 2499.82
95	0.8498 - 0.9006	1262.75 -1288.81	2499.81 - 2362.56
96	0.9007 - 0.9389	1288.82 -1313.17	2362.55 - 2103.40
97	0.9390 - 0.9882	1313.18 -1354.31	2103.39 - 1902.16
98	0.9883 - 1.0662	1354.32 -1419.30	1902.15 - 1669.07
99	1.0663 - 1.2827	1419.31 -1525.66	1669.06 - 1435.75
100	1.2828+	1525.67+	1435.74 - 1.00

PART-B : SPECIAL NEEDS

4 YR PRIVATE

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0.0001 - 0.0787	0.01 - 710.86	15038.08+
2	0.0788 - 0.1102	710.87 - 747.49	15038.07 -12102.52
3	0.1103 - 0.1285	747.50 - 781.80	12102.51 -10642.75
4	0.1286 - 0.1434	781.81 - 811.30	10642.74 -10186.97
5	0.1435 - 0.1613	811.31 - 836.72	10186.96 - 9418.54
6	0.1614 - 0.1729	836.73 - 858.86	9418.53 - 8833.39
7	0.1730 - 0.1849	858.87 - 872.75	8833.38 - 8294.02
8	0.1850 - 0.1932	872.76 - 893.98	8294.01 - 8074.15
9	0.1933 - 0.2048	893.99 - 906.57	8074.14 - 7766.44
10	0.2049 - 0.2117	906.58 - 918.81	7766.43 - 7522.10
11	0.2118 - 0.2202	918.82 - 926.81	7522.09 - 7289.51
12	0.2203 - 0.2282	926.82 - 942.52	7289.50 - 7070.71
13	0.2283 - 0.2340	942.53 - 952.46	7070.70 - 6897.70
14	0.2341 - 0.2402	952.47 - 958.18	6897.69 - 6705.99
15	0.2403 - 0.2471	958.19 - 965.37	6705.98 - 6500.73
16	0.2472 - 0.2537	965.38 - 977.71	6500.71 - 6367.62
17	0.2538 - 0.2611	977.72 - 986.23	6367.61 - 6224.40
18	0.2612 - 0.2653	986.24 - 996.71	6224.39 - 6108.21
19	0.2654 - 0.2713	996.72 -1008.41	6108.20 - 5934.93
20	0.2714 - 0.2787	1008.42 -1017.71	5934.92 - 5815.29
21	0.2788 - 0.2864	1017.72 -1027.85	5815.28 - 5707.27
22	0.2865 - 0.2963	1027.86 -1035.14	5707.26 - 5587.76
23	0.2964 - 0.3049	1035.15 -1043.20	5587.75 - 5435.68
24	0.3050 - 0.3124	1043.21 -1054.51	5435.67 - 5322.77
25	0.3125 - 0.3207	1054.52 -1065.47	5322.76 - 5235.43
26	0.3208 - 0.3293	1065.48 -1075.85	5235.42 - 5137.48
27	0.3294 - 0.3373	1075.86 -1084.42	5137.46 - 5043.03
28	0.3374 - 0.3469	1084.43 -1094.79	5043.02 - 4948.31
29	0.3470 - 0.3549	1094.80 -1109.66	4948.30 - 4867.81
30	0.3550 - 0.3649	1109.67 -1120.25	4867.80 - 4798.70
31	0.3650 - 0.3713	1120.26 -1134.01	4798.69 - 4684.24
32	0.3714 - 0.3806	1134.02 -1144.11	4684.23 - 4578.07
33	0.3807 - 0.3895	1144.12 -1154.23	4578.05 - 4495.82
34	0.3896 - 0.4004	1154.24 -1164.77	4495.80 - 4354.18
35	0.4005 - 0.4070	1164.78 -1182.91	4354.17 - 4230.77
36	0.4071 - 0.4193	1182.92 -1195.00	4230.76 - 4137.60
37	0.4194 - 0.4297	1195.01 -1212.65	4137.59 - 4041.84
38	0.4298 - 0.4400	1212.66 -1228.48	4041.83 - 3941.60
39	0.4401 - 0.4541	1228.49 -1246.34	3941.59 - 3824.10
40	0.4542 - 0.4621	1246.35 -1262.22	3824.09 - 3708.14
41	0.4622 - 0.4753	1262.23 -1296.73	3708.13 - 3593.12
42	0.4754 - 0.4950	1296.74 -1317.78	3593.11 - 3471.47
43	0.4951 - 0.5140	1317.79 -1343.19	3471.46 - 3331.50
44	0.5141 - 0.5445	1343.20 -1374.29	3331.49 - 3165.26
45	0.5446 - 0.5793	1374.30 -1410.88	3165.25 - 3010.37
46	0.5794 - 0.6127	1410.89 -1446.60	3010.36 - 2770.60
47	0.6128 - 0.7043	1446.61 -1517.31	2770.59 - 2499.82
48	0.7044 - 0.8032	1517.32 -1603.72	2499.81 - 2103.40
49	0.8033 - 0.9521	1603.73 -1763.08	2103.39 - 1669.07
50	0.9522+	1763.09+	1669.06 - 1.00

PART B: SPECIAL NEEDS

GRADUATE PUBLIC

POINTS	NEED PERCENT	NEED DOLLARS
1	0.0001 - 0.0942	0.01 - 545.59
7	0.0943 - 0.1869	545.60 - 1380.94
19	0.1870 - 0.3619	1380.95 - 1408.23
32	0.3620 - 0.3785	1408.24 - 1675.49
50	0.3786+	1675.50+

PART B: SPECIAL NEEDS

GRADUATE PRIVATE

POINT	NEED PERCENT	NEED DOLLAR
1	0.0001 - 0.0176	0.01 - 449.61
2	0.0177 - 0.0248	449.62 - 577.11
3	0.0249 - 0.0315	577.12 - 595.20
4	0.0316 - 0.0401	595.21 - 618.31
5	0.0402 - 0.0567	618.32 - 669.46
6	0.0568 - 0.0618	669.47 - 728.18
7	0.0619 - 0.0635	728.19 - 783.84
8	0.0636 - 0.0650	783.85 - 813.56
9	0.0651 - 0.0863	813.57 - 848.67
10	0.0864 - 0.0994	848.68 - 873.85
11	0.0995 - 0.1018	873.86 - 881.80
12	0.1019 - 0.1028	881.81 - 897.93
13	0.1029 - 0.1113	897.94 - 949.89
14	0.1114 - 0.1170	949.90 - 968.59
15	0.1171 - 0.1299	968.60 - 969.71
16	0.1300 - 0.1419	969.72 -1011.31
17	0.1420 - 0.1461	1011.32 -1018.04
18	0.1462 - 0.1478	1018.05 -1024.48
19	0.1479 - 0.1605	1024.49 -1030.75
20	0.1606 - 0.1629	1030.76 -1071.02
21	0.1630 - 0.1737	1071.03 -1100.22
22	0.1738 - 0.1777	1100.23 -1112.27
23	0.1778 - 0.1785	1112.28 -1127.49
24	0.1786 - 0.1816	1127.50 -1301.17
25	0.1817 - 0.1855	1301.18 -1360.01
26	0.1856 - 0.1913	1360.02 -1369.27
27	0.1914 - 0.1977	1369.28 -1415.09
28	0.1978 - 0.2021	1415.10 -1444.43
29	0.2022 - 0.2044	1444.44 -1448.95
30	0.2045 - 0.2062	1448.96 -1512.23
31	0.2063 - 0.2098	1512.24 -1517.85
32	0.2099 - 0.2130	1517.86 -1543.44
33	0.2131 - 0.2307	1543.45 -1584.03
34	0.2308 - 0.2367	1584.04 -1589.99
35	0.2368 - 0.2400	1590.00 -1604.72
36	0.2401 - 0.2618	1604.73 -1635.81
37	0.2619 - 0.2625	1635.82 -1643.40
38	0.2626 - 0.2736	1643.41 -1664.07
39	0.2737 - 0.2833	1664.08 -1766.45
40	0.2834 - 0.2858	1766.46 -1802.77
41	0.2859 - 0.2954	1802.78 -1945.64
42	0.2955 - 0.3064	1945.65 -1955.76
43	0.3065 - 0.3174	1955.77 -2028.77
44	0.3175 - 0.3203	2028.78 -2258.91
45	0.3204 - 0.3520	2258.92 -2275.66
46	0.3521 - 0.3717	2275.67 -2580.90
47	0.3718 - 0.4614	2580.91 -2772.57
48	0.4615 - 0.5237	2772.58 -3400.06
49	0.5238 - 0.6939	3400.07 -3563.35
50	0.6940+	3563.36+

[FR Doc. 84-25638 Filed 9-27-84; 8:45 am]
BILLING CODE 4000-01-C

Grants for Secretary's Discretionary Program—Improving Education Through the Application of Technology

AGENCY: Department of Education.

ACTION: Application Notice for Continuation Awards for Fiscal Year 1985.

Applications are invited for continuation awards under the Secretary's Discretionary Program—Improving Education through the Application of Technology.

The authority for this program is contained in section 583(a) of Chapter 2 of the Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3851, Pub. L. 97–35).

This notice solicits applications from only those State and local education agencies; institutions of higher education; or other public and private agencies, organizations, and institutions that received grants from fiscal year 1983 funds for multi-year projects under this program.

The purpose of the continuation awards is to continue to support projects—

(a) That develop and demonstrate—

(1) How educational technology can be used effectively in elementary and secondary school improvement;

(2) How students can increase their competence in science, mathematics, reading, and writing, or combinations thereof, through the use of technology in the classroom; and

(3) How relevant teacher training can enable teachers to enhance their programs of instruction by using computers and other technologies; and

(b) That provide for dissemination of the results of this experience to other schools, districts, and education decision makers.

Closing Date for Transmittal of Applications

To be assured of consideration for funding, an application for a grant should be mailed or hand-delivered by October 31, 1984.

If an application is late, the Department of Education may lack sufficient time to review it with other noncompeting continuations and may decline to accept it.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.122E, Washington D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept a private metered postmark or a mail receipt that is not dated by the U.S. Postal Service as proof of mailing.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand

An application that is hand-delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. An application that is hand-delivered will not be accepted after 4:30 p.m. on October 31, 1984.

Length of Awards

The proposed budget period for the second year may not exceed 12 months.

Available Funds

It is expected that approximately $1,200,000 will be available for 12 continuation grants in fiscal year 1985 under the Secretary's Discretionary Program—Improving Education through the Application of Technology.

These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations. Applicants should be aware that Congress has not acted on the Education Department appropriation for fiscal year 1985.

Application Forms

Application forms and program information packages are available. They may be obtained by writing to the Educational Technology Branch, Office of Educational Research and Improvement, U.S. Department of Education (Room 711, Brown Building), 400 Maryland Avenue, SW., Washington, D.C. 20202–1604.

Applications must be prepared and submitted in accordance with the regulations, instruction, and forms included in the program information package. However, nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations governing this program.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length.

(Approved by the Office of Management and Budget under Control Number 1880–0505)

Applicable Regulations

Regulation applicable to this program are the Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78.

FOR FURTHER INFORMATION CONTACT: Ann Erdman, Education Program Specialist, Educational Technology Branch, Office of Educational Research and Improvement, U.S. Department of Education (Room 711, Brown Building), 400 Maryland Avenue, SW., Washington, D.C. 20202–1604. Telephone (202) 254–5856.

(Catalog of Federal Domestic Assistance No. 84.122E, Secretary's Discretionary Program—Improving Education Through the Application of Technology)

(20 U.S.C. 3851)

Dated: September 25, 1984.

Donald J. Senese,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 84–25789 Filed 9–27–84; 8:45 am]

BILLING CODE 4000–01–M

Federal Education Data Acquisition Council; Meeting

AGENCY: Department of Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and agenda of a forthcoming meeting of the Federal Education Data Acquisition Council. This notice also describes the functions of the council. Notice of this meeting is required under section 10(a)(2) of the Federal advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: October 15 and 16, 1984.

ADDRESS: Federal Office Building No. 6, Room 3000, 400 Maryland Avenue, SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster, Executive Director, Federal Education Data Acquisition Council, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, D.C. 20202, (202) 426-7304.

SUPPLEMENTARY INFORMATION: The Federal Education Data Acquisition Council is established under section 400A of the General Education Provisions Act (Pub. L. 95-561; 20 U.S.C. 1221-3). The council is established to advise and assist the Secretary with respect to the improvement, development and coordination of Federal education information and data acquisition activities, and to review the policies, practices and procedures established by the Secretary.

The meeting of the Council is open to the public. The agenda includes:

FEDAC Interim Review Procedures
Discussion of the Food and Nutrition Service as a Major Data Collection Agency
Council Business

Records are kept of all Council proceedings, and are available for public inspection at the Division of Education Information Management, 330 C Street, SW., Washington, D.C. 20202 from the hours of 8:00 a.m. to 5:00 p.m.

Dated: September 24, 1984.

Ralph J. Olmo,

Acting Deputy Under Secretary for Management.

[FR Doc. 84-25806 Filed 9-27-84; 8:45 am]

BILLING CODE 4000-01-M

Office of Special Education and Rehabilitative Services

Secondary Education and Transitional Services for Handicapped Youth

AGENCY: Department of Education.

ACTION: Application Notice Establishing Closing Dates for Transmittal of Fiscal Year 1985 New Awards.

Applications are invited for new projects under the Secondary Education and Transitional Services for Handicapped Youth Program.

Authorization for this program is contained in section 626 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1425)

Applications may be submitted by institutions of higher education, State educational agencies, local educational agencies, or other public and private non-profit institutions or agencies (including the State job training coordinating councils and service delivery area administrative entities established under the Job Training Partnership Act).

(29 U.S.C. 1501 *et seq.*)

The purpose of this program is to support research, development, demonstration, evaluation, and other types of projects that improve secondary education and other services for handicapped youth in order to assist them in the transition from secondary school to postsecondary environments such as competitive or supported employment.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158-29168) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why not; and
- Revokes OMB Circular A-95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects which do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The Secondary Education and Transitional Services for Handicapped Youth Program is a new program, and States have not made a determination as to whether it will be included or excluded from review under the State review process. Therefore, immediately upon receipt of this notice, an applicant should contact the appropriate State single point of contact to see if this assistance will be included under its State's review process and to comply with the State's process under Executive Order 12372. A list containing the single point of contact for each State will be included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by February 7, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.158), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

Please Note That the Above address is Not the Same Address as the One to Which the Applicant Submits its Application. Do Not Send Applications to the Above Address.

Organization of notice: This notice contains two parts. Part I is a list of all application closing dates covered by this notice. Part II contains individual application announcements for each priority area.

Transmittal of applications: An application for a new project must be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document.

Applications delivered by mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: CFDA Number 84.158, 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered

postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application for a new project that is hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date.

Part I—List of Program Application Announcements Published in This Notice

CFDA No.	Priority area	Closing date
84.158G	Research Projects in Secondary Education.	December 7, 1984.
84.158C	Cooperative Models for Planning and Developing Transitional Services.	December 7, 1984.

Part II—Application Notices

84.158G—Research Projects in Secondary Education

Closing Date: December 7, 1984.

Applications are invited for new research projects under the Research Projects in Secondary Education priority at 34 CFR 326.30(h).

This priority supports research projects which focus on secondary level programs for handicapped youth. These projects will have as their major objective the development and improvement of replicable programs and will focus on the evaluation of the program or the components of the program, such as curricula design, program organization, employer involvement, and instructional methods.

Available funds: It is estimated that approximately $1,900,000 will be available for support of 20 new research projects under this priority in fiscal year 1985. This estimate of funding level does not bind the U.S. Department of Education to a specific number of awards or to the amount of any award, unless that amount is otherwise specified by statute or regulations. Award approval is for a period of up to 36 months. *See* 34 CFR 75.253.

84.158C—Cooperative Models for Planning and Developing Transitional Services

Closing Date: December 7, 1984.

Applications are invited for new cooperative models under the Cooperative Models for Planning and Developing Transitional Services priority at 34 CFR 326.30(e).

This priority supports projects designed to plan and develop cooperative models for activities among State or local educational agencies, developmental disabilities councils, and adult service agencies, including vocational rehabilitation, mental health, mental retardation, public employment, and private employers, which will facilitate effective planning for services to meet the employment needs of handicapped youth as they leave school.

Available funds: It is estimated that approximately $900,000 will be available for support of 13 new cooperative models under this priority in fiscal year 1985. This estimate of funding level does not bind the U.S. Department of Education to a specific number of awards or to the amount of any award, unless that amount is otherwise specified by statute or regulations. Award approval is for a period of up to 36 months. *See* 34 CFR 75.253.

Application forms: Application forms and program information packages are expected to be available on October 12, 1984, and may be obtained by writing to the Research Projects Branch, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3511), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under Control Number 1820-0028)

Applicable regulations: Regulations applicable to this program announcement include the following:

(a) Regulations governing the Secondary Education and Transitional Services for Handicapped Youth program. (34 CFR Part 326).

(b) The Education Department, General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

For further information contact: Dr. William Halloran, Research Projects Branch, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3521), Washington D.C. 20202. Telephone: (202) 732-1064.

(Catalog of Federal Domestic Assistance Number 84.158; Secondary Education and Transitional Services for Handicapped Youth)

(20 U.S.C. 1425)

Dated: September 24, 1984.

T.H. Bell,

Secretary of Education.

[FR Doc. 84-25788 Filed 9-27-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of the Secretary

Proposed Contract Award to NUS Corporation

AGENCY: Department of Energy.

ACTION: Notice of contract award to NUS Corporation.

SUMMARY: In accordance with Department of Energy (DOE) Acquisition Regulations, 48 CFR Chapter 9 (49 FR 11922, March 29, 1984), DOE gives public notice that a contract is being awarded to NUS Corporation despite the existence of potential organizational conflicts of interest because it has been determined that the award is in the best interest of the United States.

FOR FURTHER INFORMATION CONTACT:

Thomas G. Frangos, U.S. Department of Energy, Office of Operational Safety, Environmental Protection Division. PE-243, Washington, DC 20585, (301) 353-4717

Shirley Moore, U.S. Department of Energy, Office of Procurement Operations, MA-453.1, Washington, DC 20585

Findings, Mitigation and Determination

Upon the basis of the following findings, mitigation and determination, the proposed contract described below is being awarded, recognizing the

existence of potential organizational conflicts of interest pursuant to the authority of 48 CFR 909.570–9(a)(3).

Findings

1. The U.S. Department of Energy, Office of Operational Safety (OOS) has a continuing need for specialized technical assistance and management support to develop its policies and standards that independently assure and confirm the effectiveness of environmental protection at DOE field operations and facilities. This contract, which will provide this support, will include evaluation of: (a) Laboratory and field data, (b) compliance with environmental regulation, (c) design of field monitoring strategies, (d) environmental transport and fate of hazardous and radioactive mix chemicals, and (e) impact of chemicals on man and the environment.

2. Using the data and analyses delivered under this contract, the OOS staff will develop various alternative strategies available to accomplish a given requirement or solve a particular problem. In addition to the contract-developed data and analysis, OOS considers other factors in the development of these strategies, such as budget and schedule considerations and potential environmental impacts. Subsequently, the alternatives are further assessed and compared by OOS staff members in order to permit OOS and Department of Energy management to make decisions regarding trends and alternatives.

3. In accordance with 48 CFR 909.570–5, NUS Corporation has provided information concerning business activities related to the work to be performed for DOE, which bear on whether it has possible conflicts of interest: (a) With respect to being able to render impartial, technically sound, and objective assistance or advice or (b) which may give it an unfair competitive advantage.

4. Based on an evaluation of the information provided by NUS Corporation, I find that the work to be performed under the proposed contract could create a potential conflict of interest because of the nature of the proposed support services contract, and thereby influence DOE decisions so as to benefit the contractor's other Government and DOE business activities. In addition, there may be the appearance that, through this support contract, NUS Corporation could potentially influence DOE decisions in such a way as to benefit their other organizational entities.

NUS is affiliated with the Halliburton Company, Dallas, Texas, and their subsidiary, Brown & Root, Inc., Houston, Texas. The Halliburton Company and Brown & Root, Inc., own stock in NUS Corporation. The Halliburton Company business may be generally divided into four principal categories of operations: oil field services and products, industrial engineering/construction services, marine engineering/construction services, and insurance services. Brown & Root, Inc., is engaged in performing a broad range of engineering and construction services in Government, industrial and marine areas.

NUS is affiliated with NUS Training Corporation, NUS Process Services Corporation, NUS Operating Services Corporation and EQEX Corporation. The NUS Training Corporation provides personnel training programs and services primarily to the fossil and nuclear power industry. The NUS Process Services Corporation provides on-site, low-level radwaste processing services to the nuclear utility industry. The NUS Operating Services Corporation provides a variety of services to assist electric utility firms in the operation of nuclear and coal fired power plants. The Equipment Exchange Company (EQEX) provides equipment brokerage services primarily to the nuclear utility industry. These affiliates are wholly-owned subsidiaries of NUS Corporation.

NUS has three international affiliates: (1) Japan NUS Company, Ltd., Tokyo, Japan; (2) Nuklear-Ingenieur-Service GmbH, Hanau, West Germany; and (3) Arabian Environmental Services, Ltd., Jeddah, Kingdom of Saudi Arabia. These three affiliates provide engineering and consulting services similar to those of NUS within the geographical areas where they are located.

5. Because no other offeror in the competitive range was found to have little or no likelihood of organizational conflicts of interest and based on the needs of the Agency and the fact that NUS had the higher technical rating, it is neither feasible nor desirable to disqualify NUS from contract award in accordance with 48 CFR 909.570–9(a)(1). Furthermore, it is not possible to totally avoid the organizational conflicts of interest by inclusion of appropriate conditions in the resulting contract, pursuant to 48 CFR 909.570–9(a)(2).

6. The technical support required for OOS could be obtained only through an organization having a broad engineering and consulting service for Government and private industry. Because of this fact, the potential for conflicts of interest would have ocurred to some extent with any of the qualifying firms.

7. The work NUS Corporation will preform under the OOS contract will not benefit the contractor or provide any advantage in its performance of other DOE contracts. Under the OOS contract, NUS Corporation will not be required to evaluate services it provides under contract to other DOE organizational elements.

Mitigation

Mitigation, to the extent feasible, under 48 CFR 909.570–9(a)(3) will be obtained by OOS staff review of contract deliverables to insure objectivity and independence on the part of the contractor. Furthermore, as this would be a level-of-effort type contract in which specific work directives would be given to the contractor by task assignment, the Contracting Officer's technical representative, who prepares such assignments, and the Contracting Officer would insure that the assigned Statement of Work does not present a direct conflict of interest. In addition, the special clause "Organizational Conflicts of Interest," 48 CFR 952.209–72, will be included in the contract.

Determination

In light of the above findings and mitigation, and in accordance with 48 CFR 909.570–9(a)(3), I have detemined that the proposed contract award to NUS Corporation is in the best interests of the United States.

Issued in Washington, D.C., on September 26, 1984.

R.E. Tiller,

Acting Assistant Secretary for Policy, Safety, and Environment.

[FR Doc. 84–25938 Filed 9–27–84; 8:45 am]

BILLING CODE 6450–01–M

United Engineers & Constructors; Proposed Contract Award

SUMMARY: In accordance with Department of Energy (DOE) Acquisition Regulations (DEAR), 48 CFR Chapter 9, Subpart 909.570–9, published in the **Federal Register** on March 28, 1984, DOE gives public notice that a contract is being awarded, recognizing the existence of potential organizational conflicts of interest, because it has been determined to be in the best interest of the United States.

FOR FURTHER INFORMATION CONTACT:

Wanda L. Simpson, Office of Procurement Operations, Room 1J–059, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 252–1077.

Richard G. Oehl, Office of Nuclear Energy, Room E–462, Germantown,

Washington, DC 20545, Telephone Number (301) 353–2948.

Findings

1. The Department of Energy (DOE), Office of the Assistant Secretary for Nuclear Energy has a continuing requirement for technical analyses and data development relating to nuclear powerplant technologies, including comparisons to the competitive alternative technologies. This contract effort will include design studies of a conceptual and preliminary nature, engineering studies, analysis of contruction techniques and methods, economic analysis and systems analysis of nuclear systems and competing technologies and their applications to meet both electrical and thermal energy needs.

2. In response to the solicitation for a contractor to perform this type of effort, two offerors were deemed to fall into the competitive range. Of the two, United Engineers and Constructors, Inc. (UE&C) received the higher technical rating and had the lower cost proposal.

3. In accordance with 48 CFR 909.570–5, UE&C provided statements disclosing relevant information concerning its interest related to the work performed for the agency and bearing on whether it has possible organizational conflicts of interest: (1) With respect to being able to render impartial, technically sound and objective assistance or advice, or (2) which may give it an unfair competitive advantage.

4. Based on an evaluation of the information provided, it has been determined that there could be potential or perceived conflicts of interest with regard to the work under this contract. The clientele and energy interests of Raytheon Company and its wholly owned subsidiary UE&C, could potentially have organizational conflicts of interest with regard to the work required by the Office of Nuclear Energy (NE), in accordance with 48 CFR 909.570–9(a). In particular, UE&C derives a substantial portion of its annual income from arrangements with entities that could be affected by the work under this proposed contract.

5. Because no other offeror in the competitive range was found to have little or no likelihood of organizational conflicts of interest and based on the needs of the agency and the fact that UE&C had the higher technical rating and lowest cost, it is neither feasible nor desirable to disqualify UE&C from contract award in accordance with 48 CFR 909–570(a)(1). Furthermore, it is not possible to totally avoid the organizational conflicts of interest by inclusion of appropriate conditions in the resulting contract, pursuant to 48 CFR 909.570–9(a)(2).

Mitigation

Mitigation to the extent feasible under 48 CFR 909.570–9(a)(3) will be obtained by NE staff review of contract deliverables to insure objectivity and independence on the part of the contractor. Furthermore, as this will be a level-of-effort type contract in which specific work directives would be given to the contractor by task assignment, the Contracting Officer's technical representative, who prepares such assignments, and the Contracting Officer would insure that the assigned statement of work does not present a direct conflict of interest. In addition, the Organizational Conflicts of Interest Special Clause entitled "Organizational Conflicts of Interest—Special Clause (DEAR 952.209.72)," shall be included in the contract.

Determination

In light of the above findings and mitigation, and in accordance with 48 CFR 909.570–9(a)(3), the proposed contract award is in the best interests of the United States.

Dated: September 24, 1984.

James W. Vaughan, Jr.,

Acting Assistant Secretary for Nuclear Energy.

[FR Doc. 84–25939 Filed 9–27–84; 8:45 am]

BILLING CODE 6450–01–M

Inventions Available for License

The Department of Energy hereby announces a number of inventions available for license, in accordance with 35 U.S.C 207–209, in order to achieve expeditious commercialization of results of federally funded research and development. For further information concerning licensing of the inventions, please contact Robert J. Marchick, Office of the Assistant General Counsel for Patents, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Copies of specifications of the listed U.S. patent applications may be obtained, for a modest fee, from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161.

Signed at Washington, D.C., on this 18th day of September, 1984.

United States Department of Energy.

Theodore J. Garrish,

General Counsel.

U.S. DEPARTMENT OF ENERGY

Patent Applications

Serial No. and Title of Invention

403,219—Direct Metal Brazing to Cermet Feedthroughs

393,285—Device for Identifying a Circumferential Position

488,311—Process for the Production of ^{18}F-2-Deoxy-2-Fluoro-D-Glucose

494,485—Process for Forming Pure Silver Ohmic Contacts to N- and P-Type Gallium Arsenide, Materials

521,496—Kiln for Hot-Pressing Compacts in a Continuous Manner

526,762—In-Vivo Measurement of Lithium in the Brain and Other Organs

541,176—Solid Oxide Fuel Cell Having Compound Cross Flow Gas Patterns

541,177—Solid Oxide Fuel Cell Having Monolithic Cross Flow Core and Manifolding

541,178—Integral Manifolding Structuring for Fuel Cell Core Having Parallel Gas Flow

541,184—Method of Fabricating a Monolithic Core for a Solid Oxide Fuel Cell

541,185—Fuel Cell Stack With Internal Manifolds for Reactant Gases

541,186—Disposable Rabbit

541,187—System for Maintaining the Alignment of Mandrels in Filament Winding Operations

541,188—Preparation of Silicon Carbide Fibers

541,196—Method for Forming Fibrous Silicon Carbide Insulating Material

541,213—Solid Oxide Fuel Cell Having Monolithic Core

541,608—Acoustic Resonator and Method of Making Same

542,955—Flow Cytometric Measurement of Total DNA and Incorporated Halodeoxyuridine

542,956—Ion Plated Electronic Tube Device

542,957—Method and Apparatus for Measuring Shear Modulus and Viscosity of a Monomolecular Film

542,958—Optical Pin Apparatus for Measuring the Arrival Time and Velocity of Shock Waves and Particles

542,968—Laser Utilizing a Gaseous Lasing Medium and Method for Operating the Same

543,686—Fabrication of Metallic Glass Structures

544,930—Method and Apparatus for Enhancing Microchannel Plate Data

545,338—Photothermal Method for In Situ Microanalysis of the Chemical Composition of Coal Samples

545,411—Peizoelectric Shear Wave Resonator and Method of Making Same
545,426—Acoustic Emission Linear Pulse Holography
547,266—Ion-Exchange Material and Method of Storing Radioactive Wastes
547,278—Precision Zero-Home Locator
547,279—Autogenerator of Beams of Charged Particles
547,280—Ultratrace Analysis of Transuranic Actinides by Laser-Induced Fluorescence
547,681—Non-Destructive Method for Determining Neutron Exposure
547,682—Clad Cast Steel Strip
548,277—Sidetone Generator Flowmeter
548,278—Thermoluminescence Dosimeter
548,279—Support Arrangement for Core Modules of Nuclear Reactors
548,280—Flow Metering Valve
548,811—Stable Mirror Mount
549,379—Method and Apparatus for Making Superconductive Magnet Coils
549,380—Pore-Forming Fillers for Molten Carbonate Matrices
549,382—Electrode-Active Material for Electrochemical Batteries and Method of Preparation
550,429—Automated Apparatus for Producing Gradient Gels
550,697—Electronically Conductive Ceramics for High Temperature Oxidizing Environments
550,701—Three Chamber Negative Ion Source
551,528—Fluorinated Diamond Particles Bonded in a Filled Fluorocarbon Resin Matrix
552,532—Use of $^{3}He^{++}$ ICRF Minority Heating to Simulate Alpha Particle Heating.
554,413—Low Frequency AC Waveform Generator
554,414—Hot Hollow Cathode Gun Assembly
554,415—Field Emission Chemical Sensor
554,487—Method for Improving the Mechanical Properties of Uranium-1 to 3 wt.% Zirconium Alloy
554,851—Nuclear Diagnostic for Fast Alpha Particles
554,867—Method and Apparatus for Removing Silicon from a High Temperature Sodium Coolant
554,868—Parabolic Tapers for Overmoded Waveguides
555,915—DC Switching Regulated Power Supply for Driving an Inductive Load
557,517—Monochromator for Continuous Spectrum X-Ray Radiation
559,502—Electrially Conductive Rigid Polyurethane Foam
559,504—Liquid Cooled, Linear Focus Solar Cell Receiver
559,505—Heat Exchanger
559,506—Collapsable Seal Member
559,558—Liquid Suspensions of Reversible Metal Hydrides
562,146—Fuel Pin Cladding
562,147—Ion Source with Improved Primary Arc Collimation
562,148—Decontamination Apparatus and Method
562,150—Method and Apparatus for Determining Pressure-Induced Frequency-Shifts in Shock-Compressed Materials
562,243—Soluble Polyacetylenic and Polyaromatic Polymers and Method of Making the Same
564,103—High Temperature Adhesive Silicone Foam Composition, Foam Generating System and Method of Generating Foam
564,107—Reusable Fast Opening Switch
564,108—Ductile Aluminide Alloys for High Temperature Applications
564,112—Self-Pumping Impurity Control
564,125—Method & Apparatus for Determining Content & Distribution of a Thermal Neutron Absorbing Material in an Object
564,127—Fuel Injection Device and Method
564,129—Induction Voidmeter
566,621—Method of Gas Purification and System Therefor
566,757—Electro-Optical Switching and Memory Display Device
566,759—Microminiature Coaxial Cable and Method of Manufacture
566,760—Noise Isolation System for High-Speed Circuits
566,761—High Power Microwave Generator
566,849—Magnetic Fluorescent Lamp
566,924—Preparation of Certain M-Aminophenols and the Use Thereof for Preparation of Laser Dyes

U.S. Patents

4,285,782—Method for Providing Uranium with a Protective Copper Coating
4,308,460—Storage Containers for Radioactive Material
4,326,417—Nondestructive Acoustic Electric Field Probe Apparatus and Method
4,343,496—Split Gland
4,344,914—Retrievable Fuel Pin End Member for a Nuclear Reactor
4,361,889—Grating Tuned Unstable Resonator Laser Cavity

[FR Doc. 84-25762 Filed 9-27-84; 8:45 am]
BILLING CODE 6450-01-M

PLT Engineering, Inc.; Proposed Contract Award

SUMMARY: In accordance with Department of Energy (DOE) Acquisition Regulations, 48 CFR Chapter 9, published in the **Federal Register** on March 28, 1984, DOE gives public notice that a contract is being awarded, recognizing the existence of potential organizational conflicts of interest, because this is determined to be in the best interest of the United States.

FOR FURTHER INFORMATION CONTACT:

Ralph LaMonda, U.S. Department of Energy, Strategic Petroleum Reserve Office, FE-421, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-4726
Judith A. Willis, U.S. Department of Energy, Office of Procurement Operations, MA-453.1, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9518

Findings, Mitigation and Determination

Upon the basis of the following findings, mitigation, and determination, the proposed contract described below is being awarded following a competitive solicitation and evaluation, recognizing the existence of potential organizational conflicts of interest pursuant to the authority of 48 CFR 909.570-9(a)(3)

Findings

1. The U.S. Department of Energy, Stretegic Petroleum Reserve (SPR) Program Office has a continuing need for specialized technical support in facilities planning and engineering analysis. This contract, which will provide this support, will include (a) conceptual engineering and cost analyses of potential enhancements to, or expansion of SPR storage facilities and oil distribution systems, and (b) technical and cost analyses of modifications to the SPR's various programmatic, technical, and performance criteria.

2. Using the data and analyses delivered under this contract, the SPR Program Office staff will develop various alternative strategies available to accomplish a given requirement or solve a particular problem. In addition to the contract-developed data and analyses, the SPR considers other factors in the development of these strategies, such as budget and schedule considerations and potential environmental impacts. Subsequently, the alternatives are further assessed and compared by SPR staff members in order to permit SPR and Department of Energy management to make decisions regarding implementation.

3. In accordance with 48 CFR 909.570.5, PLT Engineering, Inc., provided statements disclosing relevant information concerning its interests

related to the work to be performed for the agency and bearing on whether it has possible conflicts of interest (a) with respect to being able to render impartial, technically sound, and objective assistance or advice or (b) which may give it an unfair competitive advantage.

4. Based on an evaluation of facts contained in the disclosure, it has been found that there could be potential or perceived conflicts of interest with regard to the work under this contract. The technical and cost analyses to be delivered by the contractor could, after being further studied by SPR engineers, result in the modification and/or expansion of SPR facilities which might ultimately result in increased operations and maintenance requirements for the SPR. At the present time, the operations and maintenance of SPR facilities is being accomplished through a contract with Petroleum Operations and Support Services, Inc. (POSSI). Both PLT Engineering and POSSI are owned by Kaneb Services, Inc. Thus, there may be the appearance that, through this support contract, PLT Engineering could potentially influence SPR Program Office decisions in such a way as to benefit an affiliated firm, i.e., POSSI.

Furthermore, Kaneb Services, Inc., is a holding company which, through a number of subsidiary firms, has financial interests in various other petroleum-related facilities and engineering work, either by ownership or by clientele. These firms conduct contracting and service activities in the areas of drilling, pipelines, oil field products, energy storage terminals, and petroleum operations. Any expansion of the SPR system, which could include the acquisition of additional storage sites, construction of pipelines or connections to existing commercial oil distribution facilities, could benefit Kaneb Services.

5. Because the nature and scope of the SPR program work requires that the contractor have extensive corporate experience and capabilities in various aspects of the petroleum industry, a perceived conflict of interest would have occurred to some extent with any of the four qualify firms.

6. Notwithstanding the fact that, in this case, the proposed contractor (PLT Engineering, Inc.) is affiliated with the SPR on-site operations and maintenance contractor (POSSI), the scopes of their respective contracts would not result in any cause-effect relationship which would allow one firm to directly or purposely benefit the other.

Mitigation

Mitigation, to the extent feasible, under 48 CFR 909.570–9(a)(3) will be obtained by SPR staff review of contract deliverables to insure objectivity and independence on the part of the contractor. Furthermore, as this would be a level-of-effort-type contract in which specific work directives would be given to the contractor by task assignment, the Contracting Officer's technical representative, who prepares such assignments, and the Contracting Officer would insure that the assigned statement of work does not present a direct conflict of interest. In addition, the special clause "Organizational Conflicts of Interest", 48 CFR 952.209–72, will be included in the contract.

Determination

In light of the above findings and mitigation, and in accordance with 48 CFR 909.570–9(a)(3), the proposed contract award is in the best interests of the United States.

Dated: September 21, 1984.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 84–25982 Filed 9–27–84; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Department of Energy (DOE) notices of proposed collections under review will be published in the **Federal Register** on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a list of the DOE proposals sent to OMB for approval. The listing does not contain information collection requirements contained in regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by DOE.

Each entry contains the following information and is listed by the DOE sponsoring office:

(1) The form number;

(2) Form title;

(3) Type of request, e.g., new, revision, or extension;

(4) Frequency of collection;

(5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit;

(6) Type of respondent;

(7) An estimate of the number of respondents;

(8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and

(9) A brief abstract describing the proposed collection.

DATES: Last Notice published Friday, September 14, 1984, (49 FR 36138).

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Ave., SW., Washington, DC 20585, (202) 252–2308

Vartkes Broussalian, Department of Energy, Desk Officer, Office of Management and Budget, 726 Jackson, Place, NW., Washington, DC 20503, (202) 395–7313

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer for the appropriate agency as shown above.

If you anticipate commenting on a form, but find that time to prepare these comments will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., September 25, 1984.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

DOE FORMS UNDER REVIEW BY OMB

Form No.	Form title	Type of request	Response frequency	Response obligation	Respondent description	Estimated number of respondents	Annual respondent burden	Abstract
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
EIA-857	Monthly Report of Natural Gas Purchases and Deliveries to Consumers.	New Collection.	Monthly	Mandatory	Businesses	390	28,080	EIA-857 collects volume and cost of revenue data on natural gas delivered to distributors and sales to residential, commercial, and industrial consumers. Aggregated data are published by EIA in various publications and used to make analyses and projections. Respondents are a sample of natural gas companies delivering to consumers.
FERC-15	Interstate Pipeline's Annual Report of Gas Supply.	Extension	Annual	Mandatory	Businesses	93	56,637	The data collected will be used by the Commission in performing its regulatory functions in gas supply certificate and deficiency cases, depreciation analyses, in rate cases and making determinations about new or increased sales of natural gas, the extension of facilities, or the abandonment of facilities and service.
FERC-530	Gas Producer Certificate: Abandonment/ Termination.	Extension	On occasion	Required to obtain or retain a benefit.	Businesses	120	2,400	Producers must file this information to secure abandonment authorization. No sale subject to the NGA may be abandoned or terminated unless the continuance of service is unwarranted, or that the present or future public convenience or necessity permit such abandonment.

[FR Doc. 84-25856 Filed 9-27-84; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

[Docket No. CP84-678-000]

September 25, 1984.

Take notice that on August 31, 1984, Columbia Gas Transmission Corporation (Columbia Transmission), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-678-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for permission and approval to abandon certain facilities and points of delivery 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.

Columbia Transmission requests permission and approval to abandon approximately 19.3 miles of pipeline ranging in size from 2-inch to 16-inch, 8 points of delivery to existing wholesale customers and certain related measuring and regulating facilities. Columbia Transmission states the facilities and points of delivery proposed to be abandoned are no longer used or useful in its operations and would not result in the loss of any gas supply or the termination of service to any existing wholesale customer. Columbia Transmission asserts that it has been advised by its wholesale customers that the proposed abandonments would not result in the termination of service to any existing retail consumers. Columbia Transmission proposes the following:

(1) Abandon approximately 1.1 miles of 12-inch pipeline in Greene County, Pennsylvania. Sole utilization of the pipeline is said to have been to supply certain mainline customers who have converted to alternative fuels.

(2) Abandon approximately 2.0 miles of 12-inch pipeline in Menifee County, Kentucky. The market area supplied by this segment of pipeline is now said to be supplied from another Columbia Transmission pipeline.

(3) Abandon approximately 1.2 miles of 8-inch pipeline in Union County, Ohio, by sale to Columbia Gas of Ohio, Inc. (COH). Sole utilization of the pipeline is said to have been to supply a point of delivery to COH through which COH serves the Marysville, Ohio, area. Due to industrial growth the point of delivery is being relocated north of its present location. COH is said to have agreed to acquire the segment of pipeline south of the relocated point of delivery at its net depreciated cost of approximately $16,400.

(4) Abandon approximately 0.4 mile of 10-inch pipeline in Clarion County, Pennsylvania. Sole utilization of the Pipeline is said to have been to supply a single mainline customer who has converted to alternative fuel.

(5) Abandon a point of delivery to COH in Jackson County, Ohio, which is said to have served A.P. Green Refractories Company, which has closed.

(6) Abandon point of delivery to Mountaineer Gas Company (MGC) and approximately 6.4 miles of 10-inch pipeline in Kanawha and Putnam Counties, West Virginia, which is said to be used to supply one point of delivery to MGC through which MGC serves nine consumers. It is said that MGC intends to serve these consumers from an extension of its distribution system. MGC acquired and commenced operation of the properties of Columbia Gas of West Virginia, Inc., on June 21, 1984.

(7) Abandon approximately 0.9 mile of 10-inch pipeline in Kanawha County, West Virginia. Due to operational changes in this area, an existing pipeline, which parallels the pipeline segment proposed for abandonment, is said to have adequate capacity to meet all operational requirements

(8) Abandon 2.9 miles of 10-inch pipeline in two segments in Washington County, Pennsylvania. Columbia Transmission is said to be constructing 1.3 miles of 4-inch pipeline under its blanket authority in Docket No. CP83-76-000, which will supply the market area currently supplied by the segments to be abandoned.

(9) Abandon approximately 0.4 mile of 6-inch pipeline in two segments in Rockland County, New York, by sale to Orange and Rockland Utilities (O and R). The two parallel pipeline segments to be abandoned are located between an existing measuring and regulating station and an existing point of delivery to O and R. Columbia Transmission's gas sales to O and R are currently measured at the existing measuring and regulating facility and then transported through the pipeline segments to be abandoned for delivery to O and R at the existing point of delivery. Columbia Transmission proposes to relocate the

point of delivery to the outlet of the existing measuring and regulating facility and sell the pipeline facilities downstream of the relocated point of delivery to O and R for $1.00.

(10) Abandon approximately 1.4 miles of 8, 10, and 12-inch pipeline in Greene and Fayette Counties, Pennsylvania. The market area previously supplied by this segment of pipeline is said now to be supplied by another Columbia Transmission pipeline.

(11) Abandon point of delivery to COH, 0.2 mile of 6-inch pipeline and related facilities in Jefferson County, Ohio. These facilities are said to have been utilized by COH to serve an installation of the Weirton Steel Company which has been closed and dismantled.

(12) Abandon approximately 0.7 mile of 8-inch pipeline in Jackson County, West Virginia. This pipeline segment is said to have been utilized to transport locally produced and purchased gas volumes. Other Columbia Transmission pipelines located in this area are said to have adequate capacity to meet all anticipated operational requirements.

(13) Abandon approximately 0.4 mile of 2-inch pipeline in Greene and Washington Counties, Pennsylvania, which is said to have been used to supply one mainline consumer. The Wheeling Creek Watershed Commission is said to have purchased the property and removed this residence.

(14) Abandon three points of delivery and approximately 1.3 miles of 2, 3, 4, 10, and 12-inch pipeline in Ashland County, Ohio, which is said to have been used to serve three points of delivery to COH. One of the points of delivery was utilized to Supplement the supply to the Red Haw market area and the other two points of delivery served main line customers. It is said that the main line customers will be served from an extension of COH's Red Haw distribution system and that COH has advised that the point of delivery providing a supplemental supply to the Red Haw market area is no longer required.

(15) Abandon a point of delivery to COH in Medina County, Ohio, which is said to have been used by COH to serve Famco, Inc., which has closed.

(16) Abandon a point of delivery to COH in Jackson County, Ohio, which is said to have been used by COH to serve the Davis Firebrick Company, which has closed.

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. 84-25814 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-702-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

September 24, 1984.

Take notice that on September 10, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84-702-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of PPG Industries, Inc. (PPG), through June 30, 1985, 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 indicates that PPG has entered into a June 1, 1984, gas purchase agreement with Kepco, Inc. (Kepco), in order to acquire gas which would be used by PPG as process gas at its Carlisle, Pennsylvania, plant. Columbia further indicates that the gas to be purchased by PPG from Kepco is not gas released by Columbia. In order for PPG to obtain its gas, Columbia proposes to receive 9,400 MMBtu equivalent on a peak and average day and 3,431,000 MMBtu equivalent per year on behalf of PPG at three existing points of interconnection between the facilities of Columbia and Kentucky West Virginia Gas Company near Maytown and Dwale in Floyd County, Kentucky, and near Tomahawk in Martin County, Kentucky. Columbia would redeliver the gas, less retainage, to UGI Corporation (UGI) near Carlisle, it is indicated. UGI is the distributor serving PPG, it is further indicated. Columbia explains that depending upon whether its gathering facilities are involved, it would charge one of the rates set forth in Rate Schedule TS-1 of its FFRC Gas Tariff for the service proposed herein. Columbia further explains that its currently effective storage and transmission charge is 40.11 cents per dt and that its currently effective storage, transmission and gathering charge is 44.93 cents per dt. It is stated that Columbia also retains for company-use and unaccounted-for gas a percentage, as reflected in Rate Schedule TS-1, of the total quantity of natural gas delivered into its system; this percentage is currently 2.85 percent. In addition, Columbia indicates that PPG would be charged the current General R and D Funding Unit of the Gas Research Institute.

Finally, Columbia indicates that it would undertake certain filing requirements to implement the "flexible authority" provision of its transportation agreement as to sources of gas and/or receipt/delivery points. Specifically, Columbia proposes to file, within 30 days of the addition or deletion of any gas suppliers and/or any receipt/delivery points, the following information.

(1) A copy of the gas purchase contract between the seller and the end-user;

(2) A 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) A 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) A statement that the gas is not committed or dedicated within the meaning of the NGPA section 2(18);

(5) Location of the receipt/delivery points being added or deleted. For deletions, provide the name of the producer/supplier;

(6) Where an intermediary participates in the transaction between the seller and end-user, the information required by § 157.209(c)(1)(ix); and

(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 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 therefore, 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. 84-25815 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI84-530-000]

Jay Kornfeld; Application for Abandonment

September 25, 1984.

Take notice that on August 10, 1984, Jay Kornfeld of 206 Bitting Bldg., Wichita, Kansas 67202, filed with the Commission an application for abandonment of a gas sale to Colorado Interstate Gas Company from his Garden City Unit, Finney County, Kansas, on the ground that the sale is uneconomical to continue. Applicant states that he is suffering a loss each year in operating the well.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 10, 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, 385.214). All protests filed by 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 the 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 applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25817 Filed 9-27-84; 8:45 am]

BILLING CODE 6716-01-M

[Docket No. ER83-665-001]

Kansas City Power & Light Co.; Compliance Filing

September 25, 1984.

Take notice that by letter dated September 14, 1984, Kansas City Power & Light Company (KCPL) submitted for filing its compliance report in compliance with the Commission's Order of August 17, 1984.

Copies of this filing are being sent to all parties of record.

Any person desiring to be heard or to make any protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington D.C. 20426, on or before October 10, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25817 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-638-000]

Kentucky West Virginia Gas Co.; Request Under Blanket Authorization

September 24, 1984.

Take notice that on August 9, 1984, as supplemented on September 20, 1984, Kentucky West Virginia Gas Company (Applicant), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP84-638-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of PPG Industries, Inc. (PPG), through June 30, 1985, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicant indicates that PPG has entered into a June 1, 1984, gas purchase contract with Kepco, Inc. (Kepco), in order to acquire gas which would be used by PPG as process gas at its Carlisle, Pennsylvania, plant. Applicant further indicates that the gas to be purchased from Kepco is not gas previously under contract to a pipeline company or distributor. In order for PPG to obtain its gas, Applicant proposes to receive 9,400 dt equivalent of gas on an average and peak day and 3,431,000 dt equivalent of gas per year on behalf of PPG at existing delivery points from Kepco. Applicant indicates that it would redeliver the gas for further transportation to Columbia Gas Transmission Corporation (Columbia). Any or all of the previously certificated interconnections between Applicant and Columbia would be utilized, it is stated. Further, it is indicated that Applicant and Columbia would use such other interconnections as may be established from time to time between Applicant and Columbia to enable Applicant to redeliver gas to Columbia. It is indicated that PPG would pay Applicant 36.2 cents per dt for all gas delivered to Applicant for PPG's account; it is also indicated that Applicant would render service to PPG under Applicant's Rate Schedule ITS. Applicant avers that there is an intermediary, Industrial Energy Services Company, Inc., between Kepco and PPG.

Finally, Applicant indicates that it would undertake certain filing requirements to implement the "flexible authority" provision of its transportation agreement as to the receipt and delivery points of the gas to be transported under the subject agreement. Specifically, Applicant proposes to file, within 30 days of the addition or deletion of receipt and deliver points, the following information, where applicable:

(1) A copy of the gas purchase contract between the seller and the end-user;

(2) A 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) A 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) A statement that the gas is not committed or dedicated within the meaning of the NGPA section 2(18);

(5) Location of the receipt/delivery points being added or deleted;

(6) Where an intermediary participates in the transaction between the seller and end-user, the information required by § 157.209(c)(1)(ix); and

(7) Identity of any other pipeline involved in 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 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. 84-25818 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-683-000]

New York State Electric & Gas Corp.; Filing

September 25, 1984.

The filing Company submits the following:

Take notice that on September 17, 1984, New York State Electric & Gas Corporation (NYSEG) tendered for filing, a rate schedule, an agreement with the New York Power Authority. The agreement provides that NYSEG shall sell electric energy on an interruptible basis to the New York Power Authority and that the agreement will continue until terminated by either party upon not less than 30 days prior written notice.

NYSEG requests that the 60-day filing requirement be waived and that December 1, 1983 be allowed as the effective date of the filing.

NYSEG has filed a copy of this filing with the New York Power Authority and with the Public Service Commission of the State of New York.

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 October 9, 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. 84-25819 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-684-000]

New York State Electric & Gas Corp.; Filing

September 25, 1984.

The filing Company submits the following:

Take notice that on September 17, 1984, New York State Electric & Gas Corporation (NYSEG) tendered for filing, a rate schedule, a revision to Supplement No. 1 to its Purchase Agreement with the Connecticut Light and Power Company. Supplement No. 1 to the agreement provides that NYSEG shall sell electric energy on an interruptible basis to the Connecticut Light & Power Company for a negotiated price which includes a reservation charge of up to $10/MWH. This revision to Supplement No. 1 would increase the ceiling on the reservation charge to $15/MWH. Service under this agreement commenced on August 9, 1984 and is to continue until terminated by either party upon no less than 30 days prior written notice.

NYSEG requests that the 60-day filing requirement be waived and that August 9, 1984 be allowed as the effective date of the filing.

NYSEG has filed a copy of this filing with the Connecticut Light and Power Company and with the Public Service Commission of the State of New York.

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 October 9, 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. 84-25820 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-685-000]

Northwestern Public Service Co.; Filing

September 25, 1984.

The filing company submits the following:

Take notice that on September 17, 1984, Northwestern Public service company (Northwestern) tendered for filing a Notice of cancellation of the following filed schedules:

FPC Rate No. 8 —Coordination agreement with City of Watertown, South Dakota

FPC Rate No. 18—Transmission agreement with City of Miller, South Dakota

FPC Rate No. 22—Partial requirements agreement with Northern States Power Company

Northwestern requests an effective date of November 13, 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 October 9, 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. 84-25821 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-687-000]

PacifiCorp, Doing Business as Pacific Power & Light Co.; Filing

September 25, 1984.

The filing Company submits the following:

Take notice that on September 18, 1984, PacifiCorp, doing business as Pacific Power & Light Company (Pacific) tendered for filing Pacific's Revised Appendix 1 for the state of Montana. The Revised Appendix 1 calculates an average system cost for the state of Montana applicable to the exchange of power between Bonneville Power Administration and Pacific.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective February 24, 1984, which it claims is the date of commencement of service.

Copies of the filing were supplied to Bonneville, the Public Service Commission of the State of Montana, and Bonneville's Direct Service Industrial Customers.

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 October 9, 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. 84-25822 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-689-000]

Panhandle Eastern Pipe Line Co.; Application

September 25, 1984.

Take notice that on September 4, 1984, Panhandle Eastern Pipe Line Company (Applicant), 3444 Broadway, Kansas City, Missouri, Filed in Docket No. CP84-689-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to construct and operate facilities required to institute a direct sale of natural gas to three end-use customer in Hutchinson and Hansford Counties Texas, for irrigation purposes, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant alleges that pursuant to contractural obligations contained in the right-of-way agreements with the three end-users, it has an obligations to provide natural gas service to the property subject to the right-of-way agreement. Applicant estimates that the total cost associated with the new delivery points and the facilities for the direct sales to these end-users for irrigation purposes will be $18,900.

Applicant estimates that it would deliver up to 20,000 Mcf per year of natural gas to each of the grantors.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 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 persons 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. 25823 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-682-000]

South Carolina Electric & Gas Co.; Filing

September 25, 1984.

The filing Company submits the following:

Take notice that on September 17, 1984, South Carolina Electric & Gas Company (SCE&G) tendered for filing a Capacity Sale Contract dated June 28, 1984, between SCE&G and Savannah Electric Power Company ("SEPCO"). This Contract provides for SCE&G to furnish to SEPCO fifty (50) megawatts of system capacity and associated energy. SCE&G requests an effective date of July 1, 1984, for this Contract. SCE&G requests waiver of the Commission's notice requirements and waiver of certain requirements under Part 35 of the Commission's Regulations.

A copy of the filing has been mailed to SEPCO, according to SCE&G.

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. 20460, in accordance with Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 10, 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. 84-25824 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-609-002]

Southwestern Electric Power Co.; Compliance Filing

September 25, 1984.

Take notice that on August 31, 1984, Southwestern Electric Power Company (SWEPCO) submitted for filing its compliance report pursuant to a Commission's Letter Order dated August 20, 1984.

The Letter Order noted that the Commission, by order of May 31, 1984, had permitted SWEPCO to collect the proposed settlement rates, subject to refund, in billings for service rendered as of March 12, 1984.

SWEPCO was also directed to refund any amounts collected in excess of the settlement rates prior to their implementation. SWEPCO states that it did not collect any amounts in excess of the settlement rates and consequently, there are no refunds due Siloam Springs.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 10, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25825 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-688-000]

Tampa Electric Co.; Filing

September 25, 1984.

The filing Company submits the following:

Take notice on September 18, 1984, Tampa Electric Company (Tampa) tendered for filing its Service Schedule X providing for extended economy

interchange service between Tampa and Seminole Electric Cooperative (Seminole). Tampa states that Service Schedule X is submitted for inclusion as a supplement under the existing agreement for interchange service between Tampa and Seminole, designated at Tampa's Rate Schedule FERC No. 22.

Tampa proposes an effective date of September 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on Seminole and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 9, 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. 84-25826 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-689-000]

Tampa Electric Co.; Filing

September 25, 1984.

The filing Company submits the following:

Take notice that on September 18, 1984, Tampa Electric Company (Tampa) tendered for filing Service Schedule X providing for extended economy interchange service between Tampa and the Utilities Commission of the City of New Smyrna Beach, Florida (New Smyrna Beach). Tampa states that Service Schedule X is submitted for inclusion as a supplement under the existing agreement for interchange service between Tampa and New Smyrna Beach, designated as Tampa's Rate Schedule FERC No. 13.

Tampa requests an effective date of September 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served on New Smyrna Beach and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214) All such motions or protests should be filed on or before October 9, 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. 84-25827 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP84-53-000]

Transcontinental Gas Pipe Line Corp.; Petition of Transcontinental Gas Pipe Line Corp. for Partial Waiver of Regulations

Issued: September 25, 1984.

On September 7, 1984, Transcontinental Gas Pipe Line Corporation (Transco) petitioned, pursuant to Rule 207 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.207 (1983), for a partial waiver of paragraph (e) of § 271.1104 of the Commission's regulations, 18 CFR 271.1104(e), which was issued as part of Order No. 94-A[1] on January 24, 1983. This waiver is requested in order that Transco may make retroactive payments after December 31, 1984 for delivery and compression costs incurred by producers from the earlier of July 25, 1980 or the date of their application to recover such costs until March 7, 1983.[2]

Transco asserts that § 271.1104(e) of the Commission's regulations provides, among other things, that a seller may collect certain past costs incurred to deliver or compress gas, if expressly authorized to do so under the terms of the contract governing the first sale. Such amounts are to be collected through installments over a period of time commencing with March 3, 1983 and ending December 31, 1984; and such installments should, to the maximum extent practicable, be of equal amounts. First sellers that seek to collect delivery and compression costs must also provide a description stating, on a well-by-well or completion location basis: (i) The amount per MMBtu to be charged; (ii) the specified production-related service for which the charge is to be made; and (iii) the contractual provisions expressly authorizing the charge. *See* 18 CFR 271.1104 (e) and (f) (1983).

Transco further asserts that because the regulations do not provide a deadline for submission of such descriptions other than December 31, 1984, for past costs, and because Transco must verify the data in each seller's descriptions of production-related allowances to which the seller claims it is entitled, this has had an effect on the payment of allowances for production-related costs incurred since March 7, 1983, and costs incurred prior to that date.[3]

Transco's specific petition is that the Commission waive § 271.1104(e)(3) to the extent necessary to allow Transco to pay retroactive costs for which a description has been received by December 31, 1984, in twelve equal monthly installments beginning after verification of the information in the descriptions and ending no later than June 30, 1986.[4]

Any person desiring to be heard or to protest Transco's filing should file within 15 days after notice is published in the **Federal Register** with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rule 211 or 214 of the Commission's Rules of Practice and Procedure. All protests filed will be

[1] 22 FERC ¶ 61,055 (1983).

[2] Transco requests a waiver of paragraph (e) of § 271.1104 only to the extent necessary to allow a purchaser to make retroactive payments after December 31, 1984; it is not requesting a waiver of such provision that would allow producers to submit descriptions for retroactive costs after such date.

[3] Transco states that with respect to costs incurred since March 7, 1983, these costs are being paid in lump sums once the verification procedure has been completed. The lump sum payments being paid in September 1984 include eighteen months of accrued costs. The payments for costs incurred from the earlier date of application of July 25, 1980, until March 7, 1983, which the Commission intended to be paid in equal installments over a twenty-two month period ending December 31, 1984, have been compressed into a decreasing number of installments.

[4] Under Transco's proposal installment payments will begin as the information in each description is verified. If the verification of a description is completed after July 1985, the payments pertaining to such description will be paid in approximately equal installments over the number of months remaining until June 30, 1986.

considered but will not make the protestants parties to the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25828 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-686-000]

Wisconsin Public Service Corp.; Filing

September 25, 1984.

The filing Company submits the following:

Take notice that on September 17, 1984, Wisconsin Public Service Corporation (Wisconsin) tendered for filing an executed service agreement for all requirements service to the City of Wisconsin Rapids, Wisconsin. The executed agreement replaces the unexecuted service agreement which is on file with the Commission, and also applies to Wisconsin Rapids a three year notice period for terminating service instead of the notice periods of two years and five years contained in the tariff and a modification of the provisions governing assignment of the service agreement and other minor clarifying changes. The filing makes no other changes in terms and conditions of service and has no rate effects. The Company has requested an effective date of November 12, 1984 for the executed agreement.

According to Wisconsin copies of the filing were sent to Wisconsin Rapids and the Public Service Commission of Wisconsin.

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 October 9, 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. 84-25829 Filed 9-27-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59171; TSH-FRL 12676-8]

Alkali Metal Salt of an Unsaturated Carboxylic Acid Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722. This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for exemption, provides a summary, and requests comments on the appropriateness of granting of exemption.

DATE: Written comments by: October 15, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS-59171]" and the specific TME number should be sent to: Document Control Officer (TS-793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Room E-216, 401 M Street SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

TME 84-82

Close of Review Period. September 11, 1984.

Manufacturer. Confidential.

Chemical. (G) Alkali metal salt of an unsaturated carboxylic acid.

Use/Production. (G) Coatings. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 8 workers, up to 1.0 hrs/da, up to 48 da/yr.

Environmental Release/Disposal. 0.5 to 1 kg/batch released to land. Disposal by recycle drum.

Dated: September 14, 1984.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 84-25219 Filed 9-27-84; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2683-2]

Availability of Environmental Impact Statements Filed September 17, 1984 Through September 21, 1984 Pursuant to 40 CFR 1506.9

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

EIS No. 840417, Draft, COE, WA, Milwaukee Waterway Fill and Container Terminal Facility, Dredge/Fill, Permit, Port of Takoma, Pierce County, Due: November 13, 1984, Contact: John Malek (206) 764-3625.

EIS No. 840418, Draft, FHW, IN, Keystone-Rural Corridor Improvement, Pleasant Run Parkway North Drive to IN-37, Marion Co., Due: November 13, 1984, Contact: L. D. Tucker 1 (317) 269-7481.

EIS No. 840419, Draft, AFS, ID, WY, UT, Caribou National Forest Land and Resource Management Plan, Due: December 19, 1984, Contact: Charles Hendricks (208) 236-6741.

EIS No. 840420, Draft, FHW, AR, US 71 Construction, I-40 to Fayetteville Bypass, Crawford and Washington Counties, Due: November 13, 1984, Contact: Paul Pool (501) 378-5625.

EIS No. 840421, Draft, BLM, ID, Medicine Lodge Resource Area, Management Plan, Due: December 27, 1984, Contact: O'dell Frandsen (208) 529-1020.

EIS No. 840423, Draft, BLM, NV, Caliente Resource Area, Wilderness Study Areas, Designation, Clark and Lincoln Counties, Due: November 13, 1984, Contact: Frank Maxwell (702) 388-6463.

EIS No. 840424, Final, BLM, CA, Coast/Valley Planning Area, Resource Management Plan, Due: October 29, 1984, Contact: Bob Barney (916) 484-4701.

EIS No. 840425, Final, AFS, CO, White River National Forest Land and Resource Management Plan, Due:

October 29, 1984. Contact: Richard Woodrow (303) 945–2521.

EIS No. 840426, Final, COE, NC, SC, Sugar Creek Drainage Basin Open Flood Plain Areas, Flood Control and Conservation Plans, Due: October 29, 1984, Contact: John Carothers (803) 724–4258.

EIS No. 840427, Final, NOA, AK, Bering See/Aleutian Islands King Crab Fishery Management Plan, Due: October 29, 1984, Contact: Robert McVey (907) 586–7221.

EIS No. 840428, Draft, NPS, AK, Squirrel River Wild and Scenic River Study, Designaion, Due: December 14, 1984, Contact: Linda Nebel (907) 271–4196.

EIS No. 840429, Draft, NPS, AK, Lower Sheenjek River Wild and Scenic River Study, Designaion, Due: December 14, 1984, Contact: Linda Nebel (907) 271–4196.

EIS No. 840430, Final, COE, AL, AK, CA, GA, KY, NY, TN, WA, New Army Light Infantry Division, Stationing, Seventeenth Active Component, Due: October 29, 1984, Contact: James Hildreth (205) 694–4141.

EIS No. 840431, COE, Adopted Final, AL, AK, CA, GA, KY, NY, TN, WA, New Army Light Infantry Division, Stationing, Eighteenth Active Component, Due: October 29, 1984, Contact: James Hildreth (205) 694–4141.

EIS No. 840432, FSuppl, NOA, PAC, CA, WA, OR, 1985 Salmon Commercial and Recreational Fishery Management Plan, Off the Coast of Washington, Oregon and California, Due: October 29, 1984, Contact: Thomas Kruse (206) 526–6150.

EIS No. 840433, Final, EPA, FL, South Escambia and Santa Rosa Wastewater Management Facilities, Grant, South Escambia and Santa Rosa Counties, Due: October 29, 1984, Contact: Robert Cooper (404) 881–3776.

EIS No. 840434, Final, NOA, NC, Masonboro Island designation to the North Carolina National Estuarine Sanctuary, Due: October 29, 1984, Contact: Nancy Forester (202) 634–4236

Dated: September 25, 1984.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 84–25764 Filed 9–27–84; 8:45 am]

BILLING CODE 6560–50–M

[OA–FRL–2683–4]

Chesapeake Bay Executive Council (Proposed); Open Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given that a meeting of the (proposed) Chesapeake Bay Executive Council will be held on October 18, 1984. The meeting will begin at 10 a.m., at Accamac Inn, P.O. Box 127, Route 30, Wrightsville, Pennsylvania 17368.

The Agenda will include discussions on public participation, status of Federal activities, annual report to Congress, and Pennsylvania Bay initiatives.

The meeting is open to the public. For additional information contact Mr. William Horne, Director, Chesapeake Bay Program at (301) 224–2740.

Dated: September 20, 1984.

Greene A. Jones,

Director, Water Management Division, Region III.

[FR Doc. 84–25798 Filed 9–27–84; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51538; TSH–FRL–2682–8]

Certain Chemicals; Premanufacture Notices; Hercules, Inc., et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 84–1175, 84–1176, 84–1177, 84–1178, 84–1179, 84–1180, 84–1181, 84–1182, 84–1183, and 84–1184: December 11, 1984

PMN 84–1185, 84–1186, 84–1187, 84–1188, 84–1189, 84–1190, and 84–1191: December 15, 1984

PMN 84–1192, 84–1193, 84–1194, 84–1195, 84–1196, 84–1197, 84–1198, 84–1199, 84–1200, and 84–1201: December 16, 1984

PMN 84–1202, 84–1203, and 84–1204: December 17, 1984

Written comments by:

PMN 84–1175, 84–1176, 84–1177, 84–1178, 84–1179, 84–1180, 84–1181, 84–1182, 84–1183, and 84–1184: November 11, 1984

PMN 84–1185, 84–1186, 84–1187, 84–1188, 84–1189, 84–1190, and 84–1191: November 15, 1984

PMN 84–1192, 84–1193, 84–1194, 84–1195, 84–1196, 84–1197, 84–1198, 84–1199, 84–1200, and 84–1201: November 16, 1984

PMN 84–1202, 84–1203, and 84–1204: November 17, 1984

ADDRESS: Written comments, identified by the document control number "[OPTS–51538]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E–203, 401 M St., SW., Washington, DC 20460, (202–382–3734).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M St., SW., Washington, DC 20460, (202–382–3725).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address.

PMN 84–1175

Manufacturer. Hercules Incorporated.

Chemical. (G) Polyester polyol.

Use/Production. (G) Destructive use, chemical intermediate, polymer manufacture. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 2 workers, up to 2 hrs/da, up to 300 da/yr.

Environmental Release/Disposal. 2 to 20 kg/batch released to land. Disposal by incineration and landfill.

PMN 84–1176

Importer. Confidential.

Chemical. (G) Alkyl alicyclic alcohol.

Use/Import. (G) Ingredients for use in consumer products: Highly dispersive use. Import range: 100–1,000 kg/yr.

Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: >2.0 g/kg; Irritation: Skin—Not a primary irritant; Eye—Not a primary irritant; Repeated insult patch test/photosensitization: Negative.

Exposure. Use: Dermal, a total of 6 workers, up to 2 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. No release.

PMN 84–1177

Manufacturer. Confidential.

Chemical. (G) Metal salt of azonaphthoic acid.

Use/Production. (G) Open, non-dispersive use. Prod. range: 48–100 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal and inhalation, a total of 6 workers.

Environmental Release/Disposal. No release.

PMN 84–1178

Manufacturer. Hercules Incorporated.

Chemical. (G) Phenolic modified rosin ester.

Use/Import. Contained use—vehicle resin. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: Dermal and inhalation, a total of 2–10 workers.

Environmental Release/Disposal. Disposal by municipal waste disposal facilities.

PMN 84–1179

Manufacturer. Hercules Incorporated.

Chemical. (G) Phenolic modified rosin ester.

Use/Import. (G) Contained use—vehicle resin. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: Dermal and inhalation, a total of 2–10 workers.

Environmental Release/Disposal. Disposal by municipal waste disposal facilities.

PMN 84–1180

Importer. Hercules Incorporated.

Chemical. (G) Aminopolyamide resin.

Use/Production. (G) Polymer intermediate. Prod. range: Confidential.

Toxicity Data. Irritation: Eye—Non-irritant.

Exposure. Manufacture and use: Dermal, a total of 16 workers, up to 4 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. Negligible release to air with 1 to 2 kg/batch to water. Disposal by publicly owned treatment works (POTW).

PMN 84–1181

Manufacturer. Hercules Incorporated.

Chemical. (G) Aminopolyamide resin.

Use/Production. (G) Polymer intermediate. Prod. range: Confidential.

Toxicity Data. Irritation: Eye—Non-irritant.

Exposure. Manufacture and use: Dermal, a total of 20 workers, up to 5 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. Negligible release to air with 1 to 19 kg/batch released to water. Disposal by POTW.

PMN 84–1182

Manufacturer. Hercules Incorporated.

Chemical. (G) Aminopolyamide-epichlorohydrin resin.

Use/Production. (g) Papermaking chemical. Prod. range: Confidential.

Toxicity Data. Acute oral: < 10 ml/kg; Irritation: Skin—Minimal/mild, Eye—Irritant; Skin sensitization: Non-sensitizer; Human repeated insult patch test: Non-irritant/Nonsensitizer; LC_{50} 24 hr (Rainbow trout); > 1.8 parts per million (ppm); LC_{50} 48 hr (Rainbow trout): 1.3 ppm; LC_{50} 96 hr (Rainbow trout): 1.3 ppm; 96 hr No observed effect (NOEL) (Rainbow trout): 0.56 ppm; LC_{50} 24 hr (Bluegill sunfish): 2.4 ppm; LC_{50} 48 hr (Bluegill sunfish): 1.6 ppm; LC_{50} 96 hr (Bluegill fish): 1.3 ppm; 96 hr NOEL (Bluegill sunfish): 0.56 ppm.

Exposure. Manufacture: Dermal, a total of 16 workers, up to 8 hrs/da, up to 220 da/yr.

Environmental Release/Disposal. 0.9 to 1.9 kg/batch released to water. Disposal by POTW.

PMN 84–1183

Manufacturer. Hercules Incorporated.

Chemical. (G) Aminopolyamide-epichlorohydrin polymer.

Use/Production. (G) Papermaking chemical. Prod. range: Confidential.

Toxicity Data. Acute oral: > 10 ml/kg; Irritation: Skin—Minimal, Eye—Mild; Human repeated insult patch test: Non-irritant/Non-sensitizer; Skin sensitization: Non-sensitizer; LC_{50} 24 hr (Rainbow trout): 3.2 ppm; LC_{50} 48 hr (Rainbow trout): 2.3 ppm; LC_{50} 96 hr (Rainbow trout): 1.6 ppm; 96 hr NOEL (Rainbow trout): 3.2 ppm; LC_{50} 24 hr (Bluegill sunfish): 4.2 ppm; LC_{50} 48 (Bluegill sunfish): 3.0 ppm; LC_{50} 96 hr (Bluegill sunfish): 2.8 ppm; 96 hr NOEL (Bluegill sunfish): 1.0 ppm.

Exposure. Manufacture: Dermal, a total of 16 workers, up to 8 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. Negligible release to air with 0.9 to 1.9 kg/batch to water, land. Disposal by POTW.

PMN 84–1184

Manufacturer. Confidential.

Chemical. (G) Polychlorofluoro aromatic alkylated hydrocarbon.

Use/Production. (S) Chemical intremediate. Prod. range: Confidential.

Toxicity Data. Acute oral: 1,864 mg/kg; Acute dermal: >2g/kg; Irritation: Skin—Mild, Eye—Moderate; Inhalation: LC_{50}: 3.70 mg/l; Skin sensitization: Non-sensitizer.

Exposure. Manufacture: Dermal and inhalation, a total of 8 workers, up to 3 hrs/da, up to 230 da/yr.

Environmental Release/Disposal. Confidential. Disposal by POTW and incineration.

PMN 84–1185

Manufacturer. Confidential.

Chemical. (G) Alkali metal salt of an unsaturated carboxylic acid.

Use/Production. (S) Industrial monomer used in the production of manufactured articles. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 8 workers, up to 1.0 hr/da, up to 48 da/yr.

Environmental Release/Disposal. 0.5 to 1 kg/batch released to land. Disposal by recycle drum.

PMN 84–1186

Manufacturer. Confidential.

Chemical. (G) Polyester of carbomoncyclic ester and alkylene glycols.

Use/Production. (S) Industrial binder fiber for nonwoven fabrics. Prod. range: Confidential.

Toxicity Data. Acute oral: Males and females >5,000 mg/kg; Irritation: Skin—Slight, Eye—Slight; Skin sensitization: Low potential.

Exposure. Manufacture and processing: Dermal.

Environmental Release/Disposal. Confidential. Disposal by incineration.

PMN 84–1187

Manufacturer. Confidential.

Chemical. (G) Polyester of carbomoncyclic acid and alkylene glycols.

Use/Production. (S) Industrial binder fiber for nonwoven fabrics. Prod. range: Confidential.

Toxicity Data. Acute oral: Males and females >5,000 mg/kg; Irritation: Skin—Slight, Eye—Slight; Skin sensitization: Low potential.

Exposure. Manufacture and processing: Dermal.

Environmental Release/Disposal. Confidential. Disposal by incineration.

PMN 84–1188

Manufacturer. Monsanto Company.

Chemical. (G) Modified acrylamide polymer.

Use/Production. (G) Bonding resin. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Acute dermal: > 5,000 mg/kg; Irritation: Skin—Slight, Eye—Essentially non-irritating; Repeated insult patch test: No irritant/Non-sensitizer; LC_{50} 24 hr (Bluegill sunfish): 97 mg/l; LC_{50} 48 and 96 hr (Bluegill sunfish): 83 mg/l; LC_{50} 96 hr (Rainbow trout): 13 mg/l; LC_{50} 48 hr and 24 hr (Daphnia magna): > 1,000 mg/l; LC_{50} 24 hr (Rainbowl trout): 35 mg/l; LC_{50} 48 hr (Rainbow trout): 18 mg/l.

Exposure. Manufacture: Dermal a total of 3 workers, up to 1 hr/da, up to 300 da/yr.

Environmental Release/Disposal. No release.

PMN 84–1189

Manufacturer. Monsanto Company.

Chemical. (G) Modified acrylamide polymer.

Use/Production. (G) Bonding resin. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Acute dermal: >5,000 mg/kg; Irritation: Skin—Slight, Eye—Essentially non-irritating; Repeated insult patch test: No irritant/Non-sensitizer; LC_{50} 24 hr (Bluegill sunfish): 97 mg/l; LC_{50} 48 and 96 hr (Bluegill sunfish): 83 mg/l; LC_{50} 96 hr (Rainbor trout): 13 mg/l; LC_{50} 48 hr and 24 hr (Daphnia magna): > 1,000 mg/l; LC_{50} 24 hr (Rainbowl trout): 35 mg/l; LC_{50} 48 hr (Rainbow trout): 18 mg/l.

Exposure. Manufacture: Dermal a total of 3 workers, up to 1 hr/da, up to 300 da/yr.

Environmental Release/Disposal. No release.

PMN 84–1190

Manufacturer. Monsanto Company.

Chemical. (G) Modified acrylamide polymer.

Use/Production. (G) Bonding resin. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Acute dermal: >5,000 mg/kg; Irritation: Skin—Slight, Eye—Essentially non-irritating; Repeated insult patch test: Non-irritant/Non-sensitizer; LC_{50} 24 hr (Bluegill sunfish): 97 mg/l; LC_{50} 48 hr (Bluegill sunfish): 83 mg/l; LC_{50} 96 hr (Bluegill sunfish): 83 mg/l; LC_{50} 24 hr (Rainbow trout): 35 mg/l; LC_{50} 48 hr (Rainbow trout): 18 mg/l; LC_{50} 96 hr (Rainbow trout): 13 mg/l; LC_{50} 24 hr (Daphnia magna): > 1,000 mg/l; LC_{50} 48 hr (Daphnia Magna): > 1,000 mg/l.

Exposure. Manufacture: Dermal, a total of 3 workers, up to 1 hr/da, up to 300 da/yr.

Environmental Release/Disposal. No release.

PMN 84–1191

Manufacturer. Confidential.

Chemical. (S) 1,4-pentadiene-3-one, 1,5-bis[4-(dimethylamino)phenyl]-.

Use/Production. (G) A componenbt of a coating sloution. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Mild; Ames Test: Mutagenic; Yeast assay: Non-recombinogenic.

Exposure. Manufacture and processing: Dermal, a total of 19 workers, up to 3 hrs/da, up to 15 da/yr.

Environmental Release/Disposal. 0.04 to 0.10 kg/batch released. Disposal by incineration.

PMN 84–1192

Manufacturer. Confidential.

Chemical. (G) Functional aromatic polyether.

Use/Production. (G) Industrial coating having an open use. Prod. range: 10,000–100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 26 workers, up to 8 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. 3 to 25 kg/batch released to land. Disposal by incineration and landfill.

PMN 84–1193

Manufacturer. Confidential.

Chemical. (G) Functional ployester.

Use/Production. (G) Intermediate for industrial coatings. Prod. range: 2,000–21,800 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 14 workers, up to 3 hrs/da, up to 40 da/yr.

Environmental Release/Disposal. 1 to 10 kg/batch released to land. Disposal by incineration and landfill.

PMN 84–1194

Manufacturer. Confidential.

Chemical. (G) Acrylated polyester.

Use/Production. (G) Industrial coating having an open use. Prod. range: 3,100–34,400 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 17 workers, up to 6 hrs/da, up to 49 da/yr.

Environmental Release/Disposal. 5 to 15 kg/batch released to land. Disposal by incineration and landfill.

PMN 84–1195

Manufacturer. The Dow Chemical Company.

Chemical. (G) Type I anion exchange resin, sulfate form.

Use/Production. (S) Industrial water demineralization. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: Dermal.

Environmental Release/Disposal. None expected. Disposal by industrial waste treatment plant and navigable waterway after treatment.

PMN 84–1196

Manufacturer. The Dow Chemical Company.

Chemical. (G) Type II anion exchange resin, sulfate form.

Use/Production. (S) Industrial water demineralization. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: Dermal.

Environmental Release/Disposal. None expected. Disposal by industrial waste treatment plant and navigable waterway after treatment.

PMN 84–1197

Manufacturer. The Dow Chemical Company.

Chemical. (G) Type II anion exchange resin, bicarbonate/carbonate form.

Use/Production. (S) Industrial water demineralization. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: Dermal.

Environmental Release/Disposal. None expected. Disposal by industrial waste treatment plant and navigable waterway after treatment.

PMN 84–1198

Manufacturer. The Minnesota Mining and Manufacturing Company.

Chemical. (G) Substituted phenol/formaldehyde resin.

Use/Production. (G) Surface treatment-non-dispersive use. Prod. range: Confidential.

Toxicity Data. Acute oral: Between 2,000 and 5,000 mg/kg; Irritation: Skin—Mild/moderate, Eye—Mild/moderate; Ames Test: Non-mutagenic; Skin sensitization: Non-sensitizer; Yeast assay: Non-recombinogenic; BOD 20 day: None; COD: 1,200,000 mg/kg; LC_{50} 96 hr (Fathead minnow): 3.5 mg/1 and 2.9 mg/1; LC_{50} 96 hr (Fathead minnow): Combined—3.2 mg/1.

Exposure. Manufacture: Dermal.

Environmental Release/Disposal. No release. Disposal by incineration.

PMN 84–1199

Manufacturer. Confidential.

Chemical. (G) Polyester urethane polymer.

Use/Production. (S) Industrial magnetic tape binder. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–1200

Manufacturer. Confidential.

Chemical. (G) Hydrocarbon rosin phenolic resin.

Use/Production. (G) Printing inks. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–1201

Manufacturer. Confidential.

Chemical. (G) Polyamine amide imide.

Use/Production. (G) Fuel additive. Prod. range: Confidential.

Toxicity Data. Acute oral: >5g/kg; Acute dermal: >2 g/kg; Irritation: Skin—Moderate, Eye—Moderate; Ames Test: Nonmutagenic.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–1202

Manufacturer. Confidential.

Chemical. (G) Modified cellulosic.

Use/Production. (S) Functional additive for personal care formulations. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal and inhalation, a total of 10 workers, up to 4 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. Confidential. Disposal by industrial wastewater treatment facility.

PMN 84–1203

Manufacturer. Confidential.

Chemical. (G) Substituted amino benzoic acid derivative.

Use/Production. (G) Chemical intermediate. Prod. range: 1,600–2,800 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: A total of 6 workers, up to 0.1 hr/da, up to 3 da/yr.

Environmental Release/Disposal. No release.

PMN 84–1204

Importer. Confidential.

Chemical. (G) Substituted, sulfonated naphthylazo sodium salt.

Use/Import. (S) Industrial fiber reactive dye for cotton and rayon. Import range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—irritant.

Exposure. Processing: Dermal and inhalation, a total of 1 person/plant/shift, 1 hr/da.

Environmental Release/Disposal. 100 kg/yr unfixed PMN substance. Disposal by on-site biological treatment.

Dated: September 24, 1984.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 84–25801 Filed 9–27–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP–100013; FRL 2683–6]

Dynamac Corp.; Transfer of Data to Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA plans to transfer information submitted under sections 3, 6, and 7 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to Dynamac Corporation, 11140 Rockville Pike, Rockville, Maryland 20852, under Contract No. 68–01–6804. This contractor shall perform services for the Office of Pesticide Programs (OPP) of EPA. Some of the information that will be made available to the contractor has been claimed to be confidential business information (CBI). Information will be transferred to the contractor consistent with the requirements of 40 CFR 2.301(h). This action will enable the contractor to fulfill the obligations of the contract, and this notice serves to notify affected persons.

DATE: Dynamac Corporation will be given access to these documents no sooner than October 3, 1984.

FOR FURTHER INFORMATION CONTACT:

By mail:

William C. Grosse, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 222, CM#2, 1921 Jefferson Davis Highway, Arlington, Virginia, (703–557–2613).

SUPPLEMENTARY INFORMATION: Under this contract, Dynamac Corporation shall use the data to evaluate the health and environmental effects of chemical substances that occur in industrial waste streams.

Section 10(e) of FIFRA provides that information that is considered by the submitter to be trade secret or commercial of financial as described by FIFRA section 10(d) may be disclosed to an authorized contractor when such disclosure is necessary for the performance of the contract. EPA routinely receives such CBI as part of the data that are submitted by pesticide registrants and others as provided for in FIFRA section 3, 6, and 7.

Contractors are authorized to receive such data if the EPA program office managing the contract makes the determinations specified in 40 CFR 2.301(h)(2) as referenced in § 2.307. Such determinations have been made concerning the contract with Dynamac Corporation.

FIFRA section 10(f) provides a criminal penalty for wrongful disclosure of confidential information, whether such disclosure is made by an EPA employee or an EPA contractor.

The contract with Dynamac Corporation specifically prohibits disclosure of confidential business information to any third party in any form without written authorization from EPA, and personnel of this contractor will be required to sign a nondisclosure agreement before they are permitted access to such information.

Dated: September 19, 1984.

Louis P. True,

Acting Director, Office of Pesticide Programs

[FR Doc. 84–25903 Filed 9–27–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–724–DR]

North Carolina; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of North Carolina (FEMA–724–DR), dated September 21, 1984, and related determinations.

DATED: September 21, 1984.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

Notice: Notice is hereby given that, in a letter of September 21, 1984, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93–288), as follows:

I have determined that the damage in certain areas of the State of North Carolina, resulting from Hurricane Diana, beginning on or about September 12, 1984, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93–288. I therefore declare that such a major disaster exists in the State of North Carolina.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93–288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

Pursuant to section 408(b) of Pub. L. 93–288, you are authorized to advance to the State its 25 percent share of the Individual and Family Grant program, to be repaid to the United States by the State when it is able to do so.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Paul E. Hall of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of North Carolina to have been affected adversely by this declared major disaster:

Brunswick, New Hanover and Pender Counties for Individual Assistance and Public Assistance.

Bladen and Columbus Counties for Public Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 84-25759 Filed 9-27-84; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Michigan-Wisconsin Transportation Co., et al.; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provision of section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): MIchigan-Wisconsin Transportation Company, Michconsin, Inc. and Land & Lake Transportation Company, c/o Michigan-Wisconsin Ferry Service, P.O. Box 0279, Ludington, Michigan 49431.

Dated: September 25, 1984.

Francis C. Hurney,

Secretary

[FR Doc. 84-25795 Filed 9-27-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

First City Bancorp. of Texas; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. 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 Reserve Bank indicated or the offices of the Board of Governors not later than October 18, 1984.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *First City Bancorporation of Texas,* Houston, Texas; to merge through its wholly-owned subsidiary, First Security National Corporation, Houston, Texas, with Cullen/Frost Bankers, Inc., San Antonio, Texas, thereby indirectly acquiring Chase National Bank, Austin, Texas; Parkdale Bank, Corpus Christi, Texas; Cullen/Frost Bank of Dallas, N.A., Dallas, Texas; United States National Bank, Galveston, Texas; Cullen Center Bank and Trust, Houston, Texas; Cullen Bank/City West, N.A., Houston, Texas; Cullen Bank Northfield, N.A., Houston, Texas; Citizens Frost Bank, N.A., San Antonio, Texas; Colonial Frost Bank, N.A., San Antonio, Texas; Frost National Bank of San Antonio, San Antonio, Texas; Liberty Frost Bank, N.A., San Antonio, Texas; North Frost Bank, N.A., San Antonio, Texas; and Cullen Bank Sugar Land, Sugar Land, Texas. First City Bancorporation of Texas, through its wholly-owned subsidiary First Security National Corporation, has also applied to engage in various nonbanking activities through the acquisition of the following nonbanking subsidiaries of Cullen/Frost Bankers, Inc.: Main Plaza Corporation, Inc., San Antonio, Texas (making and servicing loans, and lending and leasing activities); Daltex General Agency, Inc., San Antonio, Texas (administrative services in connection with underwriting of credit life insurance); and C/F Life Insurance Company, San Antonio, Texas (credit life, health, and accident insurance underwriting).

Board of Governors of the Federal Reserve System, September 24, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-25767 Filed 9-27-84; 8:45 am]

BILLING CODE 6210-01-M

First State Bancshares, Inc.; Formation of; Acquisition by; or Merger of Bank Holding Companies

The company listed in this notice has 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 225.24) 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)).

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 to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than October 19, 1984.

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

1. *First State Bancshares, Inc.*, Somerville, Tennessee; to become a bank holding company be acquiring 80 percent of the voting shares of First State Bank of Fayette County, Somerville, Tennessee.

Board of Governors of the Federal Reserve System, September 24, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-25768 Filed 9-27-84; 8:45 am]

BILLING CODE 6210-01-M

Marine Midland Banks, Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have 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.

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 on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Boad of Governors not later than October 18, 1984.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Marine Midland Banks, Inc.*, Buffalo, New York; *The Hongkong and Shanghai Banking Corporation*, Hong Kong; *Kellett N.V.*, Curacao, Netherlands; and *HSBC Holdings, B.V.*, Amsterdam, The Netherlands; to engage *de novo* through their subsidiary, CM&M Asset Management Company, Inc., New York, New York, in investment and financial advisory activities.

B. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *First Valley Corporation*, Bethlehem, Pennsylvania; to engage *de novo* through its subsidiary, First Valley Life Insurance Company, Bethlehem, Pennsylvania, in underwriting, as reinsurer, credit life and disability insurance directly related to extensions of credit by First Valley Bank, Bethlehem, Pennsylvania. These activities would be conducted in the Commonwealth of Pennsylvania.

Board of Governors of the Federal Reserve System, September 24, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-25769 Filed 9-27-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on September 21.

Public Health Service

National Institutes of Health

Subject: The Cancer Construction Program, Program Instruction (0925-0128)—Extension/No Change
Respondents: State or local governments, non-profit institutions
OMB Desk Officer: Fay S. Iudicello

Food and Drug Administration

Subject: Survey of Manufacturers of Cordless Telephones
Respondents: Manufacturers of Cordless Telephones
OMB Desk Officer: Bruce Artim.

Health Resources and Services Administration

Subject: Health Maintenance Organizations Qualification Application, HMO Expansion Application, Competitive Medical Plan Application—Revision (0915-0065)
Respondents: Businesses, Non-Profit Institutions, Small Businesses or Orgranizations
OMB Desk Officer: Fay S. Iudicello.

Health Care Financing Administration

Subject: Contractor's Information Collections Claims Development Data from a Mixture of Providers, Suppliers and Beneficiaries (HCFA-9027)—Revision (0938-0205)
Respondents: Mixture of Providers, Suppliers and Beneficiaries
Subject: Intermediary's Request to Hospitals for Medical Information on Inpatient Claims for Statutorily Excluded Services (HCFA-9026)—Revision (0938-0224)
Respondents: Hospitals
Subject: Hospice Cost and Data Report, (HCFA-1984)
Respondents: Hospices
Subject: Home Health Agency Cost Report, (HCFA-1728) (0938-0022)
Respondents: Home Health Agencies
Subject: Hospital and Health Care Complex Cost Report, (HCFA-2552) (0938-0050)
Respondents: Hospitals and Skilled Nursing Facilities
OMB Desk Officer: Fay S. Iudicello

Social Security Administration

Subject: State's Report of Wages Paid (0960-0321)
Respondents: Certain State and local Governments
Subject: SSI Outreach Mail Survey—NEW COLLECTION

Respondents: Certain Individuals age 65 and over
Subject: MEDDIC Data Collection Form
Respondents: Disability Determination Services Agencies in the various States.
OMB Desk Officer: Robert J. Fishman.

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the follow address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, ATTN: (name of OMB Desk Officer).

Dated: September 20, 1984.

Wallace O. Keene,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 84–25504 Filed 9–27–84; 8:45 am]

BILLING CODE 4150–04–M

Food and Drug Administration

Oncologic Drugs Advisory Committee; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration announces the renewal of the Oncologic Drugs Advisory Committee by the Secretary of Health and Human Services. This notice is issued under the Federal Advisory Committee Act.

DATE: Authority for this commitee will expire on September 1, 1986, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: September 24, 1984.

William F. Randolph,

Acting Associate Commissioner, for Regulatory Affairs.

[FR Doc. 84–25743 Filed 9–27–84; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 84F–0315]

Toyobo Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a petition has been filed on behalf of Toyobo Co. proposing that the food additive regulations be amended to provide for the safe use of hexanedioic acid polymer with 1,3-benzenedimethanamine as a modifier for polyethylene phthalate polymers intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Patricia J. McLaughlin, 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: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4B3818) has been filed on behalf of Toyobo Co., Ltd., c/o 2347 Paddock Lane, Reston, VA 22091, proposing that the food additive regulations be amended to provide for the safe use of hexanedioic acid polymer with 1,3-benezenedimethanamine as a modifier for polyethylene phthalate polymers in 21 CFR 177.1630 intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: September 19, 1984.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84–25739 Filed 9–27–84; 8:45 am]

BILLING CODE 4160–01–M

[FDA 225–84–8400]

Memorandum of Understanding With the National Institute of Environmental Health Sciences' National Toxicology Program

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum or understanding (MOU) with the National Toxicology Program (NTP) to formalize an agreement by which the parties will cooperate and share information to assure the quality and integrity of safety data. The agreement also promotes mutual cooperation towards ensuring that laboratories engaged in nonclinical testing are in compliance with good laboratory practice regulations.

DATE: The agreement became effective August 1, 1984.

FOR FURTHER INFORMATION CONTACT: Paul D. Lepore, Office of Regulatory Affairs (HFC–30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2390.

SUPPLEMENTARY INFORMATION: In accordance with § 20.108(c) (21 CFR 20.108(c)) which states that all agreements and memoranda of understanding between FDA and others shall be published in the **Federal Register**, the agency is publishing the following memorandum of understanding:

Memorandum of Understanding Between the National Toxicology Program—National Institute of Environmental Health Sciences and the Food and Drug Administration

I. Purpose

The National Toxicology Program (NTP) and the Food and Drug Administration (FDA) have a common objective of promoting the quality and integrity of safety evaluation data resulting from nonclinical laboratory studies. These data are ultimately used to support the approval of applications for research and marketing permits for products regulated by FDA or for health hazard assessment in the public sector. NTP and FDA have established an informal liaison which allows the exchange of information resulting from audits of toxicology laboratories. Both parties recognize the need to further this endeavor. This agreement will identify specific responsibilities of each party to foster communication and to promote mutual cooperation towards ensuring that nonclinical studies are performed in accordance with good laboratory practices.

II. Background

FDA became concerned with the quality of toxicology testing as a result of laboratory inspections that were conducted in 1975. Based on these findings, Congress provided resources to establish a program that would assure that safety studies are conducted using scientifically sound protocols and in a manner that does not adversely affect the validity of a study. FDA subsequently promulgated good laboratory practice regulations (GLP's) (21 CFR Part 58) that prescribe good laboratory practice for conducting

nonclinical laboratory studies and instituted a laboratory inspection program. The inspection program provides for the biennial assessment of current laboratory operations, as well as audits of final reports of nonclinical laboratory studies which have been submitted to FDA.

NTP, as a sponsor of contract research, adopted a policy that requires that new or existing NTP testing contracts include compliance with the FDA GLP's. NTP monitors their contractors by performing site visits to inspect the laboratory's operations and to review the records and reports associated with a nonclinical study.

III. Substance of Agreement

A. *FDA's Responsibilities:* 1. FDA will provide NTP with a list of NTP contract laboratories that FDA intends to inspect during a given fiscal quarter.

2. FDA will provide to NTP copies of GLP inspection reports and agency reviews of laboratories performing studies under NTP contracts.

3. FDA will immediately advise NTP of any serious violative findings resulting from investigations of laboratories that perform contract studies for NTP, and will provide copies of inspection reports and reviews including correspondence associated with any regulatory action as they become available.

4. FDA will provide to NTP on a quarterly basis a listing of laboratories engaged in toxicology testing that have been inspected by FDA.

5. FDA will maintain the confidentiality of any confidential information provided by NTP, and will refer to NTP any requests for disclosure of information that may be confidential.

B. *NTP's Responsibilities:* 1. NTP will advise FDA of planned audits of any contract laboratory that FDA has previously inspected for compliance with the GLP's.

2. NTP will make available to FDA copies of the GLP audit and GLP site visit reports resulting from an NTP site visit.

3. NTP will immediately advise FDA of any serious violative findings resulting from investigations at the contract laboratories.

4. NTP will provide to FDA a copy of their annual inventory of laboratories that are performing contract studies for NTP.

5. NTP will maintain the confidentiality of any confidential information provided by FDA and will refer to FDA any requests for disclosure of information that may be confidential.

IV. Participating Agencies

A. National Toxicology Program, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709.

B. Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

V. Liaison Officers

A. National Toxicology Program, Director, Toxicology Research and Testing Program, National Institute of Environmental Health Sciences (currently Dr. Ernest E. McConnell), P.O. Box 12233, Research Triangle Park, NC 27709, 919-541-3267.

B. Food and Drug Administration: Bioresearch Monitoring Staff, Office of Regulatory Affairs (currently Dr. Paul D. Lepore), 5600 Fishers Lane, Rockville, MD 20857, 301-443-2390.

VI. Duration of Agreement

This agreement will become effective upon acceptance by both parties and will continue indefinitely. It may be modified by mutual consent or may be terminated by either party upon a 30-day written notice to the other.

Approved and Accepted for the National Toxicology Program.

Ernest E. McConnell,

Acting Director, Toxicology Research and Testing Program.

Dated: August 1, 1984.

Approved and Accepted for the Food and Drug Administration.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

Dated: June 28, 1984.

Effective date. This agreement became effective August 1, 1984.

Dated: September 24, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-25744 Filed 9-27-84; 8:45 am]

BILLING CODE 4160-01-M

METIMYD® (Prednisolone, Sulfacetamide, Neomycin) Ointment; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) sponsored by Schering Corp. providing for use of METIMYD® (prednisolone, sulfacetamide, neomycin) Ointment for treating eye and ear infections in dogs and cats. The sponsor requested the withdrawal of approval.

EFFECTIVE DATE: October 9, 1984.

FOR FURTHER INFORMATION CONTACT: John K. Augsburg, Center for Veterinary Medicine (HFV-216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033, is sponsor of NADA 10-471 for METIMYD® (prednisolone, sulfacetamide, neomycin) Ointment which originally became effective May 25, 1956. The drug is used to treat dogs and cats for external eye and ear infections and accompanying inflammation, caused by sulfacetamide and neomycin sensitive bacteria.

By letter of April 30, 1984, the sponsor requested withdrawal of approval of NADA 10-471 because the drug is no longer being manufactured or marketed, and waived an opportunity for hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director of the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.155 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 10-471 for Schering's METIMYD® (prednisolone, sulfacetamide, neomycin) Ointment and all supplements is hereby withdrawn, effective October 9, 1984.

In a final rule published elsewhere in this issue of the **Federal Register**, FDA is removing the regulation that reflects this approval.

Dated: September 20, 1984.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 84-25737 Filed 9-27-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84N-0167 (DESI 6403); Formerly Docket No. 79N-0001]

Isoxsuprine Hydrochloride; Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is granting a hearing on a proposal to withdraw approval of the new drug application for Vasodilan Injection and Tablets containing isoxsuprine hydrochloride. The drugs are intended for certain peripheral and cerebral indications. Other indications for the drugs will not be included in the hearing.

DATES: Notices of participation shall be filed with the Dockets Management Branch no later than October 29, 1984. Disclosure of data and information and submission of narrative statements by all participants other than FDA's Center for Drugs and Biologics by November 27, 1984. Prehearing conference on December 5, 1984, at 10:00 a.m.

ADDRESSES: Written notices of participation, disclosures, and statements to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. (Submissions should be identified with docket number 84N–0167 and clearly labeled "Vasodilan Hearing.") Prehearing conference in the FDA Hearing Room, Rm. 4A–35, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert J. Rice, Jr., Regulations Policy Staff (HFC–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION:

Background of This Proceeding

In a notice (formerly docket number 79N–0001) published in the **Federal Register** of May 25, 1979 (44 FR 30443), the Director of the Bureau of Drugs (now the Center for Drugs and Biologics, referred to hereafter as "the Center") issued a notice of opportunity for hearing on a proposal to withdraw approval of the new drug application for Vasodilan Injection and Tablets (NDA 11–832; Mead Johnson and Co., 2404 W. Pennsylvania St., Evansville, IN 47721). The Director found that there were no adequate and well-controlled clinical investigations, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5) which provide substantial evidence of effectiveness of Vasodilan for its labeled indications.

Hearing Requests

In response to the 1979 notice, Mead Johnson, the sponsor of Vasodilan, requested a hearing and submitted data and information pertaining to the following indications:

(1) Relief of symptoms associated with senile dementia of the Alzheimer's type (SDAT) and/or multiple infarct dementia;

(2) Relief of symptoms associated with peripheral vascular disease of arteriosclerosis obliterans, thromboangiitis obliterans (Buerger's disease), and Raynand's disease; and

(3) Relief of symptoms of uterine motility, including premature labor, dysmenorrhea, and threatened abortion.

The following companies, marketers of identical, similar, or related products, also requested a hearing in response to the 1979 notice, as did a trade association:

Cord Laboratories, Inc., 2555 West Midway Blvd., Broomfield, CO 80020

Philips Roxane Laboratories, Inc., P.O. Box 16532, Columbus, OH 43216

Premo Pharmaceutical Laboratories, Inc. (now Lemmon Pharmaceuticals, Inc.), 111 Leuning St., South Hackensack, NJ 07606

National Association of Pharmaceutical Manufacturers (NAPM), 747 Third Ave., New York, NY 10017

None of these entities submitted data with its hearing request. Philips Roxane submitted a printout of literature citations and abstracts on isoxsuprine. Cord submitted a general discussion of the literature on isoxsuprine. Premo and NAPM submitted legal arguments.

Review of the Hearing Requests by the Director of the Center for Drugs and Biologics

The Director of the Center evaluated the hearing requests on the issue of whether there is substantial evidence (21 U.S.C. 355(d)) of the effectiveness of Vasodilan and recommended to the Commissioner that a hearing be granted for two indications (numbers (1) and (2) above). The Director also recommended that a hearing be denied for one indication (number (3) above). The basis of the Director's denial recommendation is set forth below.

The Director's Recommendation Concerning Certain Indications

The Director recommended that, for the following reasons, Mead Johnson is not entitled to a hearing involving certain indications for Vasodilan.

Although it requested a hearing on the issue of Vasodilan's effectiveness in treating the symptoms of uterine motility, including premature labor, dysmenorrhea, and threatened abortion ("the OB–GYN indication"), in 1976 Mead Johnson abandoned this indication and consented to withdrawal of Vasodilan's approval for it.

The following facts constitute the basis for the Director's conclusion that Mead Johnson has consented to the withdrawal of approval of Vasodilan for the OB–GYN indication. In 1959, Vasodilan was initially approved as to safety only for, among other things, threatened abortion and premature labor. In 1975, the Food and Drug Administration (FDA) notified Mead Johnson by letter that there was no substantial evidence of effectiveness of Vasodilan for threatened abortion. By telephone, the firm notified FDA that it would withdraw the OB–GYN indication. FDA confirmed this by letter to Mead Johnson dated January 27, 1976. On April 8, 1976, Mead Johnson submitted a revised package insert in which the indication for threatened abortion was deleted. On July 14, 1976, Mead Johnson submitted a revised label dated December 1976 that also omitted all reference to the OB–GYN indication. Mead Johnson's annual reports to the Vasodilan new drug application have omitted this indication since 1977.

The Physicians' Desk Reference (PDR), an annual compilation of product information and FDA-approved labeling indications, included the "threatened abortion" indication starting in 1973 but ceased to do so as of 1977. In 1983 and 1984, the PDR entries for Vasodilan contained the following language under the heading "Adverse Reactions": "Vasodilan is neither approved nor recommended for use in the treatment of premature labor." Thus, not since 1976 has Mead Johnson, in labeling, in annual reports, or in PDR references, that Vasodilan was approved for the OB–GYN indication. Recently, in PDR references, the company has actively repudiated any such contention.

Copies of the aforementioned items are on file with the Dockets Management Branch as part of the administrative record of this proceeding.

The Director also has concluded that there is no genuine and substantial issue of fact as to Vasodilan's effectiveness for the OB–GYN indication. See *Weinberger* v. *Hynson, Westcott, & Dunning, Inc.*, 412 U.S. 609 (1973); *Cooper Laboratories* v. *Commissioner*, 501 F.2d 772 (D.C. Cir. 1974). The basis of this conclusion is set forth in the Center's medical review of the evidence submitted by Mead Johnson on the OB–GYN indication, which is contained in a memorandum dated March 1, 1983, and which is filed with the Dockets Management Branch as part of the administrative record of this proceeding.

The Commissioner's Ruling on the Hearing Requests

Under 21 CFR 314.200(f) the Commissioner shall not evaluate or rule upon a Director's recommendation that a hearing be denied as to some (but not all) issues. Further, the regulation provides that those issues as to which the Director has recommended a denial shall not be included in the notice of hearing. Accordingly, the OB–GYN indication is not included in this notice.

The Commissioner is, however now granting Mead Johnson's hearing request concerning the use of Vasodilan in treating symptoms relating to: (1) SDAT and multiple infarct dementia and (2) peripheral vascular disease. Approval of the new drug application will be withdrawn unless at the hearing the sponsor demonstrates the existence of substantial evidence that Vasodilan has the clinical effects(s) it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling (21 U.S.C. 355(d)).

Legal Argument

In its submission requesting a hearing, Mead Johnson also requested that the agency reinstate the temporary exemption for continued marketing, known as the "paragraph XIV" exemption, of Vasodilan, which was revoked on May 25, 1979 (44 FR 30436). Paragraph XIV of the court's order implementing its decision in *American Public Health Ass'n* v. *Veneman*, 349 F. Supp. 1311 (D.D.C. 1972), allowed FDA administrative enforcement discretion pending completion of scientific studies, with respect to continued marketing of less-than-effective drugs that were part of the DESI program. *See* 37 FR 26623. Mead Johnson argued that the agency's revocation of the exemption for Vasodilan without notice and comment violated the procedural requirements for rulemaking under the Administrative Procedure Act (APA), 5 U.S.C. 553.

The revocation of paragraph XIV status is not the promulgation of a rule within the meaning of the APA, 5 U.S.C. 551(A). The Supreme Court has distinguished "substantive rules" from other agency decisions, describing substantive rules as "binding" and as "affecting individual rights and obligations." *Chrysler Corp.* v. *Brown*, 441, U.S. 281, 301–02 (1979). Paragraph XIV, however, conferred no new rights on the products affected by it, but merely preserved FDA's flexibility and discretion in implementing the court's order. A "paragraph XIV" exemption grants no right to market a drug product, and its revocation does not remove a drug product from the market. Exemptions and revocations under paragraph XIV are not substantive norms enforceable in court but are expressions of agency enforcement discretion. Thus, as neither the exemption nor the revocation affecting Vasodilan was a rulemaking in violation of the APA, the Commissioner rejects both Mead Johnson's argument and, for the reasons stated in the 1979 notice, its request to reinstate the exemption.

Issues in This Proceeding

In light of the Director's recommendation and the requirements of 21 CFR 314.200, two questions will be addressed at this hearing:

1. Whether there are adequate and well-controlled investigations, including clinical investigations, on Vasodilan for the labeled indications (not including those related to the OB–GYN indication); and

2. Whether on the basis of any such adequate and well controlled investigations it could fairly and responsibly be concluded by experts qualified by scientific training and experience to evaluate the effectiveness of drugs that Vasodilan is effective in the treatment of SDAT or multiple infarct dementia and of peripheral vascular disease.

Parties to the Hearing

The parties to the hearing will be FDA's Center for Drugs and biologics, Mead Johnson, Cord, Lemmon, and Philips Roxane. NAPM and any other interested person may participate as nonparty participants (see 21 CFR 12.89), provided that they file a notice of participation pursuant to 21 CFR 12.45(a). The presiding officer will be Administrative Law Judge Daniel J. Davidson.

Hearing Procedures

In accordance with 21 CFR 12.85(a)(4), the Center has filed with the Dockets Management Branch a narrative statement setting forth its position on the hearing issues and a summary of the types of evidence to be introduced in support of its position, together with copies of factual data from the Center's files relating to the issues raised herein. Interested persons may obtain a copy of the narrative statement from the Dockets Management Branch (address above). They may also examine the data on Vasodilan (with the exception of any data identified as confidential pursuant to 21 CFR 10.20(j)) at the Dockets Management Branch from 9:00 a.m. to 4:00 p.m., Monday through Friday.

The prehearing conference will be held at 10:00 a.m., on December 5, 1984, in the FDA Hearing Room, Rm. 4A–35, 5600 Fishers Lane, Rockville, MD 20857. The hearing itself will also be held in the FDA the hearing room on a date to be set at the prehearing conference. Written notices of participation shall be filed with the Dockets Management Branch no later than October 29, 1984. All participants are required both to attend the prehearing conference and to be prepared to comply with the provisions of 21 CFR 12.92.

The hearing will be open to the public. Any participant may appear in person, or by or with counsel, or with other qualified representatives and may be heard on matters relevant to the issues under consideration. Participants other than the Center shall disclose data and information and submit narrative statements pursuant to 21 CFR 12.85 on or before November 27, 1984.

Because this is a public hearing, it is subject to FDA's guideline concerning the policy and procedures for electronic media coverage of public agency 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 formal evidentiary hearings conducted pursuant to Part 12 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 testimony of witnesses in the proceeding. Accordingly, the parties and nonparty participants to this hearing, and all other 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 this hearing.

Therefore, under the Federal Food, Drug and Cosmetic Act (sec. 505, 52 Stat. 1052 as amended (21 U.S.C. 355)) and under authority delegated to me (21 CFR 5.10), I order that a public hearing be held on the issues set out in this notice.

Dated: September 25, 1984.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

[FR Doc. 84–25885 Filed 9–27–84; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration Advisory Committee Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the month of October 1984:

Name: Joint meeting of the National Advisory Council on the National Health Service Corps and the National Advisory Council on Migrant Health.

Date and time: October 29, 1984, 9:00 a.m.–5:00 p.m., October 30, 1984, 9:00 a.m.–12:00 p.m., October 31, 1984, 10:30 a.m.–12:00 p.m.

Place: Valley and Grandee Rooms, Holiday Inn, 1901 West Tyler, Harlingen, Texas 78551.

Site visits will be made in and around Harlingen on Monday afternoon (October 28).

All meetings are open to the public. Transportation will NOT be provided for the public on Monday, October 28.

Purpose: The Councils will advise and make appropriate recommendations to the Secretary concerning issues that impact on the National Health Service Corps and the Migrant Health Centers.

Agenda: The Councils will concentrate on and address issues of common concern to both the National Health Service Corps and the Migrant Health Programs; and will site visit Hidalgo County Health Care Corporation, Hidalgo; Brownsville Community Health Center, Brownsville; and Su Clinica Familiar, Harlingen.

Name: National Advisory Council on the National Health Service Corps.

Date and Time: October 30, 1984, 1:30 p.m.–4:30 p.m., October 31, 1984, 9:00 a.m.–10:30 a.m.

Place: Grandee Room, Holiday Inn, 1901 West Tyler, Harlingen, Texas 78551.

The entire meeting is open to the public.

Purpose: The Council will advise and make appropriate recommendations on the National Health Service Corps (NHSC) program as mandated by legislation. It will also review and comment on proposed regulations promulgated by the Secretary under provisions of the legislation.

Agenda: The agenda will include discussions of: The Bureau of Health Care Delivery and Assistance program review; current NHSC program activities.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact Dr. Kenneth P. Moritsugu, Director, National Health Service Corps, Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration, Room 6–40, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: 301 443–14470.

Name: National Advisory Council of Migrant Health.

Date and Time: October 30, 1984, 1:30 p.m.–4:30 p.m., October 31, 1984, 9:00 a.m.–10:30 a.m.

Place: Valley Room, Holiday Inn, 1901 West Tyler, Harlingen, Texas 78551.

The entire meeting is open to the public.

Purpose: The Council is charged with advising, consulting with, and making recommendations to the Secretary and the Administrator, Health Resources and Services Administration, concerning the organization, operation, selection, and funding of Migrant Health Centers and other entities under grants and contracts under section 329 of the Public Health Service Act.

Agenda: The agenda will cover opening remarks, an overview and current status of the Migrant Health Program by the Director, Status of Recommendations of 1983 Council and 1984 Program Review; and Interagency Coordination Activities.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact Mr. Billy Sandlin, Executive Secretary, National Advisory Council on Migrant Health, Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration, Room 7A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1153.

Agenda items are subject to change as priorities dictate.

Dated: September 24, 1984.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 84–25736 Filed 9–27–84; 8:45 am]

BILLING CODE 4160–15–M

Public Health Service

National Toxicology Program; Proposal To Sponsor Studies on the Significance of Increased Acinar Cell Lesions of the Pancreas in Rats Given Oil Gavage and Their Relevance in the Interpretation of These Studies; Request for Comments

Summary

In May 1983 a science workshop bringing together experts in rodent pancreatic cancer and morphologic pathology was held by the National Toxicology Program (NTP) to review exocrine pancreatic lesions from recent long-term oil gavage studies in rats and to discuss their significance. The attendees agreed that the proliferative lesions were more common in male Fischer 344 (F344) rats receiving the oil vehicle than in untreated controls but that their significance for the interpretation of the NTP studies was unknown. The NTP Board of Scientific Counselors has recommended that the NTP sponsor studies on the significance of increased acinar cell proliferative lesions of the pancreas in oil vehicle studies and their relevance in the interpretation of these studies.

In responding to the Board and developing a research plan, two areas of most need became apparent: one that research should be stimulated and supported in the general area of dietary oil and the pancreas. This is being accomplished under a cooperative agreement mechanism (RFA Number NIEHS 84–3). The second area of need was a research effort targeted to be directly relevant to NTP studies.

The NTP proposes to address these questions by awarding a contract to conduct the studies described below. Written suggestions on the need, scope, adequacy, and design of the studies are solicited. If sufficient interest is expressed, a one day meeting will be held at the National Institute of Environmental Health Sciences (NIEHS) to discuss this issue. Comments should be sent to Dr. Gary A. Boorman, Acting Chief, Chemical Pathology Branch, NIEHS, P.O. Box 12233, Research Triangle Park, North Carolina 27709.

Background

Since inception of the Toxicology and Carcinogenesis Studies Program (transferred from the National Cancer Institute (NCI) to the NIEHS in 1981) over 300 chemicals have been studied mostly in two species of rodents. While many of the chemicals were administered by routes of exposure simulating primary human exposure (e.g., inhalation studies of vapors), approximately 75 chemicals have been given by gavage in oil because more precise doses could be quantified and because of limited chemical solubility and/or stability. Two recent chemicals given by oil gavage were found to be associated with pancreatic acinar cell adenomas and acinar cell hyperplasias. However, the vehicle control (corn oil) male rats in these studies also had a high incidence of proliferative acinar cell lesions of the pancreas.

Examination of the pancreata from 992 male F344 vehicle control rats receiving corn oil as the vehicle in two-year NCI/NTP studies revealed an incidence of 12.6 percent pancreatic acinar cell hyperplasias, 4.9 percent acinar cell adenomas and 0.2 percent carcinomas while 2.6 percent acinar cell hyperplasias, 0.9 percent acinar cell adenomas, and no carcinomas were found in the 1041 untreated control male rats examined. The exocrine pancreatic lesions appear to be restricted to male F344 rats and are uncommon in female F344 rats or B6C3F1 mice whether or not they have received an oil vehicle as control.

Proposed Studies

The proposed studies will attempt to evaluate the effects of oil in toxicology and carcinogenesis experiments and will not duplicate the cooperative agreements in place which address in a more general manner dietary oil and the pancreas. A second objective will be to determine the biological nature of the induced lesions. It is expected that the studies will be conducted in male F344/N rats. The contractor must have expertise in conducting two-year gavage studies in rats. The study plan will focus on five areas identified in the May 1983 workshop:

a. *Determining effect of various levels of corn oil in gavage studies*—Currently NTP utilizes 5 ml of corn oil/kg body weight although higher and lower levels have been used depending on the study design. Groups of 50 male F344/N rats

will be given 1, 5 or 10 ml/kg body weight of corn oil 5 times a week for 104 weeks. A group of 70 male rats will receive no corn oil and serve as controls. An additional group of 70 male rats will be given 10 ml/kg body weight of corn oil for 15 months at which time 20 will be sacrificed along with 20 animals from the control group, and pancreatic lesions will be examined and identified. The remaining rats will be held without further treatment until the end of the experiment at 2 years.

b. *Suitability of other vehicles for water insoluble chemicals*—The contractor shall propose to study at least two other vehicles at levels equal to the highest level of corn oil. In the proposal the offeror shall include relevant literature (if available), possible advantages and disadvantages. The study shall be for two years and while the main endpoint will be the pancreas, the studies must be able to detect other possible toxicologic and carcinogenic effects.

c. *Mechanism of restriction of the lesions to the male F344 rat*—The contractor shall test at least two other rat strains (male only) at 10 ml/kg body weight of corn oil 5 times a week for 104 weeks. A third group will include castrated male F344/N rats. The contractor may propose to test female F344/N rats treated with appropriate levels of male gonadal hormones; however the rationale for the choice of hormones, levels of hormones, and routes of administration must be carefully delineated.

d. *Interaction of oil vehicle with chemicals associated with proliferative exocrine pancreatic lesions*—In two recent oil gavage studies, benzyl acetate and methylene chloride appear to be associated with an increase in exocrine pancreatic lesions in male F344/N rats. Groups of 50 male F344/N rats will be given 500 mg/kg benzyl acetate using 5 ml/kg body weight of corn oil as vehicle 5 times a week for 104 weeks. A second group will receive the same level of benzyl acetate in another vehicle. Similarly, groups of 50 male F344/N rats will be given 500 or 1000 mg/kg methylene chloride in corn oil and another 50 male rats will receive methylene chloride by oral gavage using a second vehicle. Groups of 50 male F344/N rats receiving corn oil alone will serve as controls.

e. *Determining the biological nature of the induced pancreatic lesions*—A group of 60 male F344/N rats will receive 10 ml of corn oil/kg body weight for 104 weeks. At 15 months 10 rats will be killed and examined for the presence of pancreatic acinar nodules. Lesions will be selected for transplantation into 6–8 week old male F344/N recipients, and selected lesions will be examined histologically. The contractor shall propose a route and method of transplantation but suggested sites are in mammary fat pads or beneath the kidney capsule. Sixteen weeks post-transplantation the recipients shall be examined for progressive growth of the transplants. Groups of 10 donor rats will be similarly killed, examined and lesions transplanted at 17, 19, and 21 months. The remainder will be killed, examined and the lesions transplanted at 23 months. If the contractor has expertise in tissue culture, the ability of these pancreatic lesions to grow in culture may be proposed as a supplement to the transplantation studies. The contractor needs to provide rationale, detailed methodology, and evidence of expertise for studies relating to determination of the biological nature of the pancreatic lesions.

The studies are proposed to be conducted in a laboratory that has similar facilities and standards as current NTP contract laboratories. Also proposed, the pancreas, spleen and liver (for mononuclear cell leukemia) and mammary neoplasms will be the main pathology endpoints since these are the only tissues that appear to be altered in NTP studies using corn oil gavage.

Please submit all comments and suggestions in writing to Dr. Boorman within 30 days of publication of this notice. Any submissions received after the above date will be accepted and utilized if possible. If there is sufficient interest for holding a meeting, this will be announced in the **Federal Register**.

Dated: September 21, 1984.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 84-25758 Filed 9-27-84; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Proposed Designation of Four Areas of Critical Environmental Concern and Two Research Natural Areas; Bakersfield District, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Initiation of 60-day public comment period on the proposed designation of public land within Elkhorn Plain (portions of), Goose Lake, Point Sal, and Soda Lake as Areas of Critical Environmental Concern; and public land within Reef Ridge and the San Andreas Fault Scarp (portions of) as Research Natural Areas.

SUMMARY: Pursuant to the authorities in the Federal Land Policy and Management Act (FLPMA) of October 21, 1976 (section 202 (c)(3)) and in 43 CFR 1601.6–7, a 60-day public comment period is initiated on the following land proposed to be designated as: (A) Elkhorn Plain Area of Critical Environmental Concern (ACEC); (B) Goose Lake ACEC; (C) Point Sal ACEC; (D) Soda Lake ACEC; (E) Reef Ridge Research Natural Area; and (F) San Andreas Fault Scarp Research Natural Area.

(A) Elkhorn Plain ACEC

Mt. Diablo Meridian

T. 31S., R. 21E.,
Sec. 7, NE¼;
Sec. 8, All;
Sec. 17, N½; SW¼;
Sec. 18, N½NE¼, SE¼NE¼, NE¼SE¼;
Sec. 21, E½;
Sec. 22, SW¼;
Sec. 27, E½;
Sec. 35, N½;
T. 32S., R. 22E.,
Sec. 7, W½NE¼, SE¼NE¼, Lot 1, S½ Lot 2, Lots 6, 7, 8, 9, SE¼;
Sec. 17, All;
Sec. 18, All;
Sec. 19, NE¼NE¼, Lots 1, 2, 3, 4;
Sec. 20, E½NE¼, W½;
Sec. 26, All;
Sec. 27, S½NE¼,S½;
Sec. 28, W½NE¼, SE¼NE¼, S½NW¼, SW¼, SE¼;
Sec. 29, NE¼, N½NW¼, SE¼NW¼, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 33, N½, N½SE¼;
Sec. 34, All;
Sec. 35, W½.

The Elkhorn Plain ACEC contains approximately 9,190 acres of public land.

(B) Goose Lake ACEC

T. 27S., R. 22E.,
Sec. 14, NE¼NE¼ Mt. Diablo Meridian (40 acres of public land).

(C) Point Sal ACEC

T. 10N., R. 36W.,
Sec. 34 (all public land within) San Bernardino Meridian (approximately 50 acres of public land).

(D) Soda Lake ACEC

Mt. Diablo Meridian

T. 31S., R. 19E.,
Sec. 1, W½SW¼, SE¼SW¼;
Sec. 2, W½ Lot 2 of NE¼, Lot 1 of NE¼, Lots 1 and 2 of NW¼, NE¼SW¼, SE¼;
Sec. 11, N½NE¼, SE¼NE¼, E½SE¼;
Sec. 12, W½, SE¼;
Sec. 13, All;
Sec. 14, NE¼NE¼;
T. 31S., R. 20E.,
Sec. 17, W½SW¼;

Sec. 18, All;
Sec. 19, N½NE¼, SE¼NE¼, N½ Lot 1 of NW¼, N½ Lot 2 of NW¼;
Sec. 20, W½NW¼.

The Soda Lake ACEC contains approximately 2,970 acreas of public land.

(E) Reef Ridge Research Natural Area

Mt. Diablo Meridian

T. 29S., R. 20E.,
Sec. 4, Lot 8, E½SW¼, SW¼SW¼;
Sec. 7, Lots 3, 4, 7, 8, 9, 14, 15, 16, 17;
Sec. 9, NW¼NE¼, E½SE¼;
Sec. 10, NE¼, E½NW¼, SW¼NW¼, SW¼, S½SE¼.

The Reef Ridge Research Natural Area contains approximately 1,430 acres of public land.

(F) San Andreas Fault Scarp Research Natural Area

Mt. Diablo Meridian

T. 32S., R. 22E.,
Sec. 19, Lots 1, 2, 3, W½SE¼, SE¼SE¼;
Sec. 29, NW¼NW¼, SE¼NW¼, NE¼SW¼, NW¼SE¼, SE¼SE¼;
Sec. 33, W½NW¼, SE¼NW¼, N½SE¼;
Sec. 34, SW¼SW¼.

San Bernadino Meridian

T. 11N., R. 25W.,
Sec. 6, Lot 5, SW¼SE¼;
Sec. 7, NE¼NE¼;
Sec. 8, SW¼NW¼, N½SW¼, SE¼SW¼, S½SE¼;
Sec. 17, NE¼NE¼;
Sec. 22, NE¼SE¼;
Sec. 23, W½SW¼;
Sec. 26, S½NE¼.

The San Andreas Fault Scarp Research Natural Area contains approximately 1,350 acres of public land.

SUPPLEMENTARY INFORMATION:

(A) Elkhorn Plain ACEC

Elkhorn Plain lies between the Temblor and Caliente Ranges in San Luis Obispo County, California.

Elkhorn Plain is highly significant as habitat for federally listed threatened or endangered as well as state listed rare or endangered species (e.g., San Joaquin kit fox, blunt-nosed leopard lizard, California condor, and giant kangaroo rat). Although resource conflicts exist in this area, they are less significant here than in many other locations yet studies from the area provide considerable information regarding these species. This area has also received the least amount of alteration of native habitat in an area where so many of the species coexist. Population studies have been underway in the area for several years also. ACEC designation is consistent with the appropriate recovery plans, the Endangered Species Act, and subsequent regulations which identify the need for BLM to take positive actions toward enhancement of the species. Management of this ACEC will be directed toward this enhancement.

Management as an ACEC will include the following:

1. Limit ORV use to existing roads, ways, and trails;
2. Modified fire suppression plan for the public land;
3. Reestablishment of the native vegetation;
4. Study of impacts to habitat as a result of livestock grazing;
5. Establishment of intensive vegetation transects;
6. Continue managing as open to scientific study.

(B) Goose Lake ACEC

The Goose Lake ACEC borders Goose Lake Bed in the San Joaquin Valley, California.

Goose Lake is one of the few remaining alkali sink habitat areas within the valley. This area is habitat for numerous species of shorebirds and raptors. It is also unique in that it supports the alkali sink vegetation which is now rare in the valley. The area also includes an aboriginal archaeological site which is rare due to the continued conversion of most land along shorelines of dry lakes to agriculture.

Presently, the area is surrounded by private land used for agricultural purposes. Due to the isolated location of the parcel and the agricultural uses nearby, there exists a constant threat of unauthorized uses (e.g., dumping and burning of dead trees) to occur within this area. Any unauthorized use without proper mitigation measures controlling the amount and location of the disturbance may cause irreversible damage to this rare habitat area.

Management of the ACEC will be directed towards protecting the existing resource values at current levels. Management as an ACEC will include the following:

1. Maintenance of an existing fence around entire area;
2. Interpretive signing for public information purposes;
3. Approval of any surface disturbing activity within the ACEC will be at the discretion of the authorized officer;
4. Limit ORV use to existing roads, ways, and trails only.

(C) Point Sal ACEC

Point Sal is a rocky point which juts out in the Pacific Ocean along the northern Santa Barbara County coastline, California.

The point has several characteristics which are rare and unique. These include: (1) Several federally listed plants and animals inhabiting the area as well as many species of marine invertebrates and mammals nearby; (2) two archaeological sies which have National Register of Historic Places potential for listing; and (3) a nationally significant ophiolite sequence of crustal rocks which is unique because of its completeness which can lead to an increased understanding of the plate tectonic theory and the geologic history of the Coast Ranges.

Management of the ACEC will be directed at maintaining the existing resource values at current levels. Management as an ACEC will include the following:

1. Allow mineral leasing and mineral material exploration permits with no surface occupancy;
2. Segregate area from the operation of the mining laws;
3. Close area to ORV use;
4. Close area from entry/appropriation and leasing for realty actions only;
5. Continue managing as open to scientific study.

(D) Soda Lake ACEC

The Soda Lake ACEC is located in the Carrizo Plain between the Temblor and Caliente Ranges, in San Luis Obispo County, California.

Soda Lake is one of the largest remaining natural alkali wetlands in lower California. This area includes habitat for several federally and state listed animals as well as one candidate plant species. By far, the most abundant fauna utilizing the area is birds. During the winter and early spring, an abundance of waterbirds use Soda Lake for roosting, resting, and feeding. Approximately 5,000 lesser sandhill cranes or one-quarter of the total California wintering population stay at Soda Lake from December to March. Thirteen species of raptors have also been observed on public land at Soda Lake.

Management of the ACEC will be directed at maintaining the existing resource values at current levels. Management as an ACEC will include the following:

1. Allow mineral leasing and mineral material exploration permits with no surface occupancy;
2. Segregate area from the operation of the mining laws;
3. Limit ORV use to existing roads, ways, and trails only;
4. Withdraw area from entry/appropriation and leasing for realty actions only;

5. No authorization of livestock grazing.

(E) Reef Ridge Research Natural Area

Reef Ridge is located in the Temblor Range in Kern County, California. In this area, well known type localities of significant geologic rock units (paleontology) of West Coast sedimentary geology have been exposed. This area has been under study by the scientific and academic communities for several years because the area contains a unique stratigraphic continuum of marine middle Tertiary strata as well as invertebrate fossils.

Management of the Research Natural Area will be directed at maintaining the existing resource values at current levels. Management as a Research Natural Area will include the following:

1. Limit ORV use to existing roads, ways, and trails only;
2. Development of a transportation plan so parcels may be available for research studies;
3. Interpretive signing for public information purposes;
4. Continue managing as open to scientific and academic study.

(F) San Andreas Fault Scarp Research Natural Area

This area is located within the Elkhorn Plain between the Temblor and Caliente Ranges in San Luis Obispo County, California.

This portion of the San Andreas Fault has been the subject of international attention and found referenced and photographed in numerous works discussing earthquakes and plate tectonics. This topographic expression of the San Andreas Fault is extremely important to regional and statewide earthquake hazard studies and information studies including measurements and observation of strike-slip and dip-slip movement.

Management of the Research Natural Area will be directed at maintaining the existing resource values at current levels. Management as a Research Natural Area will include the following:

1. Limit ORV use to existing roads, ways, and trails only;
2. Interpretive signing for public information purposes;
3. Continue managing as open to scientific research studies;
4. Maintain area available to seismic study facilities at the discretion of the authorized officer.

Specific details of the resource values and special management attention required to maintain these values for all of the above proposed areas have been included in the Draft and Final Resource Management Plan (RMP) for the Coast/Valley Planning Area. The areas and the management criteria were developed through the planning process which included several stages of public participation. Opportunities for public participation were provided during the following planning steps: Preplanning; development of the planning creteria; review of the Draft RMP/EIS (Environmental Impact Statement); and presently, review of the Final RMP/EIS. An EIS was prepared analyzing the impacts resulting from designation of each of the areas as well as the following alternatives: (1) Present Management (No Action)—the area would remain undesignated; however, management would maintain the area in its natural state and; (2) Emphasize Production—the area would not be designated; however, future management would protect within legal constraints those sensitive and unique values which currently exist in the area. All documents cited above are on file in the Bakersfield District Office, and the Caliente Resource Area Office.

DATES: Written comments on the proposed designations for the four ACECs and two Research Natural Areas must be received by November 27, 1984.

ADDRESSES: Written comments should be sent to: Caliente Area Manager, Bureau of Land Management, 520 Butte Street, Bakersfield, California 93305.

FOR FURTHER INFORMATION CONTACT: Glenn Carpenter, Area Manager, Bureau of Land Management, Caliente Resource Area, 520 Butte Street, Bakersfield, California 93305, (805) 861–4236.

Dated: September 14, 1984.

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 84–24962 Filed 9–27–84; 8:45 am]

BILLING CODE 4310–40–M

Montana; North Dakota Grazing Environmental Impact Statement

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of Availability of Final Grazing Environmental Impact Statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM) has prepared a Final Environmental Impact Statement (EIS) for livestock grazing upon the public lands in North Dakota. The EIS details four alternative livestock grazing levels on nearly 68,000 acres of public land within BLM's Dickinson District. The alternatives examined are: (1) Rangeland improvement; (2) no action, continue present management levels; (3) reduced livestock use; (4) no grazing. The Final EIS completes the environmental analysis of the overall grazing program on BLM managed lands in North Dakota.

Public participation: Copies of the Final Grazing EIS are available from the Dickinson District Office, P.O. Box 1229, 204 Sims Street, Dickinson, North Dakota 58602, phone (701) 225–9148. Public reading copies will be available for review at the following locations:

Bureau of Land Management, Office of Public Affairs, Location Building, 18th and C Street, NW, Washington, DC 20240

Montana State Office, 222 North 32nd Street, PO Box 36800, Billings, Montana 59107.

FOR FURTHER INFORMATION CONTACT: Craig Altop, Project Manager, Dickinson District Office, BLM, PO Box 1229, Dickinson, North Dakota 58602, Telephone: (701) 225–9148.

Dated: September 18, 1984.

Edwin Zaidlicz,

State Director.

[FR Doc. 84–25482 Filed 9–27–84; 8:45 am]

BILLING CODE 4310–DN–M

[OR36857A, OR36857B, OR36857D]

Realty Action Direct/Modified Competitive Sale in Lake County, OR

The following described parcels of land have been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713) at no less than the appraised fair market value shown:

Sale and parcel No.	Legal Description	Acreage	Fair Market value
OR36857A—1	T. 27 S., R. 17 E., Willamette Meridian, Oregon, Section 28: NE¼ SE¼	40	$4,000
OR36857B—2	T. 27 S., R. 17 E., Willamette Meridian, Oregon, Section 27: SW¼ SW¼, Section 28: SE¼ SE¼.	80	$6,000
OR36857D—3	T. 26 S., R. 17 E., Willamette Meridian, Oregon, Section 32: W½ NW¼	80	$6,400

The sale will be held on Wednesday, December 5, 1984, at 10:00 a.m., in the Bureau of Land Management, Lakeview District conference room, 1000 South Ninth Street, Lakeview, Oregon.

Sale bidding will be limited to sealed

bids and must be for at least the appraised value. Individuals with a preference right to purchase a parcel must be present at the sale and must submit a sealed bid, appraised value or higher, in order to qualify to meet the high sealed bid. Direct sale candidate(s) need not be present at the sale, however, a sealed bid, for the appraised value or higher and the required ten percent (10%) deposit must be submitted by the designated purchaser, to the Lakeview District Office, prior to the sale date and time specified.

Sale parcel OR 36857A will be offered through direct sale procedures with Mr. and Mrs. Dave Seibel being the designated purchasers. Sale parcels OR 36857B and D, will be offered for sale at public auction through modified competitive bidding with Mr. and Mrs. Dave Seibel and Tim and Bonnie Puckett, respectively, given preference to meet the high selling bid. Refusal or failure by the preference holders to meet the high selling bid immediately after the close of bidding shall constitute a waiver of such right.

Direct and modified competitive sale procedures are being used to recognize the needs of adjoining landowners and historical use by these landowners. Direct and modified competitive sale procedures are authorized under section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713; 43 CFR 2711.3–2(a)(2) and 2711.3–3(a)(5).

This sale is consistent with the existing land use plan developed in accordance with the Department's planning regulations, public participation and in coordination with local governmental entities.

The sale involves isolated land that is difficult and uneconomical to manage as part of the public lands, and is not suitable for management by another federal department or agency. The public interest will be served by offering this land for sale.

Federal law requires that all bidders be U.S. citizens, 18 years of age or more, a state or state instrumentality authorized to hold property, or in the case of corporations, be authorized to own real estate in the state in which the sale land is offered.

Sealed written bids will be considered only if received by the Bureau of Land Management, Lakeview District Office, 1000 South Ninth Stree, P.O. Box 151, Lakeview, Oregon 97630, prior to 10:00 a.m., Wednesday, December 5, 1984. A separate written bid should be submitted for each sale parcel desired. Each written sealed bid must be accompanied by a certified check, postal money order, bank draft or cashiers check, made payable to the Department of the Interior-BLM for at least ten percent (10%) of the amount bid and shall be enclosed in a sealed envelope clearly marked, "Bid for Public Land Sale OR 36857A, B or D, Sale Parcel Number , Lake County, Oregon, December 5, 1984". The written sealed bids will be opened and publicly declared at the beginning of each sale. If 2 or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid, shall be by supplemental biddings.

The terms and conditions applicable to the sale are:

1. The apparent nigh bidder or designated purchaser, shall submit the remainder of the full bid price within 180 days from the date of sale. Failure to submit the full bid price within 180 days from the date of sale shall result in sale cancellation of the specific parcel and the ten percent (10%) deposit shall be forefeited.

2. The authorized officer may reject the highest qualified bid and release the bidder from his/her obligation and withdraw any tract from the sale, if he determines that consummation of the sale would be inconsistent with the provisions of any existing law, or collusive or other activities have hindered or restrained free and open bidding, or consummation of the sale would encourage or promote speculation in public lands.

3. The patents will contain a reservation to the United States for ditches and canals.

4. The sale is for surface estate only. The patents will contain a reservation to the United States for all minerals.

5. The sale will be subject to all valid existing rights.

Parcels not sold on the day of the sale will remain available for sale until sold or withdrawn. Sealed bids will be solicited on these parcels at the Lakeview Distreict Office during regular business hours, (7:45 a.m. to 4:30 p.m.). The sealed bids will be opened January 2, 1985 and every first Wednesday of each subsequent month until the land is either sold, or withdrawn.

Upon publication of this Notice of Realty Action in the **Federal Register**, the land described above will be segregated from all forms of appropriation under the public land laws, including the mining laws. The segregative effect of this notice shall terminate upon issuance of patent or other document of conveyance to such lands, upon publication in the **Federal Register** of a termination of the segregation or 270 days from the date of publication whichever occurs first.

Detailed information concerning the sale, including the planning documents, appraisals, environmental assessment and the record of public involvement, is available for review at the Lakeview District Office, Bureau of Land Management, 1000 South Ninth Street, Lakeview, Oregon.

For a period of 45 days from the date of issuance of this notice, interested parties may submit comments to the District Manager, Lakeview District Office, Bureau of Land Management, P.O. Box 151, 1000 South Ninth Street, Lakeview, Oregon 97630. Any adverse comments received as a result of the Notice of Realty Action or notification to the congressional committees and delegations pursauant to Pub. L. 98–146, will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Distric Manager, this realty action will become a final determination of the Department of the Interior. Interested parties should continue to check with the District Office to keep themselves advised of any changes.

Dated: September 15, 1984.

Jerry Asher,

District Manager.

[FR Doc. 84–25753 Filed 9–27–84; 8:45 am]

BILLING CODE 4310–33–M

[M–60334]

Montana; Realty Action, Exchange of Public and Private Lands

AGENCY: Bureau of Land Management, Miles City District Office, Interior.

ACTION: Notice of Realty Action M–60334, Exchange of Public and Private Lands in Fallon and Wibaux Counties, Montana.

SUMMARY: The following described public lands have been determined to be suitable for exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Principal Meridian, Montana

T. 10 N., R. 57 E;
Sec. 6: Lots 3–7, SE¼NW¼, E½SW¼.
T. 11 N., R. 57 E.,
Sec. 30: NE¼, E½NW¼, NE¼SW¼, NW¼SE¼;
Sec. 31: Lots 1–4, E½, E½W½.
Aggregating 1,259.49 acres of public land.

In exchange for these public lands, the United States Government will acquire the surface estate in the following

described lands from Willi Gabriel of Ismay, Montana:

Principal Meridian, Montana

T. 11 N., R. 57 E.,
Sec. 7: Lots 1–4, E½, E½W½;
Sec. 18: Lots 1–r, E½W½,
Sec. 19: Lots 1–2, NE¼, E½NW¼.

Aggregating 1, 248.69 acres of public land.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301. Any adverse comments will be evaluated by the BLM, Montana 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 this department.

FOR FURTHER INFORMATION CONTACT: Information related to the exchange is available at the Miles Cty District Office, Garryowen Road, Miles City, Montana.

SUPPLEMENTARY INFORMATION: The purpose of this proposal is to provide management enhancement and it would attach the acquired lands to an existing tract of public land over 30,000 acres in size. The exchange is consistent with the Bureau's planning for the lands involved and has been discussed with State and county officials. The Wibaux and Fallon County Commissioners were consulted on September 6, 1984, and concurred there is no need to hold a public meeting. The public interest will be well served by making the exchange.

The publication of this notice segregates the public land described above from settlement, sale, location and entry under the public land laws, including the mining laws, but not from exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976.

The exchange will be subject to:

1. A reservation to the United States of a right-of-way for ditches or canals in accordance with 43 U.S.C 945, for lands being transferred out of Federal ownership.

2. The reservation to the United States of all minerals on the public lands being exchanged. The present mineral status of the private lands being exchanged will remain status quo also.

3. All valid existing rights of record.

4. The exchange will be based on an equal value basis as determined by a formal appraisal on both the public and private lands involved.

5. The exchange must meet the requirements of the applicable parts of the Code of Federal Regulations.

Dated: September 20, 1984.

Robert A. Teegarden,

Acting District Manager.

[FR Doc. 84–25807 Filed 9–27–84; 8:45 am]

BILLING CODE 4310–DN–M

Minerals Management Service

Scientific Committee of the Outer Continental Shelf (OCS) Advisory Board; Cancellation of Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92–463, 5 U.S.C. App. I and the Office of Management and Budget's Circular A–63 Revised.

The meeting of the Scientific Committee of the Outer Continental Shelf Advisory Board, scheduled to meet on October 2 and 3, 1984, in the Onyx Room of The Brown Palace Hotel, Denver, Colorado, is hereby cancelled. Plans are underway to reschedule this meeting.

All inquiries concerning this meeting should be addressed to: Dr. Piet deWitt, Chief, Offshore Environmental Assessment Division (644), Minerals Management Service, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240; telephone: (202) 343–2097.

Dated: September 26, 1984.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 84–25971 Filed 9–27–84; 8:45 am]

BILLING CODE 4310–MR–M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell, (202) 275–7238. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 395–7340.

Type of Clearance: Revision
Bureau/Office: Small Business Assistance Office
Title of Form: Profile of Minority and Female-Owned Motor Carrier
OMB Form No.: 3120–0050
Agency Form No.: None
Frequency: Biennially
Respondents: Minorities & Women
No. of Respondents: 2,000
Total Burden Hrs.: 453

James H. Bayne,

Secretary.

[FR Doc. 84–25764 Filed 9–27–84; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 399]

Cost Recovery Percentage

AGENCY: Interstate Commerce Commission.

ACTION: Further Notice of Proposed Costing Standards and adoption of preliminary 1984 Cost Recovery Percentage.

SUMMARY: The Commission has decided to adopt a preliminary 1984 Cost Recovery Percentage (CRP) of 344.5 percent. The preliminary 1984 CRP has been computed using movement data from the 1982 ICC Waybill Study and actual 1982 Rail Form A unit costs. Since the Commission calculated CRP is above the maximum statutory threshold of 180 percent, 180 percent will be used for the period beginning October 1, 1984.

ADDRESSES: To obtain copies of the full decision contact: Office of the Secretary, Room 2215, Interstate Commerce Commission, 12th Street and Constitution Avenue, NW., Washington, D.C. 20423, (202) 275–7428.

DATES: Comments are due by November 13, 1984.

FOR FURTHER INFORMATION CONTACT: William T. Bono (202) 275–7354, or Robert C. Hasek (202) 275–0938.

SUPPLEMENTARY INFORMATION: Section 202 of the Staggers Rail Act of 1980 requires the Commission to calculate an annual CRP. The CRP is a revenue to variable cost ratio computed using railroad unit costs and a statistical sample of railroad traffic. It is to be set at such a level that if all traffic moving at rates above the CRP were held at the CRP level, the railroad industry, in total, would earn revenues sufficient to cover industry-wide variable plus fixed costs. The calculated preliminary 1984 CRP is to be used as a jurisdictional threshold for rate regulation of market dominant railroad traffic for the period beginning October 1, 1984 only if it falls within a range or 170 percent to 180 percent. If the calculated CRP falls below 170

percent, the statutory 170 percent figure will govern. If the calculated CRP falls above 180 percent, the statutory 180 percent will govern. Since the preliminary 1984 CRP as calculated (344.5 percent) is above the statutory maximum threshold of 180 percent, the statutory maximum threshold of 180 percent will be used as a regulatory threshold.

The preliminary 1984 CRP was calculated using movement data from the 1982 ICC Waybill Sample and actual 1982 Rail Form A unit costs. Both the 1982 waybill data and the 1982 Rail Form A costs are the latest available.

The computation of the CRP is a three step process. The first step is the expansion of the waybill sample. Since the 1982 waybill sample was reported at several different sampling rates, each sampled movement was expanded by its proper expansion factor to insure that each movement received its proper weight in the array of movements used for the calculation of the CRP.

The second step in computing the CRP is a revenue contribution or "burden" study. In such a study railroad unit costs are applied individual movements and a revenue to variable cost ratio is calculated for each movement.

Rail Form A unit costs developed for the year 1982 were applied to each of the approximately 200,000 movements contained on the 1982 waybill tape. Costs developed for individual railroads were used for movements over those railroads whenever possible. Appropriate regional Rail Form A unit costs were used for other movements. Actual mileage allowances were used in lieu of car ownership costs for all private car movements except for private car coal movements. No car costs or mileage allowances have been included for private car movements of coal.

The unit costs of volume movements (multiple car movements 6 through 49 cars, trainload movements 50 or move cars) were reduced to simulate actual operating economies of those movements. Since Rail Form A unit costs are average costs encompassing the costs of all movements and reductions were made to the costs of volume movements, corresponding cost increases were made in the cost of other movements.

The revenue reduction process is the third step in computing the CRP. It uses an iterative process which reduces the revenues of all movements above the CRP until the total revenue equals the total fixed plus variable cost which is the CRP level.

Authority: 49 U.S.C. 10321, 10709, 5 U.S.C. 553.

Dated: September 18, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley and Strenio. Commissioners Lamboley and Strenio did not participate.

James H. Bayne,

Secretary.

[FR Doc. 84-25766 Filed 9-27-84; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Intent To Engage In Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Alumax Inc., 400 South El Camino Real, San Mateo, CA 94402.

2. Wholly-owned subsidiaries which will participate in the operations, and states of incorporation:

(a) Alumax Aluminum Corporation, Incorporated in Delaware

(b) Alumax Aluminum Sales Corporation, Incorporated in Delaware

(c) Alumax Building Specialities Corporation, Incorporated in Delaware

(d) Alumax Extrusions, Inc., Incorporated in Delaware

(e) Alumax Extrusions, Inc., Incorporated in New York

(f) Alumax Fabricated Products, Inc., Incorporated in Delaware

(g) Alumax Foils, Inc., Incorporated in Delaware

(h) Alumax of Maryland, Inc., Incorporated in Delaware

(i) Alumax Mill Products, Inc., Incorporated in Delaware

(j) Alumax Mobile Home of Florida, Inc., Incorporated in Delaware

(k) Alumax Recycling Group, Inc., Incorporated in Delaware

(l) Alumax Remelt Corporation, Incorporated in Delaware

(m) Alumax of South Carolina, Inc., Incorporated in Delaware

(n) Alumax Warehouse Corporation, Incorporated in Delaware

(o) Alumax of Washington, Inc., Incorporated in Delaware

(p) Alumet Corporation, Incorporated in Delaware

(q) Alumet Holding Corporation, Incorporated in Delaware

(r) Eastalco Aluminum Company, Incorporated in Delaware

(s) Eastalco Share, Inc., Incorporated in Delaware

(t) Intalco Aluminum Corporation, Incorporated in Delaware

(u) K & S Products, Inc., Incorporated in Indiana

(v) Kawneer Company, Inc., Incorporated in Delaware

(w) Quaker State Manufacturing Company, Incorporated in Pennsylvania

(x) Resource Products Corporation, Incorporated in Texas

(y) Sailor Manufacturing, Inc., Incorporated in Indiana

1. Parent corporation and address of principal office: Hoover Universal, Inc., 825 Victors Way, Ann Arbor, Michigan 48104.

2. Wholly owned subsidiary which will participate in the operations, and state(s) of incorporation:

(a) Ultraspherics, Incorporated, 1390 Industrial Park Drive, Sault Ste. Marie, Michigan 49783, State of Incorporation: Michigan

(b) Hoover Superior Ball Company, Inc., 100 Wellington Street, Hartford, Connecticut 06106, State of Incorporation: Michigan

1. Parent corporation and address of principal office: SOLVAY & CIE, S.A., 33 Rue Du Prince Albert, Brussels 5554, Belgium 1050.

2. Wholly owned subsidiaries which will participate in the operation, and state(s) of incorporation:

(a) SOLTEX Polymer Corporation, a Delaware corporation.

(b) Salsbury Laboratories, Inc., a Delaware corporation.

(c) Shippers Service, Inc., an Iowa corporation.

(d) Duphar Nutrition, Inc., a Delaware corporation.

James H. Bayne,

Secretary.

[FR Doc. 84-25763 Filed 9-27-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-19 (Sub—No. 85X)]

Railroad Services; The Baltimore and Ohio Railroad Co.; Abandonment in Scioto County, OH; Exemption

The Baltimore and Ohio Railroad Company (B&O) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt abandonments*, as amended by Ex Parte No. 274 (Sub-No. 8A), *Exemption of Out of Service Lines. (Discontinuance of Service and Trackage Rights)* (not printed), served April 20, 1984, to be printed at 1 I.C.C. 2d 55. B&O will abandon its line of railroad

known as the Portsmouth Branch extending between milepost 48.68 near Sciotoville Junction and milepost 46.75 at the end of the line near Dillard, a distance of approximately 1.93 miles, in Scioto County, OH.

B&O has certified that (1) no local traffic has moved over the line for at least 2 years, (2) the line does not handle overhead traffic, and (3) that no formal complaint, filed by a user of rail service on the line, or by a state or local government entity acting on behalf of a user, regarding cessation of service over the line, either is pending with the Commission or has been decided in favor of a complainant within the 2-year period preceding this notice. The Public Service Commission (or equivalent agency) in Ohio has been notified in writing at least 10 days prior to the filing of this notice. See *Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment or discontinuance of service shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen,* 366 I.C.C. 91 (1979).

The exemption shall be effective on October 28, 1984 (unless stayed pending reconsideration). Petition to stay the effective date of the exemption must be filed by October 8, 1984, and petitions for reconsideration, including envirinmental, energy, and public use concerns, must be filed by October 18, 1984, with:

Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to B&O's representative:

Rene J. Gunning, Suite 2204, 100 North Charles Street, Baltimore, MD 21201

Peter J. Shudtz, P.O. Box 6419, Cleveland, OH 44101

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: September 21, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-25765 Filed 9-27-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on July 27, 1984, Upjohn Company, 7171 Portage Road, Kalamazoo, Michigan 49001, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methamphetamine (1105)	II
2,5-Dimethoxyamphetamine (7396)	I

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537. Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than October 29, 1984.

Dated: September 21, 1984.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 84-25786 Filed 9-27-84; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

The Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: October 9, 1984, 9:30 a.m., Rm. S4215 A & B Frances Perkins, Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information contact: Fernand Lavallee, Executive Secretary, Labor Advisory Committee, Phone: (202) 523-6565.

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

Robert W. Searby,

Deputy Under Secretary, International Affairs.

September 14, 1984.

[FR Doc. 84-25757 Filed 9-27-84; 8:45 am]

BILLING CODE 4510-28-M

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Employment and Training Administration

Survey to Determine Data Availability for Benefits Quality Control Program
None; no form number
Other (one time response)
State or local governments
52 responses; 208 hours; no form

Employment Security Data Processing Administrators are being surveyed this one time only to identify Quality Control (QC) elements currently maintained on their computer files so that manual entries to QC data base can be minimized. Data retention information will determine the feasibility of obtaining historical data for QC.

Employment and Training Administration

Disaster Payment Activities Under the Disaster Relief Act of 1974
ETA 90–2
Monthly
State and local governments
600 responses; 150 hours; 1 form

Data on disaster unemployment assistance (DUA) activity are needed for timely program evaluation necessary for competent administration of Section 407 of the Act. Workload items are also used with fiscal reports to estimate the cost of administering the Act. This report was previously cleared by the Federal Emergency Management Agency under FEMA Form 90–2, OMB 3067–0015.

Extension

Employment and Training Administration

WIN Status Change Notice (ETA–597)
1205–0155; ETA 597
On Occasion
State or local governments
838,400 responses; 39,119 hours; 1 form

The local WIN Staff use the ETA 597 to record registrant status and activity in the WIN program from entry into employment to deregistration and follow-through. It enters WIN E&T client activity into the ADS and ESARS; it also transmits information for the use of IMU, SAU, and E&T agencies.

Employment and Training Administratiuon

WIN Employability Plan and Certification Record (ETA–596)
1205–0156; ETA 596
On Occasion
Individuals or households; State or local governments
387,000 responses; 30,690 hours; 1 form

Local WIN staff use this form to summarize appraisal and employability plan information, and obtain registrants' signatures, indicating agreement with the employability plan; SAU assures that registrants are certified for social services. It is used by SUA and E&T agencies to exchange information.

Employment and Training Administration

Annual State WIN Plans
1205–0214; ETA RC 16
Annually
State or local governments
33 respondents; 2,541 hours; 1 form

The State WIN Plan is the basic planning and management tool utilized by the national and regional offices to ensure State compliance with legislation, regulations, and national office goals. It is the vehicle for providing allocation levels to State agencies. Respondents are State staff.

Employment and Training Administration

Notice of Intended Deregistration for CFR 56.63 Title 29
1205–0175; no form
On occasion
Individuals or households
16,200 responses; 20,250 hours

The Notice of Intended Deregistration is needed for consistency with due process as expressed by U.S. Supreme Court in Goldberg vs. Kelly. The law requires that when a certified WIN registrant refuses to participate in WIN, either (1) notify the welfare agency to remove AFDC benefits or (2) allow the registrant to request a hearing.

Mine Safety and Health Administration

Identification of Independent Contractors
1219–0043
On occasion
Businesses or other for profit; small businesses or organizations
652 responses; 85 hours

Standard 45.3 provides that independent contractors may voluntarily obtain an identification number from MSHA. If the independent contractor does not have an MSHA identification number, they will be assigned one the first time they are cited for a violation of the Federal Mine Safety and Health Act.

Mine Safety and Health Administration

Maintenance of Independent Contractor Register
1219–0040
On occasion
Businesses or other for profit; small businesses or Organizations
19,497 respondents; 16,027 hours

Requires mine operators to maintain a written summary of information concerning each independent contractor performing work at the mine. The information is used during inspections to determine proper responsibility for compliance with safety and health standards.

Signed at Washington, D.C., this 25th day of September 1984.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 84–25842 Filed 9–27–84; 8:45 am]
BILLING CODE 4510–30–M

[Order 7–84]

Organization, Functions, and Authority Delegations; Office of Labor-Management Relations Services

September 20, 1984.

1. *Purpose.* To change the name of the Office of Labor-Management Relations Services and to redelegate authority.

2. *Background.* Secretary's Order 3–84 established the Office of Labor-Management Relations Services headed by a Deputy Under Secretary for Labor-Management Relations and Cooperative Program with delegatd authority, who reports directly to the Under Secretary.

3. *Bureau of Labor-Management Relations and Cooperative Programs:*

a. It is hereby ordered that the Office of Labor-Management Relations

Services be redesignated the Bureau of Labor-Management Relations and Cooperative Programs. The authorities and program responsibilities delegated to the Deputy Under Secretary for Labor-Management Relations and Cooperative Programs in Secretary's Order 3–84 are hereby delegated to the Under Secretary. All authorities previously delegated to the Office of Labor-Management Relations Services shall remain in full force and effect until modified or canceled, and all actions taken pursuant to such previously delegated authority shall remain in full force and effect until specifically modified or canceled.

b. All employees of the Office of Labor-Management Relations Services are designated employees of the Bureau of Labor-Management Relations and Cooperative Programs.

c. All programs, activities, functions, and responsibilities previously delegated to the Office of Labor-Management Relations Services are redesignated programs, activities, functions, and responsibilities of the Bureau of Labor-Management Relations and Cooperative Programs.

4. *Solicitor of Labor.* The Solicitor of Labor is responsible for providing legal advice and assistance to all officers of the Department relating to the administration of this Order.

5. *Authority and Directive Affected:*

a. *Authority.* This Order is issued pursuant to the Act of March 4, 1913 (37 Stat 736), and Reorganization Plan No. 6 of 1950.

b. *Directive Affected.* Secretary's Order 3–84 remains in effect for section 3–b as hereby delegated.

6. *Redelegation of Authority.* The authority and responsibilities delegated to the Under Secretary by this Order may be redelegated.

7. *Effective Date.* This Order is effective immediately.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 84–25859 Filed 9–27–84; 8:45 am]

BILLING CODE 4510–23–M

Employment and Training Administration

Carbon and Certain Alloy Steel Products

On June 11, 1984, the U.S. International Trade Commission (ITC) determined that increased imports of certain carbon and alloy steel products are a substantial cause of serious injury or a threat thereof to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974. (49 FR 30807).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever ITC begins an investigation under the import relief provisions of the Act. The purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance, and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of information which the Secretary determines to be confidential).

The U.S. Department of Labor has concluded its report on carbon and certain alloy steel products. The report found as follows:

1. Average employment of production and production-related workers in the carbon and alloy steel products industry generally declined from 1979 through 1983. Permanent layoffs are expected at 25 establishments during 1984–1985. Industrywide temporary layoffs are also expected.

2. The Department of Labor (DOL) has received and processed 1,216 petitions for trade adjustment assistance involving workers in the carbon and alloy steel industry since April 3, 1975, the effective date of the adjustment assistance program, including 720 received during the January 1979–June 1984 period. Three-hundred and forty-nine petitions were certified covering 165,842 workers, and 799 petitions were denied involving 179,480 workers. Sixty-eight petitions were terminated or withdrawn. An additional seven petitions covering industry workers were in process as of the report date.

As of June 30, 1984, DOL had paid $383.3 million in trade readjustment allowances (TRA) to 157,414 workers formerly employed in plants producing carbon and alloy steel products. Approximately $253.0 million of these payments were made in the 1978–1980 period, the peak years for such payments. Job search allowances of $342.0 thousand were paid to 976 industry workers, job relocation allowances of $1,347.0 thousand were paid to 768 industry workers, and 8,930 workers had entered training as of June 30, 1984.

For the January 1982–June 1984 period, a total of 297 cases involved workers manufacturing the covered product. One-hundred and forty-nine were certified, covering 32,193 workers. One-hundred and forty-eight were denied or terminated, covering 33,320 workers. In June 1984, an estimated 104,958 workers were covered by existing certifications and were thus eligible to apply for program benefits.

3. Most of the production worker occupations in the carbon and alloy steel products industry are considered skilled or semiskilled. Skilled and highly skilled workers predominate in continuous casting operations. The open hearth and electric furnace departments also have relatively high proportions of skilled workers. Blast furnace operations have a higher share of unskilled workers than any other department. Well over half of the production-related workers, especially those in maintenance departments, are considered skilled or highly skilled.

The carbon and alloy steel products industry reported a much lower share of their production workers in the unskilled category, 15.3 percent, than did the copper smelting and refining industry, with 34.7 and 31.6 percent, respectively.

4. Unemployment rates for 45 of 65 areas with facilities producing carbon and alloy steel products were above the national unemployment rate of 7.8 percent (unadjusted) for April 1984. Reemployment prospects for present and potentially separated workers in the industry appear to be poor-to-fair.

5. A total of $29.7 million is available in Fiscal Year 1984 to provide training, job search and relocation allowances to eligible carbon and alloy steel industry workers as well as all other eligible workers of industries adversely affected by import competition under the trade adjustment assistance program. In the 1985 Budget, the Administration proposed that TAA be incorporated into and covered by funding for the dislocated worker program (Title III) of the Job Training Partnership Act (JTPA). The FY 1985 Labor-HHS-Education Appropriations Bill passed by the House and reported by the Senate each provide separate funding for the TAA program.

All worker trade adjustment assistance program benefits and allowances, including TRA which are entitlements funded separately from the Federal Unemployment Benefit and Allowances (FUBA) account, will expire on September 30, 1985, unless the legislative authority is extended. Dislocated workers, includng import impacted workers, should benefit from $427.2 million which has been set aside for the administration and delivery by the States of dislocated worker benefits under Title III of JTPA for the October 1983–June 30, 1985 period, and an additional $223.0 million requested for the July 1, 1985–June 30, 1986 period.

Copies of the Department report containing nonconfidential information developed in the course of the 6-month investigation may be purchased by contacting Larry Ludwig, Office of Trade Adjustment Assistance, U.S. Department of Labor, 601 D Street, NW., Room 6020, Washington, D.C. 20213 (phone 202-376-7163).

Signed at Washington, D.C., this 19th day of September 1984.

Patrick J. O'Keefe,

Deputy Assistant Secretary of Labor.

[FR Doc. 84-25756 Filed 9-27-84; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Cathy Anna, Inc., et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period September 17, 1984–September 21, 1984.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligiblity requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations; or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-15,303; Cathy Anna, Inc., East Newark, NJ

TA-W-15,223; Ohio Knife Co., Cinncinnati, OH

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-15,332; Turbine and Compressor Div., Transamerica Delaval, Inc., Trenton, NJ

TA-W-15,285; White Packing Co., North Bergen, NJ

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-15,245; Inspiration consolidated Copper Co., Claypool, AZ

Aggregate U.S. imports of blister copper did not increase as required for certification.

TA-W-15,233; Phoenix Forging Co., Catasaqua, PA

Aggregate U.S. imports of carbon steel flanges and steel forgings did not increase as required for certification.

TA-W-15,265; Harley-Davidson Motor Co., Milwaukee, WI

The investigation revealed that criterion (2) has not been met. Sales and production, or both, did not decline as required for certification.

TA-W-15,266; Harley-Davidson Motor Co., Wauwatosa, WI

The investigation revealed that criterion (2) has not been met. Sales and production, or both, did not decline as required for certification.

TA-W-15,267; Harley-Davidson Motor Co., Tomahawk, WI

The investigation revealed that criterion (2) has not been met. Sales and production, or both, did not decline as required for certification.

TA-W-15,298; Eimco Mining Machinery International, Salt Lake City, UT

The investigation revealed that criterion (3) has not been met. The subject firm primarily produced for the export market.

TA-W-15,289; Florian Sewing Co., Cleveland, OH

The investigation revealed that manufacturers for which the subject firm produced under contract increased their contracts with other domestic firms.

Affirmative Determinations

TA-W-15,335; Borg and Beck-Clutch, Chicago, IL

A certification was issued covering all workers separated on or after February 1, 1984.

TA-W-15,361; Sacaton Unit, ASARCO, Inc., Casa Grande, AZ

A certification was issued covering all workers separated on or after May 23, 1983.

TA-W-15,356; Foundation Equipment Corp., Dover, OH

A certification was issued covering all workers separated on or after May 23, 1983.

TA-W-15,273; Sylvania Shoe Manufacturing Corp., Waynesboro, Pa

A certification was issued covering all workers separated on or after March 17, 1983 and before December 30, 1983.

TA-W-15,274; Sylvania Shoe Manufacturing Corp., Greencastle, PA

A certification was issued covering all workers separated on or after March 17, 1983 and before March 29, 1984.

TA-W-15,277; East Coast Molding Operation, Standard Plastic Products Div., Mattel Toys, North Brunswick, NJ

A certification was issued covering all workers separated on or after March 21, 1983 and before January 1, 1984.

TA-W-15,293; East Coast Molding Operation, Standard Plastic Products Div., Mattel Toys, Edison, NJ

A certification was issued covering all workers separated on or after March 21, 1983 and before January 1, 1984.

I hereby certify that the aforementioned determinations were issued during the period September 17, 1984–September 21, 1984. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: September 25, 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-25857 Filed 9-27-84; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 9, 1984.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 9, 1984.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 24th day of September 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
A.E. Nettleton Shoe Co., Inc. (ACTWU)	Syracuse, NY	9/6/84	8/28/84	TA-W-15,453	Shoes, men's.
Acme Boot Co., Inc. (workers)	Cookeville, TN	9/13/84	9/5/84	TA-W-15,454	Boots—children's & men's.
Barry of Chattanooga (company)	Chattanooga, TN	9/14/84	9/7/84	TA-W-15,455	Footwear—houseslippers.
Barry of Columbus (company)	Columbus, OH	9/14/84	9/7/84	TA-W-15,456	Footwear—houseslippers.
Brown Shoe Co. (United Food & Commercial Workers)	Humboldt, TN	9/14/84	8/31/84	TA-W-15,457	Shoes—women's, dress.
Brown Shoe Co. (United Food & Commercial workers)	Selmer, TN	9/14/84	8/31/84	TA-W-15,458	Shoes—men's, dress.
Dresser Industries, Whitney Chain Operation of Jeffrey Chain Division (UAW).	Hartford, CT	9/4/84	8/31/84	TA-W-15,459	Chain, roller, industrial.
E.I. du Pont de Nemours & Co., Inc., Textile Fibers Dept. (company).	Camden, SC	8/31/84	8/27/84	TA-W-15,460	Yarn, filament, staple & tow.
Fender Musical Instruments (workers)	Hoopeston, IL	9/13/84	9/6/84	TA-W-15,461	Amplifiers & organs.
Kellwood Co., Dresden Plant (company)	Dresden, TN	9/4/84	8/27/84	TA-W-15,462	Coats—women, rainwear—women's.
(The) Lima Electric Co., Inc. (company)	Greenville, AL	8/22/84	8/20/84	TA-W-15,463	Generators, AC, commercial.
Lorraine Manufacturing (workers)	Bristol, VA	8/31/84	8/29/84	TA-W-15,464	Blouses—women's.
LTV Steel Company (workers)	Pittsburgh, PA	8/31/84	8/27/84	TA-W-15,465	Office workers.
Mayr Brothers Logging Co., Inc., Willapa Division (IWA)	Hoquiam, WA	9/17/84	9/6/84	TA-W-15,466	2x4 lumber.
Pathfinder Mines Corp. (workers)	Riverton, WY	9/17/84	9/11/84	TA-W-15,467	Uranium—mining.
RCA, Inc. (workers)	Indianapolis, IN	9/12/84	9/7/84	TA-W-15,468	Video disc, style cartridge.
Rest Right Slipper Co. (workers)	New York, NY	7/16/84	7/11/84	TA-W-15,469	Slippers—men's & ladies'.
Trojan Industries, Inc. (Boilermakers)	Batavia, NY	9/13/84	9/10/84	TA-W-15,470	Rubber-tired front end loaders.
Wayne City Mfg. Co., Inc. (workers)	Wayne City, IL	8/31/84	8/24/84	TA-W-15,471	Sportswear, women's.
The Hanover Shoe, Inc., Hanover Plant (company)	Hanover, PA	9/17/84	9/14/84	TA-W-15,472	Shoes, dress, casual, men's.

[FR Doc. 84-25858 Filed 9-27-84; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Alaska State Standards; Approval

1. *Background:* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the **Federal Register** (38 FR 21628) of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision.

The Alaska plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that "where any alteration in the Federal program could have an adverse impact on the at least as effective as status of the State program, a program change supplement to a State plan shall be required."

In response to Federal standards changes, the State has submitted by letter dated May 5, 1982 from Edmund N. Orbeck, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, State standards comparable to 29 CFR 1926.500(g), Subpart M, Guarding of Low-Pitched-Roof Perimeters During the Performance of Built-Up Roofing Work, and 29 CFR 1926.502(p), Subpart M, Definitions, as published in the **Federal Register** (44 FR 75625) dated November 14, 1980.

These State standards, which are contained in AAC 05.240(d) and 05.240(h) of the Construction Code, were promulgated after a public meeting on July 6, 1981 and publication in the Statewide media on June 18, 1981. The public comment period was open for thirty days by Edmund N. Orbeck, Commissioner, under authority vested by AS 18.60.020.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards and accordingly should be approved. Apart from editorial changes to accommodate the State standard format, the standards are substantially identical with the exception that the State sets more stringent requirements on roofer's ladders and specifies that personal protective equipment must be used when working with tar. The standards have been in effect since May 30, 1982. During this time OSHA has received no indication of significant objection to these State standards either as to their effectiveness in comparison to the Federal standards or as to their conformance with the product clause requirements to section 18(c)(2) of the Act. (A different State standard applicable to a product which is distributed or used in interstate commerce must be required by compelling local conditions and not unduly burden interstate commerce.) OSHA, therefore, approves these standards. However, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. *Location of supplement for inspection and copying.* A copy of the

standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99801; and the Office of State Programs, Room N3613, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Alaska State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards were adopted in accordance with the procedural requirement of State law which included public comments and further public participation would be repetitious.

This decision is effective this September 28, 1984.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington, this 11th day of March 1983.

R.L. Beeston,

Acting Regional Administrator.

[FR Doc. 84-25848 Filed 9-27-84; 8:45 am]

BILLING CODE 4510-26-M

California State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety & Health (hereinafter called Regional Administrator—OSHA), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety & Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(e) of the Act and 29 CFR Part 902. On May 1, 1983, notice was published in the **Federal Register** (38 FR 10717) of the approval of the California plan and the adoption of Subpart K to Part 1952 containing the decision.

The California plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. A State standard has been revised in accordance with Part 1953 to meet the requirements of adopting a Federal standard revision. Accordingly, California has revised the Acrylonitrile standard and promulgated it in accordance with applicable State procedures. The Acrylonitrile standard is equivalent to the Federal standard 29 CFR 1910.1045.

2. *Decision.* This standard has been in effect since June, 1979. During this time OSHA has received no indication of significant objection to the State's different standard either as to its effectiveness in comparison to the Federal standard or as to its conformance with the product clause requirements of section 18(c)(2) of the Act. (A different State standard applicable to a product which is distributed or used in interstate commerce must be required by compelling local conditions and not unduly burden interstate commerce). OSHA, therefore, approves this standard. However, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

The standard was adopted by California on March 29, 1979 and has been revised twice, once on March 20, 1981 and again on May 29, 1981. California has satisfied the requirement to provide a clarification of the standard incorporating a reference to the State labor code and providing additional information.

The detailed standards comparison is available at the locations specified below.

3. *Location of Supplement for Inspection and Copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 450 Golden Gate Avenue, Room 11349, San Francisco, California, 94102; and California Occupational Safety and Health Administration, Room 701, 525 Golden Gate Avenue, San Francisco, California 94102; and Directorate of Federal Compliance and State Programs, Room N3700, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. *Public Participation.* Under § 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures for the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the California plan as a proposed change and making the OSHA Regional Administrator's approval effective upon publication for the following reasons.

The standard was adopted in accordance with the procedural requirements of State law which included public comment, and further public participation would be repetitious.

This decision is effective September 28, 1984.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 [29 U.S.C. 667])

Signed at San Francisco, California, this 16th day of July, 1984.

Russell B. Swanson,

Regional Administrator.

[FR Doc. 84-25844 Filed 9-27-84; 8:45 am]

BILLING CODE 4510-26-M

Maryland State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, notice was published in the **Federal Register** (38 FR 17834) of the approval of the Maryland State plan and the adoption of Subpart O to Part 1952 containing the decision.

The Maryland State plan provides for the adoption of Federal standards as State standards after comments and public hearing. Section 1952.210-214 of Subpart O sets forth the State's schedule for the adoption of Federal standards. By letters dated June 14, 1984 from Commissioner Dominic N. Fornaro, Maryland Division of Labor and Industry, to Linda R. Anku, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to: (1) Amendments, corrections and revisions to 29 CFR 1910.95(c)-(p) and Appendices A-1 as published in the **Federal Register** dated June 28, 1983 (48 FR 29687) pertaining to Occupational Exposure to Noise: Hearing Conservation

Amendment and (2) amendments, corrections and revisions to 29 CFR 1910.411 as published in the **Federal Register** dated January 6, 1984 (49 FR 881) pertaining to Subpart T, Commercial Diving Operations. These standards, which are contained in COMAR 09.12.31 Maryland Occupational Safety and Health Standards, were promulgated after public hearings on February 17 and April 13, 1983, pursuant to Article 89, sections 30(a), 31(i), 31(l) and 31(m), Annotated Code of Maryland, and effective June 18, 1984.

2. *Decision.* Having reviewed the State submissions in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and accordingly are approved.

3. *Location of supplements for inspection and copying.* A copy of the standards supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, 3535 Market Street, Suite 2100, Philadelphia, PA 19104; and, Office of the Commissioner of Labor and Industry, 501 St. Paul Place, Baltimore, Maryland 21202.

4. *Public Participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Maryland State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The Standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective September 28, 1984.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Philadelphia, PA, this 30th day of July 1984.

Linda R. Anku,

Regional Administrator.

[FR Doc. 84-25845 Filed 9-27-84; 8:45 am]

BILLING CODE 4510-26-M

Oregon State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision.

The Oregon plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. By letter dated December 27, 1983, from William J. Brown, Director, Workers' Compensation Department, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted standards as effective as 29 CFR Part 1910 Subpart S, Electrical Standards, as published in the **Federal Register** (46 FR 4034) on January 16, 1981 and subsequent corrections appearing in the **Federal Register** (46 FR 40183) on August 7, 1981.

These standards, which are contained in OAR 437, Division 67, Oregon Occupational Safety and Health Code, were originally promulgated by the State after a notice was published in the Secretary State's Administrative Rules Bulletin on July 15, 1983 pursuant to ORS Chapter 183.335. No written comments or requests for a public hearing were received. The Oregon electrical Standards were adopted September 14, 1983, and became effective September 15, 1983.

2. *Decision.* Having reviewed the State submissions in comparison with the Federal standard, it has been determined that the requirements of the State standards are substantially identical to the Federal standards. The only significant difference is that the State retained previously approved rules not present in the Federal standards, for lockout/tagout of electrical circuits.

3. *Location of supplement for inspection and copying.* A copy of the standards supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Workers' Compensation Department, Labor and Industries Building, Salem, Oregon 97310; and the Office of State Programs, Room N-3476, Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. *Public Participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are as effective as the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedureal requirements of State law and further participation would be unnecessary.

This decision is effective September 28, 1984.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington, this 11th day of June 1984.

James W. Lake,

Regional Administrator.

[FR Doc. 84-25843 Filed 9-27-84; 8:45 am]

BILLING CODE 4510-26-M

Puerto Rico State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 19953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with section 18 (c) of the Act and 29 CFR Part 1902. On August 30, 1977, notice was published in the **Federal Register** (42 FR 43628) of the approval of the Puerto Rico plan and the adoption of Subpart FF to Part 1952 containing the decision.

The Puerto Rico plan provides for the adoption of Federal standards as State standards by reference. Section 1953.20, 29 CFR, provides that "where any

alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State plan shall be required."

In response to Federal standards changes, the State has submitted by letter dated June 11, 1984, from the Acting Assistant Secretary for Occupational Safety and Health Artemio Andujar Pabon to Regional Administrator Gerald P. Reidy, and incorporated as part of the plan, State standards comparable to the Occupational Safety and Health Administration Standards for Hazard Communication, as published in the **Federal Register** (48 FR 53280) dated November 25, 1983, and Revocation of Advisory and Repetitive Standards, as published in the **Federal Register** (49 FR 5318) dated February 10, 1984. These standards which are contained in the Puerto Rico Regulations, Number Four (equivalent to 29 CFR Part 1910) were promulgated by resolutions adopted by the Puerto Rico Department of Labor and Human Resources on May 11, 1984, pursuant to the Puerto Rico Act Number 16 and Chapter 52 of the Puerto Rico Rules and Regulations Act of 1958.

The State has submitted by letter dated June 21, 1984, and incorporated as part of the plan, standards comparable to the Occupational Safety and Health Administration standards for Servicing of Single Piece and Multi-piece Rim Wheels, as published in the **Federal Register** (49 FR 4338) dated February 4, 1984. These standards which are contained in the Puerto Rico Rules and Regulations, Number Four (equivalent to 29 CFR Part 1910) were promulgated by resolution adopted by the Puerto Rico Department of Labor and Human Resources on March 29, 1984, pursuant to the Puerto Rico Act Number 16 and Chapter 52 of the Puerto Rico Rules and Regulations Act of 1958.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards it has been determined that the State standards are identical to the Federal standards and accordingly are hereby approved.

3. *Location of supplement for inspection and copying .* A copy of the standard supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 3445, 1515 Broadway, New York, New York 10036; Puerto Rico Department of Labor and Human Resources, Pruedencio Rivera Martinez Bldg., Munoz Rivera Avenue 505, Hato Rey, Puerto Rico 00917; and the Office of the Director, Federal-State Operations, Room N3476, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. *Public Participation.* Under 29 CFR 1953.2 (c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Puerto Rico State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirement of State Law and further participation would be unnecessary.

This decision is effective September 28, 1984.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at New York City, New York, this 24th day of August 1984.

George Reidy,

Regional Administrator.

[FR Doc. 84-25846 Filed 9-27-84; 8:45 am]

BILLING CODE 4510-26-M

Virginia State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On September 28, 1976, notice was published in the **Federal Register** (41 FR 42655) of the approval of the Virginia State plan and adoption of Subpart EE to Part 1952 containing the decision.

The Virginia State plan provides for the adoption of all Federal standards as State standards after comments and public hearings except for those standards found in 29 CFR Parts 1915, and 1918 (ship repairing, and longshoring). A notice of approval was published in the **Federal Register** dated March 17, 1978 (43 FR 11274). Section 1952.370 of Subpart EE sets forth the State's schedule for the adoption of Federal standards. By a letter dated April 12, 1984, from Commissioner Eva S. Teig, Virginia Department of Labor and Industry, to Linda R. Anku, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to: 29 CFR 1910.20; 1910.440 (b)(2) and (b)(4); 1910.1001 (i)(2) and (j)(6)(ii); 1910.1003(g)(2)(ii); 1910.1004(g)(2)(ii); 1910.1006(g)(2)(ii); 1910.1007(g)(2)(ii); 1910.1008(g)(2)(ii); 1910.1009(g)(2)(ii) 1910.1010(g)(2)(ii); 1910.1011(g)(2)(ii); 1910.1012(g)(2)(ii); 1910.1013(g)(2)(ii); 1910.1014(g)(2)(ii); 1910.1015(g)(2)(ii); 1910.1016(g)(2)(ii); 1910.1017 (m)(2), (m)(3), (m)(4), (m)(5) and (m)(6); 1910.1018 (q)(3)(ii), (q)(3)(iii), (q)(4)(iv) and Appendix A, Section VIII; 1910.1025 (n)(4)(ii), (n)(4)(iii) and (n)(5)(iv); 1910.1028 (i)(3)(ii), (i)(3)(iii), (i)(3)(iv), (i)(4)(iv) and Appendix A, Section VII; 1910.1029 (m)(3)(ii), (m)(3)(iii), (m)(3)(iv) and (m)(4)(iv); 1910.1043 (k)(3)(ii), (k)(3)(iii), (k)(3)(iv) and (k)(4)(iv); 1910.1044 (p)(3)(ii), (p)(3)(iii), (p)(3)(iv) and (p)(4)(iv); 1910.1045 (q)(4)(ii), (q)(4)(iii), (q)(5)(iv) and Appendix A, Section IV, Subsection D; 1910.1046 (h)(2)(ii) and (h)(3)(iv) pertaining to Access to Employee Exposure and Medical Records as published in the **Federal Register** dated May 23, 1980 (45 FR 35281). These standards, which are contained in the Virginia Occupational Safety and Health Standards, were promulgated after public hearings conducted on January 15, 1981, and Resolution adopted by the Virginia Codes Commission effective June 30, 1981, pursuant to section 40.1-22 and the Administrative Process Act, Code of Virginia.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Offfice of the Regional Administrator, 3535 Market Street, Suite 2100, Philadelphia, Pennsylvania 19104; and the Office of the Commissioner of Labor and Industry, 205 North Fourth Street, Richmond, Virginia 23241.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent

with applicable law. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Virginia State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective September 28, 1984.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Philadelphia, PA, this 27th day of July 1984.

Linda R. Anku,

Regional Administrator.

[FR Doc. 84-25847 Filed 9-27-84; 8:45 am]

BILLING CODE 4510-26-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 84-142; Exemption Application No. D-4370 et al.]

Grant of Individual Exemptions; Bell System Pension Plan Trust et al.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transactions restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedures 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Bell System Pension Plan Trust; Bell System Management Pension Plan; Bell System Trust (the Trust), Located in New York, New York

[Prohibited Transaction Exemption 84-142; Exemption Application Nos. D-4379, D-4380 and D-4381]

Exemption

(a) *General Exemption.* The restrictions of section 406(a)(1) (A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to any transaction arising in connection with the acquisition, ownership, management, development, leasing or sale of real property (including the acquisition, ownership or sale of any joint venture or partnership interest in such property) and the borrowing or lending of money in connection therewith, between a party in interest with respect to the Trust, or any successor trust (Successor Trusts), a described in the notice of pendency, in which American Telephone and Telegraph Company (AT&T) serves as the named fiduciary, and the Trust or such Successor Trusts, provided that the following conditions are satisfied:

(1) The decision to invest the assets of the Trusts, directly or indirectly, in such transaction is made by AT&T or the Senior Vice President—Finance of AT&T or her successor as a fiduciary of the Trusts;

(2) Any such party in interest is not—

(i) AT&T, any person directly or indirectly controlling, controlled by, or under common control with AT&T, any officer, director, or employee of AT&T or of any of its subsidiary or affiliated companies, or any partnership in which AT&T is a 10 percent or more (directly or indirectly in capital or profits) partner; or

(ii) A person who exercises discretionary authority, responsibility or control or who provides investment advice with respect to the investment of Trust assets involved in the particular transaction;

(3) At the time the transaction is entered into, and at the time of any subsequent renewal or modification thereof that requires the consent of the Senior Vice President—Finance of AT&T or any person to whom such responsibility has been delegated, the terms of the transaction are at least as favorable to the Trusts as the terms generally available in arm's-length transactions between unrelated parties.

(4) AT&T shall maintain for a period of six years from the date of each transaction mentioned above the records necessary to enable the persons described in subparagraph (5) of this section (a) to determine whether the conditions of this exemption have been met, except that: (i) A prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of AT&T, the records are lost or destroyed prior to the end of the six-year period, and (ii) no party in interest shall be subject to the civil penalty which may be assessed under section 502(i) or the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by subparagraph (5) below; and

(5)(i) Except as provided in subdivision (ii) of this subparagraph (5) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in subparagraph (4) of this section (a) are unconditionally available at AT&T's headquarter's offices, or, upon prior arrangement with AT&T, at any other customary location for the maintenance and/or retention of such records, for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department of Labor or the Internal Revenue Service,

(B) Any fiduciary of a plan which is funded, in whole or part, by the Trust or

any Successor Trust with respect to which AT&T is a named fiduciary or any duly authorized employee or representative of such fiduciary.

(C) Any participant or beneficiary of any plan which is funded, in whole or part, by the Trust or any Successsor Trust with respect to which AT&T is a named fiduciary or any duly authorized representative of such participant or beneficiary.

(ii) None of the persons described in subdivisions (i)(B) and (i)(C) of this subparagraph (5) shall be authorized to examine AT&T's trade secrets or commercial or financial information which is privileged, confidential or of a proprietary nature.

(b) *Specific Exemption.* The restrictions of sections 406(a)(1) (A) through (D) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to:

Transactions Involving Places of Public Accommodation. The furnishing of services, facilities and any goods incidental thereto by a place of public accommodation which is or may be considered an asset of the Trusts to a party in interest with respect to the Trusts if the services, facilities or incidental goods are furnished on a comparable basis to the general public, and if the requirements of subparagraphs (a) (4) and (5) of this proposed exemption are met.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 11, 1984 at 49 FR 20080.

Effective Date: If granted, this exemption will be effective December 1, 1982.

Written Comments: The applicant represents that it provided notice of the proposed exemption to all interested persons in the manner agreed upon with the Department. Because of the large number of participants and beneficiaries who were notified and the complexity involved in providing such notice notification was not provided to all interested persons within 15 days from the date of publication of the notice. In this regard each interested person was informed that he or she had 30 days from the date they received the notice to comment on and/or request a hearing with regard to the proposed exemption. The applicant represents that notice was provided to all interested persons by AT&T and every newly created regional holding company by no later than June 14, 1984.

The Department received sixteen written comments with respect to the proposed exemption. No commentator requested a hearing with regard to the proposed exemption. Many of the commentators expressed opinions either in support of or in opposition to the proposed exemption but did not set forth specific reasons for their opinions. Other commentators requested assistance from the Department to explain to them the terms and conditions of the exemption. The Department contacted by telephone as many commentators as it could locate and verbally addressed their inquiries.

Three commentators raised specific issues which relate to the merits of the exemption. In general, these comments stated that real estate investments by the Trusts may not be appropriate and that if such investments are appropriate, they should only be made after various investment analysis techniques relating specifically to real property are employed. The Department forwarded these comments to AT&T for response. AT&T stated, as the overall administrator and named fiduciary of the trusts to be covered by the exemption, that a portion of the overall Trust assets should include real estate. AT&T represents that such a decision is consistent with the requirement to diversify Trust assets and is specifically warranted in light of the favorable rates of return on real estate investments. AT&T represents that real estate investments on behalf of the Trusts are limited to those of an institutional quality and a superior investment grade. AT&T states that it selects managers or general partners who are financially stable entities with proven records of leasing, management, construction and development services.

With respect to a commentator's statement that specific investment analysis techniques be performed, namely value analysis or value engineering, before the Trust invests in real estate, AT&T represents that such detailed analyses are performed for every potential investment, and are rigorous and consistent with those performed by other expert investors involved in similar types of real estate investments. AT&T represents that before any investment decision is made the detailed analyses are reviewed for accuracy and reasonableness. AT&T states that these analyses assure the prudent investment of Trust assets in seclected appropriate real estate vehicles.

The Department also requested the applicant to supply two additional representations with regard to the proposed exemption. In response to the Department's inquiries AT&T represented that: (1) All recommendations made by the Committee on Special Investments of the Investment Management Division to Ms. Virginia A. Dwyer, the Senior Vice President—Finance of AT&T (her former title was Vice President and Treasurer of AT&T) are made in writing; and (2) in addition to the language stated in paragraph 5 of the notice of proposed exemption, any parties in interest involved or to be involved in transactions with the Trusts have not and will have no *actual* authority over the transactions.

Accordingly, after receipt of the additional representations and a consideration of the entire record including the comments submitted and the response thereto by AT&T, the Department has concluded that the exemption be granted as proposed.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Mark A. Levine, M.D., and Thomas G. Swanson, M.D., P.C. Money Purchase Pension and Profit Sharing Plans et al. (the Plans), Located in Englewood, Colorado

[Prohibited Transaction Exemption 84–143; Exemption Application Nos. D–4855 and D–4856]

Exemption

The restrictions of section 406 (a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of a limited partnership interest (the Interest) by the Plans to Dr. Mark A. Levine, a party in interest with respect to the Plans, provided the sale price is not less than the fair market value of the Interest at the time the sale is consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 29, 1984 at 49 FR 26841.

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a

fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited tranasction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 25th day of September 1984.

Elliot I. Daniel,

Acting Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 84-25854 Filed 9-27-84; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-4887 et al.]

Proposed Exemptions; Gettel and Company Profit Sharing Plan (the Plan), Located in Pigeon, Michigan et. al.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register.** Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Gettel and Company Profit Sharing Plan (the Plan), Located in Pigeon, Michigan

[Application No. D-4887]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and n accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the loans by the Plan of an amount not to exceed 25% of the total assets of the Plan, periodically over the next 5 years, to GMBA, a partnership, which is a party in interest with respect to the Plan, and the guarantee of the repayment of the loans by Messrs. Clarence, Herb and Loren Gettel, parties in interest with respect to the Plan, provided the terms of the loans are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

Temporary Nature of the Exemption

If granted, this exemption will be effective for five years from the date a grant of an individual exemption is published in the **Federal Register.** Subsequent to the expiration of the exemption, the Plan may hold the loans provided they were made during the five year period.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with 63 participants. As of July 28, 1983, and Plan had total assets of $414,000. The trustees of the Plan are Messrs. Barry C. Bolger, Herbert J. Gettel and Clarence Gettel.

2. The Employer is a Michigan corporation which is engaged in manufacturing.

3. The applicant requests an exemption to permit the loans of an amount not to exceed 25% of the total assets (the Loans) of the Plan periodically over the next five years to GMBA (the Partnership). The Partnership is comprised of three limited partnerships, namely Hedges Investments, C&P Partnership and L&M Investments. The Partnership is engaged in the business of leasing real property, and will use the proceeds of the Loans to refinance the construction of a building (the Building), located at 651 S. Unionville Road, Sebewaing, Michigan. Messrs. Clarence, Herb and Loren Gettel

(the Gettels) are general partners in the partnerships which comprise the Partnership. The Gettels are also owners of the Plan sponsor.

4. In 1977, the Partnership constructed the Building at a total cost of $235,000. The mortgage for the Building is to be refinanced on or before February 15, 1986. The monthly payments are currently $2,700. The interest rate on the mortgage in 13½%.

5. Each Loan will be repaid in monthly installments of principal and interest over a 15 year period. The interest rate for the Loans will be 13½ percent. Every three years from the date of the closing until the Loans are repaid in full, the interest rate charged to the Partnership will be adjusted to a rate equal to the prevailing rate then charged by the Thumb National bank of Pigeon on similar loans.

6. The Loans will be recourse loans secured by a second mortgage on the Building. The Building is currently encumbered by a first mortgage in the amount of approximately $195,000. The Farmers & Merchant State Bank of Sebewaing holds the first mortgage. The applicant represents that although the Plan's second mortgage is subordinate to the first mortgage, the value of the Building remaining subject to the Plan's mortgage will be at least 150 percent of the outstanding balance of all loans on the Building. An independent appraisal of the Building, performed by Bud Leigh Realty, established the fair market value of the Building at $546,259 as of June 22, 1983. The Loans will be further secured by the guarantees of the Gettels whose collective net worth exceeds $546,000.

7. The Thumb National Bank of Pigeon (the Independent Fiduciary), will serve as the independent fiduciary for the Loans. The Independent Fiduciary has made the following representations:

(1) The Independent Fiduciary is unrelated to the Employer and the Gettels. The Partnership is a depositor with the Independent Fiduciary. However, the total deposits of the Partnership are less than one-tenth (1/10) of one (1%) percent of the total deposits of the Independent Fiduciary.

(2) The Independent Fiduciary has broad experience in pension and profit sharing plan administration, and has general investment and management expertise. It is currently the trustee of 13 pension and profit sharing plans with a total approximate value of $3,387,500.

(3) The Independent Fiduciary has reviewed the proposed Loans and the current investments of the Plan, and has determined that the Loans are an appropriate investment for the Plan, and in the best interests of the Plan and its participants and beneficiaries. In making this determination, it examined the overall investment portfolio and investment funding policy of the Plan. The Independent Fiduciary also considered the fact that the cash flow and liquidity needs of the Plan would not be impaired by the Loans, the Plan has sufficient liquid assets to fund the Loans, and no long term investments will have to be liquidated. The assets which will be liquidated consist of short-term certificates of deposit. Another significant factor considered by the Independent Fiduciary was that the Plan assets will remain diversified after the Loans are made inasmuch as the Loans represent only 25% of the assets of the Plan.

(4) The Independent Fiduciary has closely reviewed the Loans' proposed interest rate, the proposed security for the Loans, and the terms of the Loans, and has determined that the provisions are appropriate, suitable, and in the best interest of the Plan and its participants and beneficiaries. It represents that the proposed 13½% interest rate is the current fair market value rate for second mortgages.

(5) The Independent Fiduciary will assure that the collateral for the Loans remains at least 150% of the outstanding balance of all loans on the Building. In the event the Independent Fiduciary determines additional collateral is needed because the total value of the collateral falls below 150% of the outstanding balance of all loans on the Building, the Loan agreement provides that the Independent Fiduciary has the right to demand that additional collateral be provided. In addition, it has been empowered to enforce the terms of the Loans, including making demand for timely payment, bringing suit, or other appropriate process against the Partnership in the event of default.

(6) Prior to the disbursement of each of the Loans, the Independent Fiduciary will review the then current Plan investments and the Loan disbursement. If it is not then satisfied that the particular Loan disbursement is an appropriate investment for the Plan, and in the best interest of the Plan and its participants and beneficiaries, then such Loan disbursement will not be consummated.

(7) The Independent Fiduciary represents the provisions of the Loan are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated party.

8. In summary, the applicant represents that the proposed transactions meet the statutory criteria of section 408(a) of the Act because:

(1) The Loans will be secured with adequate collateral;

(2) The Loans will be monitored by the Independent Fiduciary; and

(3) The Independent Fiduciary has reviewed all of the terms of the Loans, including the interest rate and collateral, and has determined that the Loans are in the interests of and protective of the Plan and its participants and beneficiaries.

For Further Information Contact: Ms. Linda M. Hamilton of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Lehndorff & Babson Property Fund (the Fund), Located in Dallas, Texas

[Application No. D-4941]

Proposed Exemption

Section I. Exemption for Certain Transactions Involving the Fund

(a) The restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the transactions described below if the applicable conditions set forth in Section III are met.

(1) *Transactions Between Parties-In-interest and the Fund: General.* Any transaction between a party-in-interest with respect to a plan which has an interest in the Fund (a Participating Plan) and the Fund, or any acquisition or holding by the Fund of employer securities or employer real property, if the party in interest is not Lehndorff & Babson Real Estate Counsel, Inc. (Lehndorff) or one of its affiliates, any other Fund maintained by Lehndorff or one of its affiliates, and if, at the time of the transaction, acquisition or holding, the interest of the Participating Plan, together with the interests of any other Participating Plans maintained by the same employer or employee organization in the Fund, does not exceed 10 percent of the total of all assets in the Fund.

(2) *Special Transactions Not Meeting the Criteria of Section I(a)(1) Between Employers of Employees Covered by a Multiemployer Plan and the Fund.* Any transaction between an employer (or an affiliate of an employer) of employees covered by a multiemployer plan (as defined in section 3(37)(A) of the Act and section 414(f)(1) of the Code) that is a Participating Plan, and the Fund, or any acquisition or holding by the Fund of employer securities or employer real property, if at the time of the transaction, acquisition or holding—

The interest of the multiemployer plan in the Fund exceeds 10 percent of the

total assets in the Fund, but the employer is not a "substantial employer" with respect to the plan and would not be a "substantial employer" if "5 percent" were substituted for "10 percent" in the definition of "substantial employer."

(3) *Acquisitions, Sales, or Holdings of Employer Securities and Employer Real Property.* (A) Except as provided in subsection (B) of this section (3), any acquisition, sale or holding of employer securities or employer real property by the Fund which does not meet the requirements of paragraphs (a)(1) and (a)(2) of this Section I, if no commission is paid to Lehndorff or to the employer, or any affiliate of Lehndorff or the employer in connection with the acquisition or sale of employer securities or the acquisition, sale or lease of employer real property; and

(i) In the case of employer real property—

(aa) Each parcel of employer real property and the improvements thereon held by the Fund are suitable (or adaptable without excessive cost) for use by different tenants, and

(bb) The property of the Fund that is leased or held for lease to others, in the aggregate, is dispersed geographically.

(ii) In the case of employer securities—

(aa) Neither Lehndorff nor any of its affiliates is an affiliate of the issuer of the security, and

(bb) If the security is an obligation of the issuer, either:

1. The Fund owns the obligation at the time the plan acquires an interest in the Fund, and interests in the fund are offered and redeemed in accordance with valuation procedures of the Fund applied on a uniform or consistent basis, or

2. Immediately after acquisition of the obligation by the Fund, not more than 25 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by such plan, and at least 50 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by persons independent of the issuer. Lehndorff, its affiliates and any collective investment fund maintained by Lehndorff or its affiliates shall be considered to be persons independent of the issuer if Lehndorff is not an affiliate of the issuer.

(B) In the case of a Participating Plan that is not an eligible individual account plan (as defined in section 407(d)(3) of the Act), the exemption provided in subsection (A) of this section (3) shall be available only if, immediately after the acquisition of the securities or real property, the aggregate fair market value of employer securities and employer real property with respect to which Lehndorff or its affiliate has investment discretion does not exceed 10 percent of the fair market value of all the assets of the Participating Plan with respect to which Lehndorff or its affiliate has such investment discretion.

(C) For purposes of the exemption contained in subsection (A) of this section (3), the term "employer securities" shall include securities issued by, and the term "employer real property" shall include real property leased to, a person who is a party-in-interest with respect to a Participating Plan by reason of a relationship to the employer described in section 3(14) (E), (G), (H) or (I) of the Act.

(b) The restrictions of section 406(a)(1) (A) through (D) and section 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the transactions described below, if the conditions of Section III are met.

(1) *Certain Leases and Goods.* The furnishing of goods to the Fund by a party-in-interest with respect to a Participating Plan or the leasing of real property owned by the Fund to such party-in-interest and the incidental furnishing of goods to such party-in-interest by the Fund, if—

(A) In the case of goods, they are furnished to or by the Fund in connection with real property owned by the Fund;

(B) The party-in-interest is not Lehndorff, any affiliate of Lehndorff, or one of the other Funds; and

(C) The amount involved in the furnishing of goods or leasing of real property in any calendar year (including the amount under any other lease or arrangement for the furnishing of goods in connection with the real property investments of the Funds with the same party-in-interest, or any affiliate thereof) does not exceed the greater of $25,000 or 0.5 percent of the fair market value of the assets of the Fund on the most recent valuation date of the Fund prior to the transaction.

(2) *Transactions Involving Places of Public Accommodation.* The furnishing of services, facilities and any goods incidental to such services and facilities by a place of public accommodation owned by the Fund to a party-in-interest with respect to a Participating Plan, if the services, facilities and incidental goods are furnished on a comparable basis to the general public.

(c) The restrictions of section 406(a)(1) (A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the following transaction if the conditions of Section III are met:

Any transaction between the Fund and a person who is a party in interest with respect to a Participating Plan, if—

(1) The person is a party in interest (including a fiduciary) solely by reason of providing services to the Participating Plan, or solely by reason of a relationship to a service provider described in section 3(14) (F), (G), (H) or (I) of the Act, or both, and the person neither exercised nor has any discretionary authority, control, responsibility or influence with respect to the investment of the Participating Plan's assets in, or held by, the Fund;

(2) At the time of the transaction, the interest of the Participating Plan, together with the interests of any other Participating Plan maintained by the same employer or employee organization in the Fund, does not exceed 20 percent of the total of all assets in the Fund; and

(3) The person is not Lehndorff or an affiliate of Lehndorff.

(d) The restrictions of section 406(a)(1) (A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the purchase and sale of units of beneficial interest in the Fund if no more than reasonable compensation is paid therefor, each purchase and sale is authorized in writing by a fiduciary of the Participating Plan who is independent of Lehndorff and any of its affiliates, and the applicable conditions of Section III are met.

Section II. Excess Holdings Exemption for Employee Benefit Plans

(a) The restrictions of sections 406(a) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to any acquisition or holding of qualifying employer securities or qualifying employer real property (other than through the Fund) by a Participating Plan if: (1) The acquisition or holding constitutes a prohibited transaction solely by reason of being aggregated with employer securities or employer real property held by the Fund; (2) the requirements of either paragraph (a)(1) or paragraph (a)(2) of Section I of this exemption are met; and (3) the applicable conditions set forth in Section III of this exemption are met.

Section III. General Conditions

(a) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of Lehndorff or its affiliate, the terms of the transaction are not less favorable to the Fund than the terms generally available in arm's-length transactions between unrelated parties.

(b) Lehndorff or its affiliates maintain for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this Section III to determine whether the conditions of this exemption have been met, except that: (1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Lehndorff or its affiliates, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c)(1) Except as provided in section 2 of this paragraph (c) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this Section III are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) Any fiduciary of a Participating Plan who has authority to acquire or dispose of the interests in the Fund of the Participating Plan or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any Participating Plan or any duly authorized employee or represenative of such employer, and

(D) Any participant or beneficiary of any Participating Plan, or any duly authorized employee or representative or such participating or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this paragraph (c) shall be authorized to examine trade secrets of Lehndorff or its affiliate, or commercial or financial information which is privileged or confidential.

Section IV. Definitions and General Rules

For the purposes of this exemption,

(a) The term "the Fund" shall include any collective investment fund that may hereafter be established, operated and managed by Lehndorff or its affiliate in essentially the same manner as the Lehndorff & Babson Property Fund.

(b) An "affiliate" of a person includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any officer, director, employee, relative of, of partner in any such person, and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(c) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or sister.

(e) The term "substantial employer" means for any plan year an employer (treating employers who are members of the same affiliated group, within the meaning of section 1563(a) of the Code, determined without regard to section 1563 (a)(4) and (e)(3)(c) of the Code, as one employer) who has made contributions to or under a multiemployer plan for each of—

(1) The two immediately preceding plan years, or

(2) The second and third preceding plan years, equaling or exceeding 10 percent of all employer contributions paid to or under that plan for each such year.

(f) The time as of which any transaction, acquisition or holding occurs is the date upon which the transaction is entered into, the acquisition is made or the holding commences. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into, or an acquistion is made, on or after the effective date of this exemption, or a renewal that requires the consent of the Fund occurs on or after the effective date of this exemption, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, or at the time the acquisition is made, the requirements will continue to be satisified thereafter with respect to the transaction or acquisition and the exemption shall apply thereafter to the continued holding of the property so acquired. Notwithstanding the foregoing, this exemption shall cease to apply to transactions exempt by virture of subsections I(a)(1) and (I)(c) at such time as the interest of the Participating Plan exceeds the percentage interest limitations set forth in those subsections, unless no portion of such excess results from an increase in the assets allocated to the Fund by the Participating Plan. For this purpose, assets allocated do not include the investment of Fund earnings. Nothing in this paragraph (f) shall be construed as exempting a transaction entered into by the Fund which becomes a transaction described in section 406 of the Act or section 4975 of the Code while the transaction is continuing, unless the conditions of the exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

(g) Each Participating Plan shall be considered to own the same proportionate undivided interest in each asset of the Fund as its proportionate interest in the total assets of the Fund as calculated on the most recent preceding valuation date of the Fund.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this proposed exemption.

Preamble

On July 25, 1980, the Department published a class exemption, Prohibited Transaction Exemption 80–51 (PTE 80–51, 45 FR 49709), which permits collective investment funds that are maintained by banks and in which employee benefit plans participate to engage in certain transactions provided that specified conditions are met. The transactions for which the applicants have requested relief are those which, in part, are the subject of PTE 80–51.

The Department stated in PTE 80–51 that a comment had been received to the proposed class exemption requesting that it be amended to apply to collective investment funds that are not maintained by banks. Relief was granted for bank collective investment funds because, among other reasons, such funds are regulated by other governmental agencies and constitute a well-defined class of funds. In the case of collective investment funds that are not maintained by banks, the Department found that the record was

insufficient to determine the nature of the funds and the entities managing the funds that would comprise the class covered by such broad relief. As a result, the Department stated that it could not make the required statutory findings for such relief, and that relief for non-bank maintained collective investment funds should be dealth with on an individual rather than a class basis.

To date the Department has proposed and granted various individual exemptions on behalf of collective investment funds which have not qualified for relief under PTE 80–51 or Prohibited Transaction Exemption 78–19 (PTE 78–19, 43 FR 59915, December 22, 1978; class relief on behalf of pooled separate accounts sponsored by insurance companies). Such individual exemptions have provided relief for similar transactions subject to, in most instances, similar terms and conditions as those contained in the class exemptions.

Summary of Facts and Representations

1. The Fund was organized on April 21, 1983, as a group trust described in Rev. Rul. 81–100, 1981–1 C.B. 326. The Fund will provide qualified employee benefit plans and certain governmental plans with a medium for pooling portions of their funds for investment primarily in income-producing real property. The Fund is intended to be exempt from Federal income taxes under section 501(a) of the Code as a qualified trust under section 401(a) of the Code.

2. Pursuant to a written investment management agreement entered into with the trustees of the Fund, Lehndorff serves as the investment manager for the Fund. Lehndorff is a Texas corporation wholly-owned by Lehndorff U.S. Equities, Inc. (Lehndorff Equities) and David L. Babson & Co. (Babson), and its officers are experienced officers and employees of the above corporations. Lehndorff Equities has been engaged in the real estate investment advisory service since 1965, and has assets under management with an estimated market value of $2.5 billion. Babson is an investment counsel firm supervising a wide range of accounts with assets totalling approximately $3.5 billion. Lehndorff Expects to manage several group trusts structured similar to the Fund in the future. Pursuant to the investment management agreement, Lehndorff will be vested with exclusive authority to acquire, manage, and dispose of Fund investments. Lehndorff intends to qualify as a registered investment adviser under the Investment Advisers Act of 1940.

Messrs. G. Andrews Smith, M. Thomas Lardner, and James S. White serve as the trustees (the Trustees) of the Fund. The Trustees are officers of Lehndorff and/or Lehndorff Equities and Babson. The Trustees will not be compensated by the Fund.

3. Interests in the Fund are being offered pursuant to an offering memorandum (the Memorandum) which describes the investment objectives, operations, and management of the Fund. Attached to the Memorandum are copies of the group trust agreement, investment management agreement, and participation agreement which further describe the management and operations of the Fund, and describe the respective rights and obligations of the participating parties. Units of beneficial interest in the Fund (Units) are offered for a price of $100,000. The offering for units has been extended by the Trustees beyond its original closing date of December 31, 1983, through December 31, 1984. The maximum number of Units which will be sold by the Fund is 500 ($50,000,000). However, the Trustees, in their sole discretion, may increase the maximum to not more than 1,000 Units ($100,000,000).

The Units will be privately offered and will not be registered under the Securities Act of 1933. Neither the Units nor any interest therein may be resold, transferred, assigned, or otherwise disposed of or encumbered by Participating Plans, as required by Rev. Rul. 81–100.

4. The decision of any plan to invest in the Fund will be made by fiduciaries of that plan. The Trustees may reject a subscription for any reason. The applicant represents that both Babson and Lehndorff Equities act as an investment managers or investment advisers with respect to Participating Plans. Specifically, Babson and/or its affiliates have traditionally acted as investment managers for plans with respect to securities and have also been retained by plans to provide services with respect to specific real estate investments made by the plans. With respect to its investment management duties, Babson exercises discretion only with respect to a discrete portion of a plan's assets as defined in the investment management agreement. Lehndorff Equities and its affiliates act as both investment advisers and investment managers with respect to plan assets and, like Babson, provide services with regard to specific real estate investments made by the plans. The applicant represents that none of the individual Trustees of the Fund, nor any of the employees, officers, directors, or shareholders of Lehndorff, Lehndorff Equities, Babson or their affiliates will exercise any discretionary authority over or otherwise participate in the decision of any plan to invest in the Fund. Specifically, in this regard, assets of Participating Plans subject to the investment discretion of Babson or its affiliates will not be invested in the Fund, and assets for which Lehndorff Equities or any affiliate act as an investment manager or investment adviser will not be eligible for investment inthe Funds.[1] Similarly, none of the individual Trustees of the Fund, nor any of the employees, officers, directors, or shareholders of Lehndorff, Lehndorff Equities, Babson or their affiliates, will serve as a director or officer of any sponsor of any Participating Plan.

5. Although the Memorandum advises fiduciaries of Participating Plans that investment in the Fund should be considered on a long-term basis only, if a Participating Plan desires to dispose of its investment, it may apply to the Trustees for redemption of its Units. At the option of the Trustees, the remaining Participating Plans will be given an opportunity to purchase all or part of the withdrawing Plan's Units.

6. The Trustees, in their sole discretion, may terminate the Fund at any time. Pursuant to the group trust agreement, the Fund may be terminated during the calendar year of the tenth anniversary of full subscription by the vote of Participating Plans holding at least fifty percent of the number of Units then outstanding. If not so terminated, the Fund shall continue for three years during which time properties must be sold to satisfy any requests for redemption. At the end of such three years, the Fund will terminate. Upon termination for any other reason, the Trustees shall have five years to liquidate the Fund properties in an

[1] To the extent that, in the ordinary course of business, Lehndorff, Lehndorff Equities, Babson or their affiliates provide "investment advice" to a Participating Plan within the meaning of regulation 29 CFR 2510.3–21(c)(1)(ii)(B) and recommends an investment of the plan's assets in the Fund, the presence of an unrelated second fiduciary acting on the consultant/investment adviser's recommendations on behalf of the plan is not sufficient to insulate the advisers from fiduciary liability under 406(b) of the Act. *(See* Advisory Opinions 84–03A and 84–04A, issued by the Department on January 4, 1984.) The Department is unable to conclude that fiduciary self-dealing of this type (if present) is in the interests or protective of plans and their participants and beneficiaries and, accordingly, has limited exemptive relief for the acquisition or sales of units of beneficial interest in the Fund to section 406(a) violations only.

orderly fashion and to distribute, *pro rata*, all Fund assets (less reasonable reserves for unpaid expenses and contingencies) to the Participating Plans.

7. The Fund will maintain such reserves as Lehndorff deems appropriate. These reserves, along with any subscription proceeds not immediately used to acquire real estate, will be temporarily invested in liquid investments, including short-term United States government securities, interest-bearing deposits, bankers' acceptances, or other short-term money market instruments, including short term debt and commercial paper issued by major corporations some of which may be sponsors of Participating Plans. Selection of such short-term investments will be within the discretion of Lehndorff.

8. Pursuant to the applicable Fund documents, Lehndorff, as investment manager, will receive no fee based on any particular transaction, but will receive a single fee for its services. This fee is based in part on the value of the investments of the Fund and in part on rentals received from each property. If Lehndorff or any affiliate provide additional or different services than those effected by Lehndorff in connection with the receipt of its investment management fee, Lehndorff or any affiliate will not be paid any fees or commission, other than reimbursement for direct costs, for the provision of such services.[2]

9. Because each Participating Plan will incorporate as part of such plan the terms, provisions, and conditions of the group trust agreement, the Fund will occupy a position equivalent to the trust created under such Participating Plan. Accordingly, pursuant to Revenue Ruling 81-100, it is the position of the Department that a "party in interest" or "disqualified person" as defined in the Act with respect to a Participating Plan may be viewed as a party in interest with respect to the Fund. Accordingly, a transaction between such party and the Fund may be viewed as a prohibited transaction as described in section 406(a) of the Act, section 4975(c) of the Code, or both. As described in the Preamble, the applicant represents that if the Fund is unable to enter into transactions with certain persons because such persons are parties in interest with respect to Participating Plans, the Fund's ability to prudently make its investments and conduct its operations solely for the benefit of the Participating Plans will be unduly restricted. In addition, the purchase and sale of units of participation in the Fund may be considered a prohibited sale or transfer of assets between a Participating Plan and the Trustees that is not exempted by operation of the statutory exemption provided in section 408(b)(8) of the Code because the Fund is not maintained by a bank or an insurance company.

10. As mentioned in the Preamble, the applicant requests prospective exemptive relief for many of those classes of transactions between the Fund and certain parties in interest which were afforded exemptive relief in PTE 80-51. The applicant proposes that such classes of transactions be subject to similar conditions, limitations, and restrictions as those delineated with respect to those transactions afforded exemptive relief in PTE 80-51.

11. The books and records of the Fund will be auditied by an independent public accountant each fiscal year. A copy of such reports, along with any other pertinent information, will be forwarded to the fiduciaries and sponsors of each Participating Plan. At the end of each of the first three quarters of each fiscal year, Lehndorff will prepare and send a detailed report of the business transacted by the Fund during such quarter. Such quarterly reports will not be audited.

12. In summary, the applicant represents that the proposed exemption for certain transactions between the Fund and certain parties in interest satisfies the criteria of section 408(a) of the Act because: (a) The proposed exemption would allow the Fund to enter into transactions which, although prohibited, are necessary for the Fund to prudently make its investments and conduct its operations solely for the benefit of its Participating Plans and their participants and beneficiaries; (b) the proposed exemption would only apply to various classes of prohibited transactions which were afforded relief in PTE 80-51 and would be subject to similar conditions, limitations, and restrictions as those delineated with respect to those transactions afforded exemptive relief in PTE 80-51; and (c) independent fiduciaries, unrelated to the Fund, the Trustees, the Investment Manager or any other related party will maintain complete discretion with respect to investment of the Participating Plans' assets in the Fund.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

[2] The Department is not proposing an exemption for the receipt investment management fees beyond that provided by section 408(b)(2) of the Act.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 25th day of September 1984.

Elliot I. Daniel,

Acting Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 84-25855 Filed 9-27-84; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum Services; Meeting

AGENCY: Institute of Museum Services, NFAH.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the agenda of a forthcoming meeting of the National Museum Services Board. This notice also describes the functions of the Board. Notice of this meeting is required under the Government in the Sunshine Act (Pub. L. 94–409) and regulations of the Institute of Museum Services, 45 CFR 1180.84.

DATE: November 9, 1984.

ADDRESS: California Museum of Science and Industry, 700 State Drive, Los Angeles, California 90037.

FOR FURTHER INFORMATION CONTACT: Michele N. Rossi, Executive Assistant to the National Museum Services Board, Institute of Museum Services, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506, (202) 786–0536.

SUPPLEMENTARY INFORMATION: The National Museum Services Board is established under the Museum Services Act which is the Arts, Humanities, and Cultural Affairs Act of 1976, Pub. L. 94–462. The Board has the responsibility for general policies with respect to the powers, duties and authority vested by the Institute under this title. Grants are awarded by the Institute of Museum Services after review by the Board

The meeting of the Board is open to the public on November 9, 1984 from 10:00 a.m. to 5:00 p.m. The agenda for the meeting on November 9, 1984 will be as follows:

I. Approval of the July 20–21, 1984 minutes
II. Director's Report
III. Program Reports
IV. IMS Staff Activities
V. Regulations Review
VI. Reauthorization Update
VII. Other Business

Susan E. Phillips,

Director.

[FR Doc. 84-25852 Filed 9-27-84; 8:45 am]

BILLING CODE 7036-01-M

NATIONAL SCIENCE FOUNDATION

Extension of Deadline for Comments on Adoption of New Policies on Copyrightable Material and Income and Draft Implementing Material

AGENCY: National Science Foundation.

ACTION: Notice of Extension of Deadline for Comments on Adoption of New Policies on Copyrightable Material and Income and Draft Implementing Material.

SUMMARY: This notice extends the deadline for commenting on the National Science Foundation's new policies on rights to and income from copyrightable material created under NSF grants and contracts and on draft award clauses and internal procedures implementing those policies from September 17, 1984 to October 31, 1984.

DATE: Comments received before October 31, 1984 will be considered in preparation of final implementation material.

ADDRESS: Requests for copies of background and implementation materials and comments on the newly-adopted policies or the proposed implementation of them should be sent to: John Chester, Intellectual Property Attorney, Office of the General Counsel National Science Foundation, Washington, DC 20550, 202–357–9447 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: John Chester, Intellectual Property Attorney, Office of the General Counsel National Science Foundation, Washington, DC 20550, 202–357–9447 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: By notice published on July 18, 1984 (49 FR 29169), the National Science Foundation requested comments on its new policies on rights to and income from copyrightable material created under NSF grants and contracts and on draft award clauses and internal procedures implementing those policies. That notice said that comments received before September 17, 1984, would be considered in the preparation of final implementation material.

By letter dated September 17, 1984, the Council on Governmental Relations has requested that the Foundation extend the comment period to October 31, 1984. To give all interested persons and organizations the fullest opportunity to comments on the new policies and draft implementation material, the Foundation agrees that it will consider all comments received before October 31, 1984 in the preparation of final implementation material.

Copies of background materials, draft award clauses, and draft internal procedures implementing these principles still may be obtained from the address above.

Dated: September 21, 1984.

John Chester,

Intellectual Property Attorney.

[FR Doc. 84-25810 Filed 9-27-84; 8:45 am]

BILLING CODE 7555-01-M

Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATE: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by October 29, 1984. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357–7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. Additional information was published in the 30 July 1984 **Federal Register**, page 30377.

The applications received are as follows:

1. *Applicant:* Jeanette A. Thomas, Hubbs Sea World Research Institute, San Diego, California 92109.

Activity for Which Permit is Requested

Import into U.S.A.: In early 1985 the New Zealand Antarctic Program will kill up to 30 Weddell seals. The applicant proposes to collect the earbones of these animals. Specimens will be preserved, imported into the U.S.A. and examined

for hearing damage. No seals will be killed by the applicant.

Location: McMurdo Sound, Antarctica.

Dates: December 1, 1984 through December 31, 1985.

2. *Applicant:* Ann Parks Hawthorne, Box 372, Burnsville, North Carolina 28714.

Activity for Which Permit is Requested

Taking; Enter Site of Special Scientific Interest; Enter Specially Protected Area.

The applicant is a photographer assigned to the U.S. Antarctic Program and may need to be in close proximity to birds, mammals and protected areas. The applicant requests permission to enter protected areas and approach antarctic birds and mammals for photograph purposes only. No birds or mammals will be physically handled or taken.

Location: McMurdo Sound area, Antarctic Peninsula area.

Dates: November 1, 1984 through March 31, 1985.

3. *Applicant:* William M. Hamner, Department of Biology, University of California, Los Angeles, California 90024.

Activity for Which Permit is Requested

Taking; Import into U.S.A.; Enter Specially Protected Area.

The applicant is conducting a field investigation of both krill and its predators. Occurrences of predation will be documented photographically in order to analyze behavioral patterns used by krill predators to catch their prey. The use of krill to feed young will also be photographed in bird rookeries. Stomach samples will be collected from adult birds captured at breeding colonies by forcing the birds to regurgitate ingested food. Some bird specimens must be collected because at sea the birds cannot be caught by hand and because careful examination of entire gut contents is necessary to calibrate data collected from regurgitated samples.

The applicant also requests permission to enter Litchfield Island to continue observations of penguin groups at sea which were begun in early 1983.

The species to be taken are:

Birds	Killed	Captured/released
Giant petrel	20	
Southern fulmar	20	
Cape petrel	20	
Black-bellied storm petrel	10	
So. black-backed gull	30	25
Wilson's petrel	70	25
South polar skua	15	25
Antarctic tern	30	
Arctic tern	5	
Blue-eyed shag	20	25
Adelie penguin	20	25
Chinstrap penguin	10	25
Gentoo penguin	10	25

Location: Drake Passage; Bransfield Strait; Gerlache Strait; Arthur Harbor and waters adjacent to Anvers Island; Litchfield Island Specially Protected Area.

Dates: December 1, 1984 to April 1, 1985.

Authority to publish this notice has been delegated by the Director, NSF to the Director, Division of Polar Programs.

A. N. Fowler,

Acting Division Director, Division of Polar Programs.

[FR Doc. 84-25811 Filed 9-27-84; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations; Monthly Notice

I. Background

Pursuant to Public Law (Pub. L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing its regular monthly notice. Pub. L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This monthly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last monthly notice which was published on August 22, 1984 (49 FR 33353) through September 17, 1984.

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve 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 amendments 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 basis for this proposed determination for each amendment request is shown below.

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 Commisison, Washington, D.C. 20555, Attention: Docketing and Service Branch.

By October 29, 1984, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility 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. Requests 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, designated by the Commission or by the Chairman of the 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 should 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 aspect(s) 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 conderence scheduled in the proceeding, a petitioner shall file a supplement to the petiiton to intervene which must include a list of the contentions which are sought to be litigataed 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 immediately effective, notwithstanding 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 until 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 before action is taken. 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) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Branch Chief*): 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 the 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, NW., Washington, D.C., and at the local public document room for the particular facility involved.

Arkansas Power and Light Company, Docket No. 50–313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: August 13, 1984.

Description of amendment request: The amendment would revise the Technical Specifications (TSs) for Steam Generator Surveillance to (1) provide clarity, (2) modify the designation of those areas identified as special areas in the steam generator where imperfections have been previously found and (3) allow the sleeving of ten steam generator tubes as part of a demonstration program. Only the portion of the proposed amendment dealing with (3) above is considered in this notice. Portions (1) and (2) above will be considered in a separate notice.

Specifically the portion of the proposed amendment considered in this notice would add a new footnote to Table 4.18–2 to allow for sleeving of ten defective tubes during the ANO–1 sixth refueling as part of a demonstration program. Currently the TSs allow repair of defective steam generators by plugging defective tubes. In the proposed change, the licensee intends to repair up to ten (10) selective steam generator tubes by installing sleeves (sensitized Inconel alloy 600) inside the original tubes to bridge the degraded areas, thus permitting the tubes to remain in service. The sleeves would be roll expanded into the tubes at both ends of the sleeves to provide a leak proof boundary and structural integrity of the sleeves. The method to be used is similar to that which has been employed at utilities in large scale projects since the 1930's. The licensee has indicated that the tube sleeves have been qualified for use in degraded Once Through Steam Generator (OTSG) tubes by a series of tests and analysis and that the sleeves are strong enough, sufficiently leak free and corrosion resistant to be used as a permanent remedy to keep the degraded tubes in service. Also, the licensee has indicated that up to 5000 sleeves could be installed in each steam generator with minimal effect upon plant operation. The effect of installing ten sleeves as proposed by the licensee would be insignificant. Further, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated or a significant reduction in a margin of safety. The NRC staff agrees with the preliminary results provided in the licensee's application.

Basis for proposed no significant hazards consideration determination:

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). None of the examples, relating to whether significant hazards considerations are likely or unlikely, appear to be directly applicable to this amendment. The Commission, however, proposes to determine that the application does not involve a significant hazards consideration because the proposed method of repairing the degraded tubes will restore their original capabilities and provide a level of safety in operation commensurate with that anticipated of the facility had it not experienced the need to repair steam generators. 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.

Local Public Document Room Location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Attorney for licensee: Nicholas S. Reynolds, Bishop, Liberman, Cook, Purcell & Reynolds, 1200 Seventeenth Street, N.W., Suite 700, Washington, DC 20036.

NRC Branch Chief: John F. Stolz.

Arkansas Power and Light Company, Docket No. 50–313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: August 13, 1984.

Description of amendment request: The amendment would revise the Technical Specifications (TSs) for Steam Generator Surveillance to (1) provide clarity, (2) modify the designation of those areas identified as special areas in the steam generator where imperfections have been previously found and (3) allow the sleeving of ten steam generator tubes as part of a demonstration program. Only the portions of the proposed amendment dealing with (1) and (2) above are considered in this notice. Portion (3) dealing with the sleeving of the steam generator tubes will be considered in a separate notice.

Specifically, the portions of the proposed amendment considered in this notice would:

1. Clarify Specification 4.18.3.a.2,

The first sample inspection during each inservice inspection * * * shall include:

1. * * *

2. At least 50% of the tubes inspected shall be in those areas where experience has indicated potential problems.

The following phrase would be added: "except where specific groups are inspected per Specification 4.18.3.a.3."

The proposed change does not change the intent of the TS but rather makes it clear that if the licensee chooses the option of fully inspecting a special group (which indeed is a potential problem area), then that group does not need to be considered in the first random inspection and, more specifically, would not be considerd in the 50% of the first random inspection (Specificaion 4.18.3.a.2).

2. Change Specification 4.18.3.a.2 which defines the groups that may, at the licensee's option, be excluded from the first random inspection if the group is fully inspected. The change would define the group as "potential problem areas to the portion of tubes (i.e., over the tubes' height) where imperfections have previously been found" in contrast to the current TS which implies that the group include the complete length of the tubes in the group.

3. Delete Specification 4.18.3.a.3.(2) which defines a special group that the licensee may, at the licensee's option, fully inspect and thus not be part of the first random inspection. This group consists of those tubes which are supported in the 15 support plate by drilled holes rather than broached holes.

4. Add Specificaion 4.18.3.a.3.(3) which defines a special group that the licensee may, at the licensee's option, fully inspect and thus not be a part of the first random inspection. This group consists of those portions of tubes where previous imperfections have been found and is bounded by a large wedge (consisting of ⅓ of the tube bundle) originating at the center of the bundle and fanning out on either side of the lane region.

5. Correct a typographical error in Note 2 of Table 4.18–2. Reference to Specification 4.18.3.a.4 should be "4.18.3.a.3."

Basis for proposed no significant hazards consideration determination: The Commission has provded guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870) of amendments that are considered not likely to involve significant hazards considerations.

The proposed change discussed in (1) above is most like example (i) which constitutes a purely administrative change to the technical specifications: for example, a change to achieve consistency throughout the TSs. Since this portion of the proposed change more clearly describes what was intended, the Commission's staff proposes to determine that this portion of the application does not involve a significant hazards consideration.

For the proposed change discussed in (2) above, the three factors discussed in 10 CFR 50.92 are discussed as follows: The current TS implies that special groups include the full length of the tubes in the groups. The existence of special groups in the TS is the result of data from the operation of ANO–1 and, therefore, at the licensee's option, would be fully inspected. Since the implementation of the current TS, more operating data has been collected at ANO–1 and it indicates that imperfections in the current defined special groups are more likely in certain portions of the tubing (i.e., over the tube's length). Therefore, the licensee proposes to provide 100% inspection of the potential problem areas of the current defined special groups. Accordingly, the results of an inspection of the proposed defined special groups would yield results equivalent to the inspection results of the current defined special groups. In addition, the portion of tubes of the current defined special groups which would not be inspected under the proposed definition of the special groups would be included in the inspection of the first random inspection sample. Therefore, the proposed change would not (1) increase the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any previously evaluated, or (3) involve a significant reduction a margin of safety. Therefore, the Commission's staff proposes to determine that this portion of the application does not involve a significant hazards consideration.

With regard to (3) above, due to the fact that this proposed amendment to the TSs merely eliminates an option that the licensee would exercise without limitation, the proposed change would not (1) increase the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any previously evaluated, or (3) involve a significant reduction of a margin of safety. Therefore, the Commission's staff proposes to determine that this portion of the application does not involve a significant hazards consideration.

The proposed change discussed in (4) above is most like example (ii) which constitutes an added limitation, restriction or control not presently included in the TS. The proposed special group is quite a large group to be fully inspected and would constitute a much larger surveillance of tubes if the licensee chooses the option of fully inspecting this group. Therefore, the Commission's staff proposes to determine that this portion of the application does not involve a significant hazards consideration.

The proposed change discussed in (5) above is most like example (i) which constitutes a purely administrative change to the technical specifications: for example, a correction of an error. The proposed change would correct the reference to Specification 4.18.3.a.4 in Table 4.18–2. Therefore, the Commission's staff proposes to determine that this portion of the application does not involve a significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Attorney for licensee: Nicholas S. Reynolds, Bishop, Liberman, Cook, Purcell & Reynolds, 1200 Seventeenth Street, N.W., Suite 700, Washington, DC 20036.

NRC Branch Chief: John F. Stolz.

Arkansas Power and Light Company, Docket No. 50–313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: August 15, 1984.

Description of amendment request: The amendment would add Technical Specification Limiting Conditions for Operation and Surveillance Requirements to protect the reactor coolant system against an event of overpressurization during low temperatures where the reactor vessel material toughness, i.e., resistance to brittle fracture, is reduced from that which exists at normal operating temperature. Specifically, the proposed amendment would require (1) the core flood tank discharge valves be closed with power removed from the valves during plant cooldown, (2) the high pressure injection motor-operated valves be closed with their control circuits disabled when the reactor coolant temperature is less than 280 degrees F, (3) the plant not be operated in a water-solid condition with the reactor coolant system pressure boundary intact except as allowed by the emergency operating procedures, (4) surveillance of the low temperature overpressure protection alarm logic every 18 months, and (5) the exercise of the Power Operated Relief Valve (PORV) at the end of each refueling period.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). An example of actions involving no significant hazards considerations is an amendment involving a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The proposed Technical Specification modifications impose additional limitations, restrictions and controls and, therefore, fall within this example. Therefore, since the application for amendment involves proposed changes that are similar to the example for which no significant hazards considerations exist, the Commission has made a proposed determination that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Attorney for licensee: Nicholas S. Reynolds, Bishop, Liberman, Cook, Purcell & Reynolds, 1200 Seventeenth Street, N.W., Suite 700, Washington, DC 20036.

NRC Branch Chief: John F. Stolz.

Arkansas Power and Light Company, Dockets Nos. 50–313 and 50–368, Arkansas Nuclear One, Units Nos. 1 and 2, Pope County, Arkansas

Date of amendment request: July 11, 1984.

Description of amendment request: This submittal is a revision to the request for amendments dated August 23, 1983, which was noticed in the Monthly **Federal Register** Notice on November 22, 1983 (48 FR 52805). The amendments would revise the Technical Specifications to incorporate hydrogen/oxygen concentration limitations and hydrogen/oxygen monitoring requirements in the radioactive waste gas systems. The proposed Technical Specifications would establish limits of hydrogen/oxygen concentrations in the Waste Gas Surge Tank and Waste Gas Decay Tank such that a flammable or explosive mixture would not be possible. This is an added limitation to the current Technical Specifications. The application was submitted in response to an NRC request to incorporate the applicable current staff positions, presented in NUREG–0472, "Radiological Effluent Technical Specifications for PWRs," to ensure compliance with 10 CFR 50, Appendix I. The revision proposes the additional requirement of continuous monitoring of the waste gas to the waste gas decay tanks by redundant waste gas analyzers. These analyzers will detect the formation of a potentially flammable mixture of hydrogen and oxygen in the Waste Gas System before it becomes flammable. The implementation of the proposed changes is expected to reduce significantly the likelihood of hydrogen explosions in the radioactive waste gas systems.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards include changes that constitute additional limitations not presently included in the Technical Specifications and that make the license conform to changes in the regulations. Since the proposed changes add requirements and ensure compliance with the regulations in accordance with the staff positions, the staff proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Attorney for licensee: Nicholas S. Reynolds, Bishop, Liberman, Cook, Purcell & Reynolds, 1200 Seventeenth Street, N.W., Suite 700, Washington, D.C. 20036.

NRC Branch Chiefs: James R. Miller, John F. Stolz.

Baltimore Gas and Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendment: April 9, 1984 and June 29, 1984.

Description of amendment request: The proposed amendments would change the Unit 1 and Unit 2 Technical Specifications (TS) to reflect: (1) a change to the surveillance requirements for fire pumps to allow an alternate test method, (2) correction of a typographical error in a Unit 1 fire pump surveillance test, (3) clarification and correction of a typographical error concerning fire hose stations (4) clarification of operability requirements for the component cooling water system, (5) clarification of valve surveillance for component cooling, service water and salt water systems, and (6) provision for backup

instrumentation for the remote shutdown, wide range neutron flux instrumentation.

These changes to the TS are in partial response to the applications dated April 9, 1984 and June 29, 1984. The remaining issues addressed in these applications will be addressed in future correspondence.

Basis for proposed no significant hazards consideration determination: Calvert Cliffs Units 1 and 2 TS 3/4.7.11, "First Suppression Systems," includes operability and surveillance requirements for the electric and diesel powered fire pumps. One such surveillance requirement, applicable to both diesel and electric powered pumps, requires a monthly test by operating these pumps ". . . on recirculation flow." The term "recirculation" means the establishment of a flow path by which a quantity of fluid discharged from the pump is routed back to the suction side of the pump. BG&E has proposed a change to TS 3/4.7.11 to delete the phrase ". . . on recirculation flow" to allow for use of an alternate test method for the diesel and electric powered fire pumps.

The National Fire Codes, Volume 2, Chapter 20, Section 2–6, 1983 requires each fire pump to have a circulation relief valve. The code states that "Each pump shall be provided with an automatic relief valve set below the shutoff pressure at minimum expected suction pressure. It shall provide circulation of sufficient water to prevent the pump from overheating when operating with no discharge."

BG&E has proposed that these valves be utilized to provide a flow path in lieu of a recirculation flow path.

Our review of the alternate test method, involving the establishment of a fire pump flow path via the circulation relief valve, indicates that it provides an acceptable monthly demonstration of fire pump operability. Since the alternate test method is acceptable, use of this test will continue to demonstrate the reliability of the fire pumps.

On April 6, 1983 the NRC published guidance in the **Federal Register** (48 FR 14870) concerning examples of amendments that are not likely to involve significant hazards considerations. One such example (vi) involves changes ". . . where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan . . .". We conclude that the proposed change to TS 3/4.7.11 is consistent with this example and thus the Commission proposes to determine that this change involves no significant hazards considerations.

An additional change to Unit 1 TS 3/4.7.11 has been proposed to correct a typographical error. The word "fluch" in TS 4.7.11.1.1.d should actually be "flush." The correction of a typographical error was given as an example, (i) in 48 FR 14870, of an amendment which is not likely to involve significant hazards considerations. Accordingly, the Commission proposes to determine that the change to Unit 1 TS 4.7.11.1.1d involves no significant hazards considerations.

BG&E has proposed to correct a typographical error in TS Table 3.7–6, "Fire Hose Stations." Entry number 3 in Table 3.7–6 contains the words ". . . Aux Feeder Water Pipe Rooms" which should actually be "Aux Feedwater Pump Rooms." As indicated previously, correction of a typographical error is unlikely to involve a significant hazards consideration. Accordingly, the Commission proposes to determine that the proposed change to TS Table 3.7–6, which involves the correction of a typographical error, involves no significant hazards considerations.

BG&E has proposed a second change to TS Table 3.7–6. This change involves entry number 2 which describes hose station on to –10' and –15' levels of the auxiliary buildings. Since these hose stations are common to Units 1 and 2 (the hose stations are situated such that equipment from both units can be reached by the water spray) BG&E has proposed a clarifying footnote to indicate this commonality. The TS entry, as presently worded, could be misinterpreted to mean that these hose stations are located at *both* Units 1 and 2 and thus would represent 6 hose stations rather than the 3 hose stations actually installed. One example given in 48 FR 14870 of an amendment which is not likely to involve significant hazards considerations is "(1) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature."

We conclude that the addition of the clarifying footnote to TS Table 3.7–6 represents an administrative change. Accordingly, the Commission proposes to determine that the proposed change to TS Table 3.7–6, to add a clarifying footnote, involves no significant hazards considerations.

BG&E has proposed a change to Unit 1 and 2 TS 3.7.3.1, "Component Cooling Water System." At the present time, TS 3.7.3.1 requires that "At least two component cooling water loops shall be OPERABLE." The licensee has proposed that the following be added to the operability requirements for the component cooling water (CCW) system; "At least one component cooling water heat exchanger shall be operating and the remaining component cooling water heat exchanger may be in standby." The proposed change to TS 3.7.3.1 has been requested in order to reflect actual operating practices associated with the CCW system.

The CCW system for each Calvert Cliffs Unit consists of 3 motor driven pumps, 2 heat exchangers, a head tank, and associated valves, piping, instrumentation, and controls. Cooling water for the CCW heat exchangers is supplied by the salt water system which discharges its water directly to the ultimat heat sink (Chesapeake Bay). During normal operation, the CCW system supplies cooling water to a number of safety-related components. The Calvert Cliffs FSAR, Section 9.5.2, states that, "During normal plant operation, one of the pumps and one of the heat exhangers are required for cooling service." The remaining CCW heat exchanger is normally maintained in "standby" status with its discharge valve closed. In the event of a Loss of Coolant Accident (LOCA), the CCW system services important safety-related components; however, the CCW system is designed so as not to supply cooling water immediately following a LOCA. During this period, the salt water system supply to the CCW heat exchangers is isolated. After a minimum of 36 minutes, salt water flow to the CCW heat exchangers is automatically reinitiated and CCW cooling begins. Existing emergency procedures instruct the reactor operators to open the outlet valve in the CCW heat exchanger. A time of 36 minutes is judged to the adequate for operators to take manual action in this regard.

The proposed change TS 3.7.3.1 serves to further document an operating mode, involving use of a single CCW heat exchanger during normal operation, that has been previously used and is described in the FSAR. In the event of LOCA, starting from operation with one CCW heat exchanger, a combination of manual actions and automatic features assure proper postaccident functioning of the CCW system. For the reason, accidents which require operation of the CCW system for mitigation will not be worse nor will any other new or different kind of accident be created. In addition, since no changes have been proposed to the designed or operation of the CCW system, no safety margins will be reduced. Accordingly, the Commission proposes to determine that the proposed change to TS 3.7.3.1, which

clarifies operability requirements for the CCW system, involves no significant hazards considerations.

BG&E has proposed a change to Unit 1 and 2 TS 4.7.3.1, 4.7.4.1, and 4.7.5.1 which provide Surveillance Requirements for the component cooling water, service water, and salt water systems, respectively . At the present time each of the TS contains a surveillance requiring that, "At least once per 31 days by verifying that each valve (manual, power operated or automatic) servicing safety related equipment that is not locked, sealed, or otherwise secured in position, is in its correct position."

BG&E has proposed replacing the phrase "* * * Servicing safety related equipment * * *" with the phrase "* * * in the flow path * * *" This proposed change would clearly identify the class of valves which require monthly verification.

Systems such a the component colling water, service water, and salt water systems contain a considerable number of valves. Not all of these valves have the same safety significance and thus need be subjected to the same type or frequency of surveillance. One class of valves performs functions which are very minor from a safety standpoint. These functions include: drains, vents, and instrument isolation (root) valves. Mispositioning of these valves would either be obvious during routine operation (i.e. a closed instrument root valve would cause the associated instrument to be inoperable) or perform functions which are minor with regard to the completion of the safety function of the system. These types of valves are typically quite numerous and monthly surveillance, with regard to position, is unnecessary.

At the present time Unit 1 and 2 TS 4.5.2 requires the following monthly test of valves in the emergency core cooling system (ECCS): "Verifying that each valve (manual, power operated or automatic) in the flow path that is not locked, sealed, or otherwise secured in position, is in its correct position."

The above wording appropriately excludes valves outside the flow path (valves with minor safety significance) from this routine surveillance. BG&E has proposed adopting this same surveillance requirement for the component cooling water, service water, and salt water cooling systems (TS 4.7.3.1, 4.7.4.1, and 4.7.5.1); thus, the valve surveillance requirements of these systems would be consistent with similar requirements for the ECCS. Moreover unsecured valves in the main flow paths of these systems, whose misposition would prevent these systems from completing their safety function, would still require periodic surveillance. For this reason, a high degree of assurance is maintained that these systems wilal be capable of performing their safety functions; therefore, no change in the probability or consequences of accidents previously considered will result nor will accidents of a new or different kind be created. Since no design changes or changes in the level of operability of these systems will result herein, no decrease in margins of safety will occur. Accordingly, the Commission proposes to determine that the proposed changes to TS 4.7.3.1, 4.7.4.1 and 4.7.5.1 involve no significant hazards considerations.

BG&E has requested a change to Unit 1 and 2 TS 3/4.3.3.5, "Remote Shutdown Instrumentation," to allow the use of altlernate wide range neutron flux instrumentation. BG&E has installed new remote shutdown panels in the Unit 1 and 2 switch gear rooms (1C43 and 2C43.) The remote shutdown panels had been located in the Unit 1 and 2 auxiliary feedwater pump (AFWP) rooms. The use of the new wide range neutron flux instrumentation, incorporated into the new remote shutdown panels, was approved by changes to TS 3/4.3.3.5 issued on June 6, 1984 (Unit 2, Amendment No. 75) and November 17, 1983 (Unit 1, Amendment No. 88).

On March 19, 1984, the new Unit 1 wide range neutron flux instrumentation began showing evidence of possible impending failure and was subsequently declared inoperable. On April 19, 1984 the NRC issued a change to TS 3/4.3.3.5 (Unit 1, Amendment No. 91) to allow the use of the wide range neutron flux instrumentation, still located in the Unit 1 AFWP room, until such time as the new instrumentation could be repaired. BG&E subseqluently requested, by application dated June 29, 1984, a change to the Unit 1 and 2 TS 3/4.3.3.5 to allow use of the wide range neutron flux instrumentation, located in the Unit 1 and 2 AFWP rooms, at any time when the wide range neutron flux instrumentation at the new remote shutdown panels becomes inoperable.

The wide range neutron flux instrumentation located in the AFWP rooms has been shown by prior service to be reliable equipment. During the period when they would be required, when the primary wide range neutron flux instrumentation (located at 1C43 and 2C43) are inoperable, the instrumentation in the AFWP would be required to undergo routine surveillance. In addition, in the event that the wide range neutron flux instrumentation in the AFWP rooms are required to be operable under emergency conditions, communications can be established between the AFWP rooms and the remainder of the remote shutdown instrumentation located at 1(2)C43.

The Wide Range Neutron Flux instrumentation is provided for monitoring purposes and does not provide inputs for automatically actuated equipment; therefore, the changes as reflected in the proposed Limiting Conditions for Operation do not change the course or severity of any analyzed accidents nor the probability of such accidents occurring. Moreover, the usefulness of this instrumentation to provide postaccident information has not been degraded. The proposed change thus would not decrease any margin of safety. Since this change involves only monitoring and provides no input for automatic actuation of safety equipment or functions, the change will not create the possibility of an accident not previously evaluated. On these bases, the staff proposes to determine that the proposed change to TS 3/4.3.3.5 for the remote shutdown instrumentation does not involve significant hazards considerations.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Attorney for licensee: George F. Trowbridge, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: James R. Miller.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of amendment request: August 9, 1984.

Description of amendment request: The proposed amendment would replace the carbon dioxide (CO_2) system Technical Specifications with similar specifications for a Halon fire suppression system recently installed in the cable spreading room. References to the CO_2 system relative to switchgear rooms at the 23-foot and 37-foot elevations would be deleted since the CO_2 hose stations at those locations have been replaced by water hose stations.

Basis for proposed no significant hazards consideration determination: The licensee states in its application that a Halon system has been installed to replace the "CO_2 system which was used as the main source of fire suppression in the cable spreading room (CSR) until it failed a dump test on October 24, 1981. Since that time, the CSR has been monitored by fire watch patrol." On January 18, 1982, the

licensee informed the NRC that the CO_2 discharge test referred to above, made the CSR so cold that electrical equipment in the room might not operate correctly. Halon would not have that effect since it would not make the room cold and it does not adversely affect electrical equipment in other ways.

NRC has previously evaluated Halon systems and has found that they provide fire suppression capability at least equivalent to that of CO_2 systems. Furthermore, the licensee states that the Halon system in the Pilgrim CSR was successfully tested on May 3, 1984, in accordance with standard test criteria prescribed by the National Fire Protection Association. On this basis, the NRC staff concluded that operation of the Pilgrim Station in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of an accident of a type different from any evaluated previously, or (3) involve a significant reduction in a margin of safety. Therefore, the staff has made a proposed determination that this application for amendment involves no significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Branch Chief: Domenic B. Vassallo.

Commonwealth Edison Company, Docket Nos. 50–373 and 50–374, La Salle County Station, Units 1 and 2, La Salle County, Illinois

Date of amendment request: July 25, 1984.

Description of amendment request: The proposed amendments to Operating Licenses NPF–11 and NPF–18 would revise the La Salle, Units 1 and 2 Technical Specifications to somewhat reduce limits on monitors in accordance with guidance in Generic Letter No. 83–36, "NUREG–0737 Technical Specifications." The action statements for the accident monitoring instrumentation for (1) Drywell Hydrogen Concentration Monitor, (2) Primary Containment Gross Gamma Radiation, and (3) Noble Gas Monitors are modified as provided Generic Letter 83–36.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for a no significant hazards consideration determination by providing certain examples (48 FR 14870). One of the examples (vi) of actions involving no significant hazards considerations relates to a change which may reduce in some way a safety margin but where the results of the change are clearly within all acceptable criteria with respect to the system of component specified in the standard review plan. The La Salle Technical Specifications for operability of plant monitors would be changed to reflect operability restrictions according to Generic Letter 83–36.

Therefore, since the application for amendments involves proposed changes that are similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application for amendments involves no significant hazards consideration.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Attorney for licensee: Isham, Lincoln and Burke, Suite 840, 1120 Connecticut Avenue N.W., Washington, D.C. 20036.

NRC Branch Chief: A. Schwencer.

Consolidated Edison Company of New York, Docket Nos. 50–003 and 50–247, Indian Point Nuclear Generating Units 1 and 2, Westchester County, New York

Date of amendments request: June 20, 1984.

Description of amendments request: By NRC Generic Letter 83–43 to all licensees model Technical Specifications were forwarded which showed the revisions to reporting requirements as necessitated by Section 50.72 and 50.73 of Title 10 of the Code of Federal Regulations. Section 50.72 revises the immediate notification requirements for operating nuclear power plants. Section 50.73 provides for a revised Licensee Event Report System.

By letter dated June 20, 1984 the Consolidated Edison Company submitted proposed license amendments for NRC review and approval which reflects changes to reporting requirements.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration is a change to make the licenses conform to changes in the regulations where the change results in very minor changes to facility operations clearly in keeping with the regulations. The NRC initial review of the licensee's submittal indicates that this is the case. Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Attorney for licensee: Thomas J. Farrelly, Esq., 4 Irving Place, New York, New York 10003.

NRC Branch Chief: Steven A. Varga.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit 2, Westchester County, New York

Date of amendments request: June 29, 1984.

Description of amendments request: An amendment to the Technical Specifications to modify the definition of the term "Operable" as it applies to the single-failure criterion for safety systems: certain editorial and format changes would also be necessary. The proposed change was initiated in response to an NRC request to revise the definition consistent with guidance issued by NRC. The proposed amendment conforms to the NRC request and provides for a revised definition that is more restrictive in that it extends the definition to include systems that are associated with the system in question. This amendment request supercedes the licensee's prior request dated February 14, 1984.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards consideration include actions which are purely administrative changes to the Technical Specifications, and changes that constitute an additional limitation, restriction, or control not presently included in the Technical Specifications.

The changes proposed in the application for amendment are encompassed by these examples in that: (1) the guidance provided by NRC and proposed in the amendment for the revised definition of the term "Operable" is more restrictive in that the operability of systems associated with the system must also now be considered; and (2) the resulting format and editorial changes are purely administrative changes. Therefore, since the application for amendment involves proposed changes that are similar to the

example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Attorney for licensee: Thomas J. Farrelly, Esq., 4 Irving Place, New York, New York 10003.

NRC Branch Chief: Steven A. Varga.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: July 30, 1984 and August 6, 1984.

Description of amendment request: The amendment would (1) make the reporting requirements in the Technical Specifications (TS) consistent with 10 CFR 50.72 and 50.73 and (2) allow Plant Review Committee (PRC) review and approval of documents by document routing. The changes to the reporting requirements were proposed in response to Generic Letter No. 83–43, "Reporting Requirements of 10 CFR Part 50, Sections 50.72 and 50.73, and Standard Technical Specifications," dated December 19, 1983.

Currently, the TS require a PRC meeting to approve documents which are reviewed by the PRC. The proposed change would allow PRC review and approval of documents by document routing. A meeting would still be required for review and approval of issues related to reportable events and changes to limiting safety system settings and limiting conditions for operation. Also, for the approval by routing of procedures, tests, experiments, TS changes, and safety system modifications additional controls would be instituted to ensure proper consideration of these issues by the PRC.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (vii) of actions not likely to involve a significant hazards consideration relates to changes to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations. The proposed changes to conform to 10 CFR 50.72 and 50.73 affect only reporting requirements and do not affect facility operations.

Another example (i) of actions not likely to involve a significant hazards consideration relates to purely administrative changes to the Technical Specifications. The proposed changes (1) affect only the procedure by which the PRC approves documents (a change from approval by meeting to approval by document routing) and (2) still require PRC approval of the same types of documents. The proposed changes also limit the document routing approval method to issues not related to reportable events and issues not involving changes to limiting safety system settings or limiting conditions for operation. Approval by routing of procedures, tests, experiments, TS changes, and safety system modifications would be subject to special controls to assure proper consideration of these issues.

Therefore, since the changes make the license conform to changes in the regulations and do not affect plant operations or are purely administrative, the staff proposes to determine that the proposed changes would not involve a significant hazards consideration determination in that they: (1) do not involve a significant increase in the probability or consequences of a previously evaluated accident; (2) do not create the possibility of a new or different kind of accident from any accident previously evaluated; and (3) do not involve a significant reduction in a margin of safety.

Local Public Document Room location: Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Branch Chief: Walter A. Paulson, Acting Chief.

Consumers Power Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: July 30, 1984 and August 6, 1984.

Description of amendment request: The amendment would (1) make the reporting requirements in the Technical Specifications (TS) consistent with 10 CFR 50.72 and 50.73 and (2) allow Plant Review Committee (PRC) review and approval of documents by document routing. The changes to the reporting requirements were proposed in response to Generic Letter No. 83–43, "Reporting Requirements of 10 CFR Part 50, Sections 50.72 and 50.73, and Standard Technical Specifications," dated December 19, 1983.

Currently, the TS require a PRC meeting to approve documents which are reviewed by the PRC. The proposed change would allow PRC review and approval of documents by document routing. A meeting would still be required for review and approval of issues related to reportable events and changes to limiting safety system settings and limiting conditions for operation. Also, for the approval by routing of procedures, tests, experiments, TS changes, and safety system modifications additional controls would be instituted to ensure proper consideration of these issues by the PRC.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (vii) of actions not likely to involve a significant hazards consideration relates to changes to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations. The proposed changes to conform to 10 CFR 50.72 and 50.73 affect only reporting requirements and do not affect facility operations.

Another example (i) of actions not likely to involve a significant hazards consideration relates to purely administrative changes to the Technical Specifications. The proposed changes (1) affect only the procedure by which the PRC approves documents (a change from approval by meeting to approval by document routing) and (2) still require PRC approval of the same types of documents. The proposed changes also limit the document routing approval method to issues not related to reportable events and issues not involving changes to limiting safety system settings or limiting conditions for operation. Approval by routing of procedures, tests, experiments, TS changes, and safety system modifications would be subject to special controls to assure proper consideration of these issues.

Therefore, since the changes make the license conform to changes in the regulations and do not affect plant operations or are purely administrative, the staff proposes to determine that the proposed changes would not involve a significant hazards consideration determination in that they: (1) do not involve a significant increase in the probability or consequences of a previously evaluated accident; (2) do not

create the possibility of a new or different kind of accident from any accident previously evaluated; and (3) do not involve a significant reduction in a margin of safety.

Local Public Document Room location: Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49007.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NCR Branch Chief: Walter A. Paulson, Acting Chief.

Duke Power Company, Dockets Nos. 50–269, 50–270 and 50–287, Oconee Nuclear Station, Units Nos. 1, 2 and 3, Oconee County, South Carolina

Date of amendment request: June 26, 1984.

Description of amendment request: The amendments would authorize changes to the Technical Specifications (TSs) by delineating the need for administrative controls to limit the working hours for station staff performing safety-related functions. The proposed changes to the Oconee TSs are in response to a June 12, 1984, NRC letter regarding Duke's December 28, 1982, response to Generic Letter 82–16. The licensee states that the proposed revision to TS 6.4.3 is in accordance with Generic Letter 82–16.

Basis for proposed no significant hazards consideration determination: Duke Power Company's submittal of June 26, 1984, included a discussion of the proposed action with respect to the no significant hazards consideration standards.

The Commission has provided, at 48 FR 14870, guidance concerning the application of these standards by providing certain examples. The proposed amendment of the TSs delineating the need for administrative controls to limit the working hours for station staff has been determined to be a change that constitutes additional limitations and controls not presently included in the TSs. Example (ii) of the types of amendments considered not likely to involve significant hazards considerations is applicable to this amendment request. This specific example involves amendment requests that are considered to be a change that constitutes an additional limitation, restriction, or control not presently included in the TSs. The Commission's staff has determined, based on the above consideration, that the revision does not involve a significant increase in the probability or consequences of accidents previously considered, nor create the possibility of a new or different kind of accident, and will not involve a significant decrease in a safety margin. Therefore, the Commission proposes to determine that there is no significant hazards consideration involved in this amendment request.

Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

Attorney for licensee: J. Michael McGarry, III, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

Duquesne Light Company, Docket No. 50–334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of amendment request: November 3, 1983, as revised July 31, 1984

Description of amendment request: This is an application for and amendment to Operating License DPR–66, eliminating Appendix B in its entirety. All Technical Specifications in Appendix B refer to non-radiological requirements such as soil sampling, areial infra-red photography, etc. The purpose of such required surveillance is to determine if operation of the unit would adversely affect the environment. The licensee believes that sufficient surveillance has been performed to enable him to conclude that the environment has not been adversely affected, and therefore proposes to eliminate all such requirements from the license.

Basis for proposed no significant hazards consideration determination: The Technical Specifications in Appendix B are not involved with Unit 1 hardware or operation. Thus elimination of these specifications does not increase the probability of occurance or the consequence of an accident. In addition, no accident or malfunction of a different type from any previously analyzed would be created by the proposed amendment. Since Appendix B specifications are not concerned with safety, and do not impose any operating restriction, their elimination would not reduce any margin of safety.

Therefore, on this basis, the staff proposes to characterize the licensee's requested change as involving no significant hazards consideration.

Local Public Document Room location: B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch chief: Steven A. Varga.

Duquesne Light Company, Docket No. 50–334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of amendment request: June 28, 1984.

Description of amendment request: This is an application for an amendment to Operating License DPR–66, revising a number of Tables in the Technical Specifications as follows:

(1) Table 4.3–13 would be revised to indicate that the Noble Gas Activity Monitor and Radiation Monitor provide control room alarm communication only; they do not initiate any automatic actuation, as is currently and erroneously indicated in the Specifications.

(2) Table 3.4–4 would be revised to specify the applicable time constant for the functional unit High Negative Steam Pressure Rate to be 50+ 5 seconds. This time constant is currently not specified in the specifications.

(3) Table 3.3–3, 3.3–4, 3.3–5 and 4.3–2 would be revised to add the list of signals that initiate the start of the Auxiliary Feedwater Systems. These signals are currently not included in the Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of these, Example (ii), involving no significant hazards considerations is "A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement." Items (2) and (3) above match the example and the staff, therefore, proposes to characterize them as involving no significant hazards consideration.

The Commission also provided Example (i) which is "A purely administrative change to technical specifications for example, * * * correction of an error * * * " Item (1) above matches the example and the staff, therefore, also proposes to characterize it as involving no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Florida Power and Light Company, et al. Docket No. 50–389, St. Lucie Plant Unit No. 2, St. Lucie County, Florida

Date of amendment request: August 31, 1984.

Description of amendment request: The proposed amendment would make changes in the technical specifications of St. Lucie Plant, Unit No. 2, to allow continuous operation of the 8-inch containment purge supply and exhaust isolation valves. At present, the technical specifications allow the 8-inch containment purge supply and exhaust isolation valves to be open for less than or equal to 1000 hours per calendar year. As identified in the bases for the Technical Specifications, use of the 8-inch purge valves during plant operations is allowed since, in the event of a LOCA or steam line break, these valves will close and, therefore, the site boundary dose guidelines of 10 CFR Part 100 would not be exceeded in the event of an accident during purging operations.

The licensee requests that the restriction that allows the 8-inch containment purge valves to be open only for less than or equal to 1000 hours per year be deleted, thus allowing continuous operation of the system.

Basis for proposed no significant hazards consideration determination: Under the provisions of 10 CFR 50.92 the Commission may make a final determination pursuant to the procedures in 50.91, that a proposed amendment to an operating license for a facility licensed under 50.21(b) or 50.22 or for a testing facility involves no significant hazards considerations, if operation of the facility in accordance with a 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.

A discussion of these standards as they relate to this amendment follows:

Standard 1. Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed Technical Specification will allow continuous operation of the 8-inch containment purge system. This represents an increase in operating time from 1000 hours to 8760 hours per year. Continuous operation of this system will not increase the probability of an accident since this system cannot in itself cause an accident. This system does serve to mitigate the consequences of a potential release to the public following a Loss of Coolant Accident (LOCA). In the evaluation of these isolation valves, they were assumed to be open when a LOCA occurred. These valves are designed to close within 5 seconds of the start of a Containment Isolation Actuation Signal. This meets NRC Branch Technical Position CSB 6–4. Further, this system has been designed to accommodate a single failure. In the event of an accident, offsite doses will not exceed the limits specified in 10 CFR Part 100.

Standard 2. Create the Possibility of a New or Different Kind of Accident from Any Accident Previously Evaluated

The proposed Technical Specification will allow the 8-inch purge valves to remain open continuously. Extending the number of allowable purge hours per year does not involve any evolution that is not currently performed, thus does not lead to the possibility of a new or different kind of accident from any previously evaluated.

Standard 3. Involve a Significant Reduction in a Margin of Safety

The Continuous Containment/Hydrogen Purge System has been designed for continuous operation. In the event of a LOCA, with a failure of a single 8-inch purge valve, the remaining valves will close within 5 seconds. Offsite doses due to a LOCA and one 8-inch purge valve failure will not exceed 10 CFR Part 100 limits. Extending the number of allowable purge hours per year does not place the plant in a different configuration than that which is currently utilized routinely. Therefore, continuous operation of the 8-inch purge system does not involve a significant reduction in a margin of safety.

The Commission has also provided guidance concerning the application of these standards by providing examples of amendments considered likely, and not likely, to involve a significant hazards consideration. These were published in the **Federal Register** on April 6, 1983 (48 FR 14870). One of the examples of actions involving no significant hazards consideration (iv) relates to a relief granted upon demonstration of acceptable operation from an operating restriction that was imposed because acceptable operation was not yet demonstrated. This assumes that the operating restriction and the criteria to be applied to a request for relief have been established in a prior review and that it is justified in a satisfactory way that the criteria have been met. This proposed amendment is considered to be similar to example (iv) in that it involves relief from an operating restriction that was imposed prior to licensing because justification for the relief requested in this amendment, based on plant operating experience, did not exist at that time.

Based on the above, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450.

Attorney for licensee: Harold F. Reis, Esq., Newman and Holtzinger P.C., 1615 L Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: James R. Miller.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50–366, Edwin I. Hatch Nuclear Plant, Unit No. 2, Appling County, Georgia

Date of amendment request: December 21, 1983, as supplemented April 16, 1984, and May 2, 1984.

Description of amendment request: The amendment would modify the Technical Specification Limiting Conditions for Operation (LCO) to increase the number of movable detectors in the Traveling Incore Probe (TIP) system that are required to be operable from three to four.

The amendment would also modify the Technical Specification Action Statement for this LCO to allow operation of the TIP system with one or more inoperable detectors. It would allow the functioning portions of the TIP system to be used for monitoring and calibration purposes for 31 effective full power days following the last normalization of the detectors. The current Technical Specification does not allow the TIP system to be used if all required detectors (currently three) cannot be normalized. The purpose of this change is to increase the accurcy of monitoring of core parameters by the local power range monitors (LPRMs) when portions of the TIP system are inoperable.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of the criteria in 10 CFR 50.92 by providing examples of amendments that are considered not likely to involve a significant hazards consideration (48 FR 14870). One such example is (ii), a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications. The increase in the number of movable detectors

required to be operable is similar to this example.

The Commission has also provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if 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 current Technical Specfication allows plant operation to continue for up to 31 effective full power days with less than three TIP detectors operable. LPRM drift during plant operation tends to be in a nonconservative direction (due to burnup of fissionable material in the ionization chambers). Thus, the current Technical Specification, in effect, prevents conservative corrections to the LPRM readings from being made during the period (up to 31 effective full power days) in which the plant is allowed to operate with less than three operable TIP detectors.

The modified Technical Specification will allow corrections to the LPRM readings for those LPRM strings that can be reached by the remaining operable TIP detectors when less than four detectors are operable. This will allow updating and more conservative monitoring of the core parameters and adjustment of Average Power Range Monitor setpoints. It thereby provides for more conservative operation with respect to core thermal limits.

While under certain conditions the modification will make it possible, when using a manual calculation to determine parameters, to operate at a higher power level than is currently allowed with less than three TIP detectors operable, the opeating guidelines that the plant follows for usage of the manual calculation are designed to prevent use of ths calculation in a nonconservative manner.

On the basis of the above, the Commission has determined that the requested modification meets the three criteria and therefore has made a proposed determination that the amendment application does not involve a significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Attorney for licensee: G.F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

GPU Nuclear Corporation, Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: August 28, 1984.

Description of amendment request: The proposed amendment requests approval of a Technical Specification Change to section 5.3.1.E to remove the weight limitation of the spent fuel shipping cask.

Basis for proposed no significant hazards consideration determination: On October 14, 1983, a U.S. District Court, Western District of New York, issued a Partial Settlement Agreement and Order which requires GPU Nuclear Corporation (GPUN) to return 224 spent fuel assemblies from the Nuclear Service Center in West Valley, New York to Oyster Creek. Accordingly, in preparation for receiving these fuel assemblies GPUN is contracting for the use of two TN–9 spent fuel shipping casks each having a full load weight of 40.5 tons. The use of these casks would reduce the number of shipments from West Valley to 32 instead of the 114 required if the NLI ½ cask were utilized.

On March 30, 1977, the NRC issued Amendment No. 22 to the Oyster Creek Technical Specifications (TS). This amendment addressed the increased spent fuel pool storage capacity and the requirements that go with it. One of these requirements had to do with limiting the weight of a spent fuel shipping cask, which could be raised over the top plate of the cask drop protection system (CDPS), to a maximum weight of 30 tons. Although the analysis for the CDPS had been performed by GPUN using a 100-ton cask, and had been found acceptable by the NRC as discussed in the March 30, 1977 SER of Amendment 22, the NRC imposed the 30-ton limitation until the details of the means used to limit the height to which the cask can be raised over the operating deck have been submitted by GPUN and approved by the NRC staff.

The proposed amendment change request would remove the 30-ton limitation so that GPUN can utilize the TN–9 shipping casks. GPUN is developing and will use specific procedures for handling the TN–9 casks. To ensure that the cask will not be raised more than 6 inches above the top plate of the CDPS, limit switches on the crane will be set to limit the crane's upward travel to a level such that the bottom surface of the cask base plate will be limited to a maximum height of 6 inches above the top plate. In addition, a "GO, NO-GO" gauge will be used to ensure the cask is at the correct height prior to movement.

The Commission has provided guidance concerning the application of standards for a no significant hazards consideration determination by providing certain examples (April 6, 1983, 48 FR 14870). One of the examples (iv) of action not likely to involve a significant hazards consideration relates to a relief granted upon demonstration of acceptable operation from an operating restriction that was imposed because acceptable operation was not yet demonstrated. This assumes that the operating restriction and the criteria to be applied to a request for relief have been established in a prior review and that it is justified in a satisfactory way that the criteria have been met. The changes proposed in the application for amendment are encompassed by this example and the requested action fulfills the requirements set forth in the SER supporting Amendment 22 of the Oyster Creek license. On this basis, the staff proposes to determine that the proposed amendment involves no significant hazards considerations.

Local Public Document Room location: 101 Washington Street, Toms River, New Jersey 08753.

Attorney for licensee: G.F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Walter A. Paulson, Acting Chief.

GPU Nuclear Corporation, et al., Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: February 17, 1984.

Description of amendment request: This amendment request supersedes the request dated June 8, 1981, which was published in the **Federal Register** on July 21, 1983 (48 FR 33383). The proposed amendment includes the recommended Technical Specification (TS) changes of our Generic Letter 84–13.

The proposed amendment would provide operability requirements and surveillance requirements for snubbers. The operability requirements would require an inoperable snubber to be restored to operable within 72 hours or the associated system would be declared inoperable and the required action for the inoperable system would be initiated. The surveillance requirements would include: visual inspections, refueling outage

inspections, visual inspection acceptance criteria, functional tests, functional test criteria, functional test failure analysis, functional testing of repaired or replaced snubbers, and snubbers seal replacement program.

Basis for proposed no significant hazards consideration determination: The Commission has provided examples (48 FR 14870) of the type of amendments not likely to involve a significant hazards consideration. One example of this type (ii) is a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications. The proposed change regarding operability requirements falls into this category in that a time limitation (72 hours) would be placed on the restoration of inoperable snubbers. If the inoperable snubbers are not restored to an operable condition within the proposed time limitation, then the licensee would be required to declare the associated system inoperable which would result in a plant shutdown. Similarly, the surveillance requirements impose additional restrictions related to mandatory periodic testing of the snubber assemblies to assure operability. Such restrictions do not currently exist in the TSs. Therefore, the Commission proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Attorney for Licensee: Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

Indiana and Michigan Electric Company, Docket No. 50–315, Donald C. Cook Nuclear Plant, Unit No. 1, Berrien County, Michigan

Date of amendment request: August 23, 1984, supported by Exxon Nuclear letters dated August 22 and 23, 1984.

Description of amendment request: The proposed amendment would change the Technical Specifications to revise the burnup dependent core physics parameters for Exxon fuel left in Unit 1 and to increase the heat flux hot channel factor, F_Q, for Westinghouse fuel in Unit 1.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (vi) of action not likely to involve a significant hazards consideration is a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. The first proposed change to revise the burnup dependent core physics parameters for Exxon fuel left in Unit 1 is directly related to this example. Westinghouse fuel is replacing the Exxon fuel in Unit 1 and due to the approved power increase, highly enriched Westinghouse fuel with extended burnup, the Exxon fuel remaining in the core will also be exposed to higher burnups. The proposed changes and effects on the fuel and plant operation to account for this higher burnup is based an analyses and methods used previously and found acceptable. The results of the change are clearly within all acceptable criteria with respect to the fuel design and operational capability.

The second proposed change to the heat flux hot channel factor, F_Q, is also like this example in that the licensee proposes to incorporate the BART computer code analysis in the currently approved large break analysis. The Commission has previously reviewed the use of the BART code in this fashion and has found it acceptable and the results clearly within all acceptance criteria. On the basis of the above, the Commission proposes to conclude that the proposed changes described above involve a no significant hazards consideration.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Indianna and Michigan Electric Company, Docket No. 50–316, Donald C. Cook Nuclear Plant, Unit No. 2, Berrien County, Michigan

Date of amendment request: August 28, 1984, supported by Exxon Nuclear letters dated July 7, 1984 and August 7, 1984.

Description of amendment request: The proposed amendment would revise the Technical Specification values of the total heat flux hot channel factor, F_Q^T, and the nuclear enthalpy rise hot channel factor as a result of new loss-of-coolant-accident/emergency core cooling system (LOCA/ECCS) calculations.

Basis for proposed no significant hazards consideration determination: The new LOCA/ECCS calculations have been performed with adjustments to FLECHT based heat transfer correlations to account for the difference in axial power distribution between that used in the Unit 2-Cycle 5 analysis and that used in the FLECHT tests where the correlations were first developed. The adjustments in the heat transfer correlation will make the resulting LOCA/ECCS calculations more representative of the D.C. Cook, Unit 2, core configuration and do not otherwise change the previous analyses or findings in the safety evaluation report supporting the Cycle 5 operation. As such, operation with the revised F_Q and $F_{delta\ H}$ will not involve a significant increase in the probability or consequences of an accident previously evaluated; or create the possibility of a new or different kind of accident from any accident previously evaluated; or involve a significant reduction in a margin of safety. Therefore, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Iowa Electric Light and Power Company, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: August 17, 1984.

Description of amendment request: The proposed amendment would correct an error in the instrument setpoint dealing with the bypass of the direct scram signals, at low reactor power, on turbine stop valve or turbine control valve closure generated during turbine trip or generator load rejection event, respectively.

The licensee states that during a review of the engineering designs related to the Duane Arnold Energy Center (DAEC) power uprate program, a discrepancy in a pressure instrument setpoint was discovered. The instrument setpoint was set at a turbine first stage pressure corresponding to 30% of the turbine power, instead of 30% of the core power as shown in the Final Safety

Analysis Report. Since 30% of the turbine power corresponds to approximately 35% of the core power, the instrument was erroneously set in a non-conservative manner. The licensee, therefore, required a change in the Technical Specifications to correct the value of the turbine first stage setpoint pressure to correspond to 30% of the core power instead of 30% of turbine power.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples involving no significant hazards consideration include "(i) a purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature. The proposed change is intended to correct an error in an instrument setpoint and is encompassed by the cited Commission example.

Therefore, since the application for amendment involves a proposed change similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Esquire, Harold F. Reis, Esquire, Newman and Holtzinger, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: February 29, 1984, as supplemented by submittal dated July 18, 1984.

Description of amendment request: The original amendment request of February 29, 1984 was initially noticed on May 23, 1984 (49 FR 21831). The original request, in part, changed the Technical Specifications to implement the following TMI Action Plan Items set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements" and as requested by the staff's Generic Letter 83-36:

II.B.3—Post Accident Sampling
II.F.1.1—Noble Gas Monitor
II.F.1.2—Iodine Particulate Sampling
II.F.1.3—Containment High-Range Monitor
II.F.1.4—Containment Pressure Monitor
II.F.1.5—Containment Water Level Monitor

By letter dated July 18, 1984, the licensee submitted a revision to the February 29, 1984 application to change the following two areas of the Technical Specifications relative to the above TMI Action Plan Items:

(1) The action statements for inoperable channels of the Containment Pressure Monitor (Item II.F.1.4) and Containment Water Level Monitor (Item II. F.1.5) are revised to be more stringent than the action statements proposed in the February 29, 1984 application.

(2) Requirements and references to Drywell Level Instrumentation, erroneously proposed in the February 29, 1984 application in response to TMI Action Plan Item II.F.1.5, are deleted.

In addition, the July 18, 1984 letter proposed a change to the Technical Specifications that was not addressed in the February 29, 1984 application and was not noticed in 49 FR 21831. In preparing the Technical Specifications for items (1) and (2) above, the licensee noted that the identification number and range of a Suppression Chamber/Torus Water Temperature instrument were incorrectly identified. The third item for which a Technical Specification revision is proposed by the licensee's July 18, 1984 letter is a correction to the Suppression Chamber/Torus Water Temperature instrument designation.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. One of the examples relates to: "(i) a purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature." Another example (ii) of actions involving no significant hazards consideration is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications.

(1) The proposed revision to the Technical Specifications relative to TMI Action Plan Items II.F.1.4, Containment Pressure Monitor, and II.F.1.5, Containment Water Level Monitor, impose more stringent action statements for inoperable equipment than originally proposed by the February 29, 1984 application. These revisions constitute additional limitations, restrictions, or controls not presently included in the Cooper Nuclear Station (CNS) Technical Specifications. Therefore, the proposed changes are similar to the Commission's example (ii) above. Also, as noted, the proposed revision represents a more stringent limitation than that originally noticed in 49 FR 21831. Therefore, the proposed revision does not change our originally proposed determination that the requested change will not involve significant hazards considerations.

(2) The licensee proposes to revise the original Technical Specifications amendment application to delete requirements and references to the Drywell Level instrumentation. Technical Specification changes to add the Drywell Level instrumentation were erroneously proposed by the February 29, 1984 submittal, along with proposed changes to include Suppression Chamber/Torus Water Level instrumentation, in response to TMI Action Plan Item II.F.1.5. Because this TMI Action Plan Item only addresses Suppression Chamber/Torus Water Level instrumentation, Drywell Level Instrumentation need not be included in the Technical Specifications. Therefore, this correction does not change our proposed determination in 49 FR 21831 that the requested change will not involve significant hazards considerations.

(3) The licensee proposes to change the Technical Specifications to correct the identification number and range of a Suppression Chamber/Torus Water Temperature instrument. The correction is an administrative change similar to the Commission's example (i). Therefore, we propose to determine that the requested change will not involve significant hazards considerations.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Branch Chief: Domenic B. Vassallo.

Niagara Mohawk Power Corporation, Docket No. 50-330, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: July 11, 1984.

Description of amendment request: The proposed amendment would modify the definition section, the limiting conditions for operations, surveillance requirements and bases section of the Technical Specifications with regard to

the reactor coolant leakage limits. More specifically, initiation of inspection and corrective actions are required when identified leakage increases at a rate of two gallons per minute within a twenty-four hour period or less; the frequency of reactor coolant leakage checks is increased; and operability and surveillance requirements are imposed on the leakage detection systems.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning determination of significant hazards by providing certain examples (48 FR 14870) of amendments considered not likely to involve significant hazards consideration. One of the examples relates to a change which is (ii) an additional limitation, restriction, or control not presently included in the Technical Specifications. The proposed change imposes additional more restrictive requirements on the reactor coolant leakage limits. Therefore, the change is similar to example (ii) described above.

Therefore, since the application for amendment involves changes similar to examples for which a no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: State Univesity College at Oswego, Penfield, Library—Documents, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: Domenic B. Vassallo.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: July 19, 1984.

Description of amendment request: The proposed amendment changes the Technical Specifications to reflect a management organization change in which the Senior Vice President, Nuclear Operations' function is assumed by the Executive Director of Nuclear Operations and the Vice President of Quality Assurance's function is assumed by the Director of Quality Assurance.

Basis for proposed no significant hazards consideration determination: The licensee has presented its determination of significant hazards considerations as follows:

The proposed Technical Specification amendment regarding management reorganization involves no significant hazards considerations. Therefore, the operation of Nine Mile Point, Unit No. 1 in accordance with the proposed amendment will not (1) involve a significant increase in the possibility or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident preivously evaluated, or (3) involve a significant reduction in a margin of safety. This determination is based on the following analysis.

The proposed amendment incorporates management organizational changes to improve the overall performance of Nine Mile Point, Unit No. 1 and construction and operation of Nine Mile Point, Unit No. 2. The positions of Executive Director of Nuclear Operation and Director of Quality Assurance were created to utilize the skills of Messrs. B. G. Hooten and J.A. Perry to accomplish this goal. As a result of the delegation of authority and responsibility by the Board of Directors, these positions possess the authority of officers of the Corporation.

The proposed amendment, therefore, involves no significant hazards consideration. This proposed determination is supported by the fact that the requested action corresponds with example (i) of the Sholly Rule published in the **Federal Register** on April 6, 1983, which involves a purely administrative change in the Technical Specifications.

The staff has reviewed the licensee's significant hazards consideration determinations and based on this review concurs that the proposed change is administrative in nature since the function and independence of the previous organization appears to be maintained. The staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: Domenic B. Vassallo.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: August 3, 1984, superseding in part the request of April 13, 1984.

Description of amendment request: This submittal supersedes in part the request for amendment dated April 13, 1984 which was noticed in the Monthly **Federal Register** Notice on June 20, 1984 (49 FR 25365). This request for Technical Specification (TS) changes is to incorporate limiting conditions for operation, action statement, and surveillance requirements for the instrumentation that initiates the diesel generators. The proposed changes provided in the August 3, 1984 submittal are in response to telephone conferences of May 17, July 23, and July 30, 1984.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the determination of significant hazards by providing certain examples (48 FR 14870) of amendments considered not likely to involve significant hazards consideration. One of the examples (ii), relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement. The proposed Technical Specification amendment imposes more stringent controls on the diesel generator initiation logic. This is accomplished by increased surveillance and operational requirements. This proposed determination is similar to example (ii) in that the changes constitute an additional control not presently included in the Technical Specifications.

Therefore, since the application for amendment involves changes similar to examples for which a no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: Domenic B. Vassallo.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: August 7, 1984.

Description of amendment request: The proposed amendment would change section 6.0, Administrative Controls of the Technical Specifications relating to Safety Review and Audit Board (SRAB) audits of actions taken to correct deficiencies occurring in facility equipment, structures, systems or methods of operation that affect nuclear safety. In particular, the word "all" is being deleted as a modifier to "actions."

Basis for proposed no significant hazards consideration determination: The proposed Technical Specification change to section 6.5 *Review and Audit*

of the Nine Mile Point Unit 1 Administrative Controls involves a reduction in the required scope of review by SRAB of results of actions taken to correct deficiencies in facility equipment or methods of operation. The change proposed by the licensee is identical in scope to that found in the Administrative Controls section of BWR Standard Technical Specifications, NUREG–0123, Rev. 3, endorsed by Chapter 16 (NUREG–0800) of the Standard Review Plan. Further, significant events and their respective corrective actions are reported to the NRC by Licensee Event Reports. Therefore, the operation of the plant in accordance with the proposed amendment will not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (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. Therefore, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: Domenic B. Vassallo.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: April 3, 1984, as revised August 17, 1984.

Description of amendment request: The August 17, 1984 submittal replaces the request for amendment dated April 3, 1984 which was noticed in the Monthly **Federal Register** Notice on May 23, 1984 (49 FR 21633). The proposed amendment would modify the Technical Specifications to add a number of specifications by the Commission in NUREG–0737 following the Three Mile Island accident and following certain system changes made at the Monticello site. The proposed changes to the Technical Specifications provide Limiting Conditions of Operation and Surveillance Requirements for post-accident sampling equipment and control room habitability equipment.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for making a no significant hazards consideration determination by providing certain examples (48 FR 14870).

One of these examples (ii), is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement. The proposed amendment matches this example in that the only changes are additional restrictions, imposed by NUREG–0737, not presently included in the Technical Specifications.

Therefore, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: May 29, 1984 and August 16, 1984.

Description of amendment request: The proposed amendment would modify the Technical Specifications as follows:

1. A new intertie line has been installed at the Monticello plant between the Residual Heat Removal (RHR) suction line and RHR return line for the purpose of reducing the potential for water hammer. There are three motor-operated valves in the new line. The proposed change adds limiting conditions for operation (LCOs) and surveillance requirements for the new valves.

2. A recirculation system cross-tie line has been removed from the Monticello plant during the current pipe replacement outage. The cross-tie line is valved closed during reactor operation, and its use during reactor operation is prohibited by Technical Specifications. Because the cross-tie line has now been physically removed, the proposed change deletes, from the Technical Specifications, limiting conditions for operation prohibiting the use of the cross-tie line during reactor operation.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the determination of significant hazards by providing certain examples (48 FR 14870) of amendments considered not likely to involve significant hazards consideration. One of the examples, (iv), is a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design model.

This example is applicable to the first item in the proposed amendment which adds Technical Specification requirements pertaining to the new intertie line in that the change may reduce in some way a safety margin with respect to LOCA analyses or suppression pool loading. The new intertie line has been analyzed by the licensee to determine any possible adverse effects resulting from its presence, including effects on LOCA analyses and containment suppression pool loadings. Adverse effects have been found negligible compared to the positive benefits from reducing the potential for water hammer. The results of the change are clearly within all acceptable criteria for the system or component as specified in the Standard Review Plan, Section 15.65, "LOCA Resulting from Spectrum of Postulated Piping Breaks Within the Reactor Coolant Pressure Boundary" and Section 6.2.1.1.C, "Pressure-Suppression Type BWR Containments."

Another example provided by the Commission, (i), is a purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature.

This example is applicable to the second item in the proposed amendment because the change deletes, from the Technical Specifications, restrictions pertaining to the operation of a line which has now been physically removed.

Therefore, since all of the changes are encompassed by examples of changes which the Commission has determined are not likely to pose a significant hazards consideration, the staff proposes to determine that the amendment does not involve a significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and

Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: July 27, 1984.

Description of amendment request: The proposed amendment would provide a higher limiting setpoint for degraded grid voltage protection than now exists in the Technical Specifications, and would specify time delay and deviations from the setpoint for the degraded voltage trip and reset functions which are presently unspecified.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the determination of significant hazards by providing certain examples (48 FR 1470) of amendments considered not likely to involve significant hazards consideration. One of the examples (ii) is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications.

A higher degraded voltage setpoint is more restrictive, and specification of the permissible time delay and deviation from setpoint for the trip and reset functional provide limitations which do not presently exist in the Technical Specifications.

Therefore, since the application for amendment involves proposed changes that are similar to the examples for which no significant hazards consideration exists, the Commission has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: August 17, 1984.

Description of amendment request: The proposed amendment would revise section 5.2 of the Technical Specifications (TSs) to reflect the use of hybrid design hafnium control rod assemblies. These assemblies will be used to replace standard control rod assemblies during the current Monticello refueling outage

The other change proposed in the August 17, 1984 application is being handled by separate action.

The changes made to section 5.2 of the Monticello TSs reflect the use of hybrid design hafnium control rod assemblies to replace existing control rod assemblies. The Hybrid I Control Rod (HICR) Assembly has been designed by General Electric (GE) to be used as direct replacement for the present control rod assemblies. The original control rods contained only boron carbide, B_4C, as the absorbing material. The new assembly design use B_4C absorber cubes and three solid hafnium rods in the outside edge of each wing. This new design will lengthen control rod lifetime.

The description of these control rods was submitted to the NRC by General Electric in topical report NEDE–22290. Based on the staff's evaluation of the information provided in (a) NEDE–22290, (b) a meeting with GE representatives, and (c) responses to NRC staff questions, the staff concluded that there is reasonable assurance that the substitution of Type I HICRs for other approved GE control blades will not result in unacceptable hazards to the public and should, in fact, result in improved control blade performance and a positive contribution to reactor safety. Therefore, NEDE–22290, as amended to incorporate this safety evaluation, is approved as a referenced document for the GE Type I HICR by NRC letter dated August 22, 1983.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if 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 staff has reviewed the proposed amendment and the related topical report. The licensee concludes that the proposed amendment does not involve a significant hazards consideration and based on the following discussion the staff concurs with this conclusion.

The materials evaluation, which includes the chemical, physical, mechanical and irradiation properties, indicates that data and experience demonstrate acceptable corrosion resistance in high temperature water and steam exists for hafnium in BWR control rods. The physical properties expected to be germane to control applications indicate acceptable performance in the BWR environment.

The mechanical evaluation indicates that the thermal expansion and irradiation growth of hafnium will not interfere with handle and velocity limiter.

A nuclear evaluation indicates that the HICR will have no significant impact on core and fuel operation when used as a replacement for the current B_4C control rod assemblies. Experiments provide critical benchmarks for calculations and illustrate a minimum impact on local power and flux distributions with all hafnium rods. An even smaller impact is expected for HICR which is a mixture of hafnium and B_4C. Therefore, the HICR can be used without change in the current lattics physics treatment of control rod assemblies and current design procedures.

Thermal-hydraulic evaluation shows that the maximum temperature of the new rods is not significantly different from the currently used control rod assemblies.

An accident evaluation shows that the HICR weight and envelope are identical to the current assemblies. The mechanical and nuclear properties of the HICR do not differ from the current assemblies in any measures that might be significant during normal or accident conditions. The HICR is, except for minor differences, mechanically identical to the BWR assemblies for which many reactor years of safe operating experience are available. Accordingly the mechanical safety analysis for the HICR is enveloped by the mechanical safety analyses for the current assemblies.

The reactor core response for the HICR design has been evaluated against the current control rod design for comparison with linear heat generation, minimum critical power ratio and maximum average planer heat generation limits. The HICR weight and rod worth are the same as the current control rod design, therefore the scram speed and scram reactivity are the same and the above limits are not affected by the change.

Based on the above, the staff has determined that: (1) the probability or occurrence or the consequences of an

accident would not be increased above those analyzed in the Final Safety Analysis Report (FSAR) because the weight and envelope of the HICR are identical to those of the currently used assemblies, and the nuclear and mechanical properties of the HICR do not differ from currently used assemblies in a significant way; (2) the possibility of an accident different from those analyzed in the FSAR would not result from these changes because, in addition to the above, these systems would not be operated in a manner new or different from that described in the FSAR; and (3) the margin of safety as analyzed in Technical Specifications would not be reduced because the proposed amendment involves no significant relaxation of the criteria used to establish safety limits, no significant relaxation of the bases for limiting safety system settings, and no significant relaxation in limiting conditions for operation. Therefore, the staff finds 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; (2) create the possibility of a new or different kind of accident; or (3) involve a significant reduction in a margin of safety.

Therefore, for the reasons discussed above, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: September 7, 1984.

Description of amendment request: The proposed amendment would modify the Technical Specifications to add Limiting Conditions of Operation and Surveillance Requirements for the low low setpoint logic modification. The low low setpoint logic modification is designed to ensure a minimum water leg clearing time between any safety relief valve (SRV) closure and subsequent actuation to minimize thrust loads as part of the generic Mark I containment modification program. The review and approval of the low low setpoint logic modification was issued by the NRC to the licensee by letter dated March 19, 1984.

The proposed amendment also reduces the Limiting Condition of Operation for the maximum suppression pool water volume, so that the water volume is consistent with the analysis supporting the Mark I containment modification program.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the determination of significant hazards by providing certain examples (48 FR 14870) of amendments considered not likely to involve significant hazards consideration. One of the examples (ii), relates to change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications.

The present Monticello Technical Specifications do not contain Limiting Conditions of Operation and Surveillance Requirements for the low low setpoint logic modification. Also the present Monticello Technical Specifications contain a less restrictive value for the maximum suppression pool water volume.

Therefore, since this change is more restrictive than the current Technical Specification limit, the change is similar to example (ii). The staff proposes to determine that the proposed change does not involve a significant hazards consideration since it is similar to the examples of actions involving no significant hazards consideration cited by the Commission.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Northeast Nuclear Energy Company, Docket No. 50–245, Millstone Nuclear Generating Station, Unit No. 1, New London County, Connecticut

Date of amendment request: July 17, 1984.

Description to amendment request: The Technical Specification change proposed by the amendment request would modify the Appendix A Technical Specifications to lower the primary containment oxygen concentration from five (5) percent to four (4) percent. The change would further limit the amount of oxygen in the containment drywell and wetwell to assure sufficient inerting (nitrogen inerted) to prevent combustible gas mixtures due to hydrogen generation following postulated loss-of-coolant accidents (LOCAs). The reduced oxygen limit is in accord with Northeast Nuclear Energy Company's (NNECO's) calculations that show an inerted containment with less then four (4) percent oxygen during normal plant operation will not support combustion of hydrogen formed in the post LOCA recovery period considering water radiolysis, metal/water reactions and other potential sources of oxygen.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for a no significant hazards consideration determination by providing certain examples (April 6, 1983, 48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The change proposed by the licensee involves a new more restrictive requirement for containment oxygen concentration and satisfies the four (4) percent oxygen concentration operating limit requirement of NRC Generic Letter 84–09 dated May 8, 1984. Thus, the proposal is encompassed within example (ii) since the requested action would result in additional limitation. On this basis the staff proposes to determine that the requested action would involve a no significant hazards consideration determination.

Local Public Document Room location: Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry, & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103–3499.

NRC Branch Chief: Walter A. Paulson, Acting Chief.

Pennsylvania Power & Light Company, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: May 3, 1984.

Description of amendment request: The proposed amendment would: (1) allow for contractor personnel who have been awarded a temporary 180-day clearance and have requested a PP&L-C full clearance to be granted an extension of the temporary clearance when unforeseeable and lengthy delays in the

background investigation are encountered, or when the time necessary to complete the work project is beyond the projected completion date; and (2) provide the Director-Corporate Security a reasonable degree of flexibility during the clearance process to grant a contractor clearance when certain minor information has not been received, as otherwise required.

Basis for proposed no significant hazards consideration determination: PP&L's screening program for contractors is only to grant unescorted access for a limited duration—180 days. Due to the transient nature of work performed by contractors, frequently workers are initially processed for a temporary clearance and are subsequently laid off prior to the expiration of their 180-day limitation under temporary clearance provisions. In many cases only several weeks later, the same workers may be rehired to perform another function; however, their temporary clearance is nearing expiration or has recently expired. As a result, these workers must be escorted in order to gain entrance to the protected area.

The implementation of the interim PP&L–C clearance would allow these previously cleared personnel to return to work in an expeditious manner without the need for escorting.

In addition, unforeseeable and uncontrolled delays in the conduct of the background investigation occur from time to time. The interim PP&L–C clearance would bridge the gap between the expiration of the temporary and the completion of the full contractor clearance in such instances.

The proposed interim PP&L–C clearance would not simply be an extension of the temporary clearance because (1) a prerequisite will be that a full PP&L–C clearance must be in progress (in many cases the full clearance is submitted); (2) all case information available at the time of the request for the interim clearance will be considered in the decision to grant an interim PP&L–C clearance; (3) psychological evaluations are required for all interim clearances (which may not be the case for temporary clearances); (4) the immediate supervisor for each individual requesting an interim clearance must submit a completed questionnaire which addresses alcohol/drug usage, credit, mental or nervous problems, reliability and trustworthiness; and (5) the supervisor must provide a statement of opinion as to whether or not he recommends the employee for unescorted access based upon his association and observation of the employee's behavior.

The scope of PP&L's background investigation includes most aspects of a clearance candidate's life including checks into credit history, character references, employment and unemployment and local law enforcement agencies records. Occasionally, due to a backlog in similar requests for information, some agencies do not respond in a prompt fashion. In this situation, all other components of the background investigation are usually completed with favorable results; however, the clearance, in such instances, cannot be awarded until all information is available for review.

This unduly punishes an otherwise acceptable candidate for failings beyond his control. Also, it should be noted that the information requested from a non-responsive agency has usually been verified indirectly through other sources such as references. In most instances, a complete picture of the individual's character, reliability and trustworthiness has already been established. In such cases, PP&L would actively pursue attempts to acquire the information even when previous attempts are ignored.

This option would provide PP&L with optimum flexibility during the clearance process and would yield a more cost-effective worker-responsive program without diminishing program goals and intent.

Therefore, since the application for amendment involves a proposed change which meets the standards for concluding that the operation of the facility in accordance with the proposed amendment would not, involve a significant increase in the probability or consequences of an accident previously evaluated; or create the possibility of a new or different kind of accident from any accident previously evaluated; or involve a significant reduction in a margin of safety, the Commission proposes to determine that the proposed change involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, DC 20036.

NRC Branch Chief: A. Schwencer.

Portland General Electric Company, Docket No. 50–344, Trojan Nuclear Plant, Columbia County Oregon

Date of amendment request: January 28, 1983, as supplemented and amended March 27, 1984. These requests supersede an earlier application for amendment dated March 15, 1979.

Description of amendment request: The amendment would make changes to the Radiological Effluent Technical Specifications that bring them in to compliance with Appendix I of 10 CFR Part 50. It would provide new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring; concentration, dose and treatment of liquid, gaseous and solid wastes; total dose; radiological environmental monitoring that consists of a monitoring program, land use census, and an interlaboratory comparison program. The change would also incorporate into the Technical Specifications the bases that support the operation and surveillance requirements. In addition, some changes would be made in administrative controls, specifically dealing with the process control program and the offsite dose calculation manual.

Basis for proposed no significant hazards consideration determination: The Commission had provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the technical specifications.

The Commission, in a revision to Appendix I to 10 CFR Part 50, required licensees to improve and modify their radiological effluent systems in a manner than would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement it became necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This caused the proposed addition of Technical Specifications described above. The staff proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission mandated "as low as is

reasonable achievable" effluent objectives.

Local Public Document Room location: Multnomah County Library, 801 S.W. 10th Avenue, Portland, Oregon.

Attorney for licensee: J.W. Durham, Senior Vice President, Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204.

NRC Branch Chief: James R. Miller.

Public Service Co. of Colorado, Docket No. 50–267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado

Date of amendment request: August 23, 1984.

Description of amendment request: The proposed change to the Technical Specifications adds a surveillance requirement for steam generator tube examinations and evaluations following a tube leak. The proposed change was requested by the NRC to formalize the commitment to perform these examinations and evaluations as stated in our June 22, 1984 letter. Prior to the issuance of this proposal, a typographical error will require correction and the Basis will require elaboration to be more meaningful.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). The examples of actions that are considered not likely to involve significant hazards considerations include a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement.

Since the proposed change involves the addition of a new surveillance requirement, the above example applies and the staff proposes to determine that this action does not involve a significant hazards consideration.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado.

Attorney for licensee: Bryant O'Donnell, Public Service Company of Colorado, P.O. Box 840, Denver, Colorado 80201.

NRC Branch Chief: Eric H. Johnson.

Rochester Gas and Electric Corporation, Docket No. 50–244, R.E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: July 17, 1984.

Description of amendment request: The proposed amendment would delete information pertaining to the definition of hot channel factors which is no longer relevant.

Basis for proposed no significant hazards consideration determination: By letter dated December 20, 1983, the licensee requested changes to the Ginna Technical Specifications (TS) to permit the use of the Westinghouse Optimized Fuel Assembly (WOFA). Included in the proposed TS revision were new definitions of the nuclear hot channel factors which were applicable to the use of the WOFA at Ginna. The licensee did not request removal of the old hot channel factor definitions and they were not deleted with the approval for the use of WOFA which was granted by the staff on May 1, 1984. Since the new factors are included in the TS and are governing, the old factor definitions are inoperative and should be removed in the interest of clarity.

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (i) of actions not likely to involve a significant hazards consideration is a purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. The staff proposes that the proposed changes are administrative in nature and fall within example (i). Therefore, the staff proposes to determine that the request involves no significant hazards consideration, in that: (1) it does not involve a significant increase in the probability or consequences of an accident previously evaluated; (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.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14604.

Attorney for licensee: Harry H. Voight, Esquire, LeBoeuf, Lamb, Leiby and MacRae, 1333 New Hampshire Avenue, N.W., Suite 1100, Washington, D.C. 20036.

NRC Branch Chief: Walter A. Paulson.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: February 22, 1984

Description of amendment request: The amendment would change the Technical Specification reporting requirements to be in accordance with new regulation 10 CFR 50.73. The new § 50.73 provides for a revised Licensee Event Report System and replaces all existing requirements for licensees to report "Reportable Occurrences" as defined in individual plant Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. One of the examples relates to a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations. The amendment involved here is similar in that it changes the reporting requirements contained in Technical Specifications to be in accordance with new regulation 10 CFR 50.73. Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

Local Public Document Room Location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29810.

Attorney for licensee: Randolph R. Mahan, P.O. Box 764, Columbia, South Carolina 29218.

NRC Branch Chief: Elinor G. Adensam.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: July 19, 1984.

Description of amendment request: The amendment would revise Technical Specification 6.3, "Unit Staff Qualifications," to clarify educational requirements of candidates for Senior Reactor Operator's (SRO) Licenses. The revision consists of a reference to NUREG–0737, "Clarification of TMI Action Plan Requirement," section I.A.2.1, and NUREG–1021, "Operator Licensing Examiner Standards," ES–109D.

Basis for proposed no significant hazards consideration determination: The current Technical Specification 6.3 requirement for SROs is that they shall meet or exceed the minimum qualifications of ANSI N18.1–1971 for comparable positions and the supplemental requirements specified in Sections A and C of Enclosure 1 of the March 28, 1980, letter to all licensees. The amendment would add the following: "as clarified in NUREG–0737,

section I.A.2.1, and NUREG–1021, ES–109D.

The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendment and has determined that should this request be implemented, it will not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the referenced documents are NRC aproved recommendations for SRO qualifications, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the plant design is not changed, or (3) involve a significant reduction in a margin of safety because the referenced documents are NRC approved recommendations for SRO qualifications. Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Attorney for licensee: Randolph R. Mahan, P.O. Box 764, Columbia, South Carolina 29180.

NRC Branch Chief: Elinor G. Adensam.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: July 24, 1984.

Description of amendment request: The amendment would revise Technical Specification Table 3.3–7, "Seismic Monitoring Instrumentation," and Technical Specification Table 4.3–4, "Seismic Monitoring Instrumentation Requirements" to allow an installed triaxial peak accelerograph to be moved to an accumulator safety injection line from the pressurizer surge line. A typographical error would also be corrected in Technical Specification Table 3.3–7.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. One of the examples relates to a purely administrative change to Technical Specifications such as correction of an error in Technical Specifications. The correction of the typographical error in Technical Specification Table 3.3–7 is similar to this example. However, the request to move the triaxial peak accelerograph does not match any of the examples. The staff has reviewed the licensee's request for the above amendment and has determined that should this request be implemented, it will not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the accelerograph will still be available to determine if a seismic event exceeding the operating basis earthquake (OBE) occurs, which requires plant shutdown by 10 CFR 100, Appendix A. Also, it will not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the accelerograph function of recording seismic events is not being changed and it will not (3) involve a significant reduction in a margin of safety because the new location is an analyzed location away from restraints which produces relatively large accelerations under OBE conditions. Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

Local Public Document Room Location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Attorney for licensee: Randolph R. Mahan, P.O. Box 764, Columbia, South Carolina 29180.

NRC Branch Chief: Elinor G. Adensam.

Southern California Edison Company, et al, Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of amendment request: April 6, 1984, April 27, 1984 and September 11, 1984 (reference PCN–135).

Description of amendment request: Technical Specification 3/4.3.2 requires that the Engineered Safety Features Actuation System (ESFAS) instrumentation channels be operable, and defines a number of functional tests and response time tests that must be periodically conducted in order to assure operability. Table 3.3–4 of this Technical Specification defines the ESFAS instrumentation trip values for the Toxic Gas Isolation System (TGIS). The TGIS is actuated by greater than allowable concentration of toxic gas (i.e., chlorine, ammonia, butane/propane, or carbon dioxide) in the normal control room air supply duct. Upon receipt of a TGIS signal, the control room heating, ventilation, and air conditioning (HVAC) system is automatically isolated. The FSAR analysis indicates that adequate protection for the control room operators will be provided if the toxic gas concentration in the control room during the first two (2) minutes after the detector responds is less than the protective action limit for toxic gas concentration. The proposed change would make the following revisions to Table 3.3–4:

(1) The allowable values for chlorine concentration would be increased from less than or equal to 6.2 ppm to less than or equal to 15.0 ppm. With an allowable value for chlorine limited to less than or equal to 15.0 ppm, the high chlorine trip value would be increased from less than or equal to 6.0 ppm to less than or equal to 14.3 ppm.

(2) The allowable values for ammonia concentration would be increased from less than or equal to 44.7 ppm to less than or equal to 100 ppm. With an allowable value for ammonia limited to less than or equal to 100 ppm, the high ammonia trip value would be increased from less than or equal to 42.4 ppm to less than or equal to 97 ppm.

(3) The allowable values for butane/propane concentration would be increased from less than or equal to 89.3 ppm to less than or equal to 200 ppm. With an allowable value for butane/propane limited to less than or equal to 200 ppm, the high butane/propane trip value would be increased from less than or equal to 84.8 ppm to less than or equal to 193 ppm.

(4) The allowable value for carbon dioxide concentration would be deleted (the present value is less than or equal to 4275.0 ppm). Therefore the high carbon dioxide trip value would also be deleted (the present value is less than or equal to 4061.3 ppm).

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazard consideration exists by providing certain examples (48 FR 14870) of amendments that are considered not likely to involve significant hazards considerations. Example (vi) relates to a change which may result in some increase in the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptance criteria with respect to the system or component specified in the Standard Review Plan (SRP). The proposed change is similar to this example in that the proposed allowable toxic gas concentrations,

while larger than those presently used, nevertheless meet the requirements of Section 6.4 of the Standard Review Plan by ensuring that during the first two (2) minutes after the detector responds, the control room will not exceed the protective action limit for toxic gas concentration.

Specifically, the license has recently revised the flow model in the previously used method for calculating toxic gas concentration in the control room. Analysis using the revised model has shown that the revised TGIS allowable values and trip setpoints will still provide the plant operators with the required two (2) minutes of warning time before the protective action limit for toxic gas concentration in the control room is exceeded.

In the case of item (4), above, the licensees' analysis shows that even with no control room isolation, the maximum control room concentration of carbon dioxide at any time is 11,000 ppm. Since the two (2) minute protective action limit for carbon dioxide is 50,000 ppm, this monitor can be deleted from the Technical Specifications and the plant will still meet the toxic gas criteria of the SRP. Therefore, based on the above considerations, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

Local Public Document Room location: San Clemente Library, 242 Avenida Del Mar, San Clemente, California 92672.

Attorney for licensee: Charles R. Kocher, Esq., Southern California Edison Company, 2244 Walnut Grove Avenue, P.O. Box 800, Rosemead, California 91770 and Orrick, Herrington & Sutcliffe, Attn.: David R. Pigott, Esq., 600 Montgomery Street, San Francisco, California 94111.

NRC Branch Chief: Geroge W. Knighton.

Tennesee Valley Authority, Docket No. 50–296, Browns Ferry Nuclear Plant Unit 3, Limestone County, Alabama

Date of amendment request: May 10, 1984.

Description of amendment request: The amendment would delete operability and test requirements for valves 74–77 and 74–78 which previously served as primary containment isolation valves for the residual heat removal (RHR) head spray piping located at containment penetration X–17. The amendment would also change the name of containment penetration X–17 from "RHR head spray line" to "blank."

Basis for proposed no significant hazards consideration determination: 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 an accident previously evaluated; or (3) involve a significant reduction in a margin of safety for the following reasons:

1. Valves 74–77 and 74–78 will be replaced by permanent pipe cap. Valves are subject to leakage and failure-to-close; however, since a welded-in pipe cap is not, there will be no significant increase in the probability or consequences of an accident previously evaluated.

2. The capped-off piping will not be physically or functionally connected to any other system, component, or equipment in a manner which could create a new different kind of accident. Because of the cap, the piping is dead-ended to flow.

3. The piping penetration will continue to be testable and subject to Appendix J, Type B leakage tests. Therefore, there will be no significant reduction in the margin of safety.

On the above basis, the starff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Attorney for licensee: H. S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33C, Knoxville, Tennessee 37902.

NRC Branch Chief: Domenic B. Vassallo.

Tennesee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee.

Date of amendment request: (1) January 25, 1984 (2) September 17, 1982 (3) December 10, 1981 (4) December 29, 1983 (5) June 13, 1984 (6) May 25, 1984 (7) April 20, 1984.

Description of amendment request: (1) On January 25, 1984, the licensee requested changes to the Technical Specifications for Units 1 & 2 to incorporate operating conditions and surveillance requirements for newly installed instrumentation and the reactor coolant vent system. Plant modifications were made to comply with the operating license conditions and conformance with NUREG–0737. The additional accident monitoring instrumentation provides continuous indication in the control room of containment conditions during the course of an accident. Instruments are also installed to provide an indication of inadequate core cooling. The reactor coolant system will permit the venting of noncondensible gases from the top of the reactor vessel, in the unlikely event an excessive amount of gases accumulate in this part of the reactor collant system. During normal operations noncondensible gases are removed through the pressurizer vessel, thereby eliminating the accumulation of gases in the reactor coolant system. Also, the licensee requested changes in the requirements for diesel generator surveillance testing to conform with the NRC July 25, 1983, letter to "All Holders of Operating Licenses." This change deletes a specific diesel surveillance requirement since it was not consistent with NRC General Design Criteria No. 17. (2) On September 17, 1982, the licensee requested that the primary containment average air temperature for Unit 1 be lowered from 110°F to 105°F in the upper compartment and raised from 120°F to 125°F in the lower compartment. These values are consistent with the current loss-of-coolant analysis for the Sequoyah containments. This revision is identical to the change recently made for Unit 2 (Amendment No. 25). (3) On December 10, 1981, the licensee requested changes to the surveillance requirements for fire hose testing for Units 1 & 2. The revision was made on Unit 1 (Amendment No. 13) but inadvertently omitted for Unit 2. Fire hose hydrostatic testing is to be conducted at a pressure of 150 psig, instead of 300 psig, or at least 50 psig above maximum fire main operating pressure, whichever is greater. (4) On December 29, 1983, the licensee requested an extension for Unit 2 of the visual inspection requirements of certain protective fuses instead of destructive testing of fuses until NRC completes a review of this matter on a generic basis. This request was previously granted on Unit 1 (Amendment No. 34). (5) On June 13, 1984, the licensee proposed changing the isolation signal to the phase B signal rather than phase A for certain radiation monitors in containment in order to eliminate conflicting Technical Specification requirements when a containment isolation signal occurs. Phase A signal occurs at 1.54 psig containment pressure and certain valves and systems are isolated. Phase B signal occurs at 2.81 psig containment pressure and full containment isolation occurs.

(6) On May 25, 1984, the licensee proposed changes in the Technical Specification requirements on the time period for performing the pressure decay test for containment air lock door seals. The method for meeting the surveillance test requirements would be changed to a quicker but more accurate measurement of the integrity of the air door seals. (7) On April 20, 1984, the licensee proposed changes to the Technical Specifications to make the reporting requirements for licensee event reports in accorcance with the NRC letter of December 19, 1984.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these stanards by providing certain examples (48 FR 14870). One of the examples of actions likely to involve no significant hazards consideration relates to a change which either may result in some increase to the propability or consequences of previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. The proposed changes (1–6) involved here are similar to this example in that there is some increase to the probability or consequences of previously analyzed accident, but the results of the change are within acceptable criteria. A second example provided in the Federal Register is a purely administrative change to the Technical Specifications. The proposed change (No. 7) involved here is similar in that reporting requirements would be made to be consistent with NRC general guidance in this area. A third example is a change that constitutes an additional limitation, restriction or control not presently included in the technical specifications. Parts for the proposed change (No. 1) which add requirements involved here is similar to the example. Accordingly, the Commission has made an initial determination that the above changes do not involve a significant hazards considration.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Attorney for licensee: Herbert S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B33, Knoxville, Tennessee 37902.

NRC Branch Chief: Elinor G. Adensam.

The Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County Ohio

Date of application for amendment: November 21, 1983 (Item 1 only supplemental information on May 2, 1984.

Description of amendment request: The proposed amendment considers only Item 1 of the application for amendment. The proposed amendment would change the Technical Specifications to permit the removal of power to the operators of valves DH–11 and DH–12 while the plant is operating in Modes 1, 2 or 3. These valves are in series in the decay heat removal system suction line from the reactor coolant system and serve as pressure isolation valves at the high presure/low pressure interface. Interlocks are installed to close valves DH–11 and DH–12, if open, if reactor coolant pressure exceeds a predetermined trip level. The requirement for the valve interlock is to protect against the possibility of overpressurizing the Decay Heat Removal System while it is in use and the reactor vessel head is in place.

The proposed amendment is to remove the requirement to have the interlock on DH–11 and/or DH–12 operable if the valves are closed and 480 VAC power to the valve operator is disconnected.

Basis for proposed no significant hazards consideration determination: The Safety Evaluation Report issued by the Commission (September 23, 1983) supporting the decision to permit restart of the Davis-Besse Nuclear Power Station identified the potential for a fire in the control room to disable the pressure interlock and open valves DH–11 and DH–12. If this were to occur a loss-of-coolant accident outside of containment could result. By removal of operator power when the valves are closed and the reactor coolant system pressure is above the interlock trip setting, the potential for inadvertent opening of the valves due to a control room fire is removed.

The function of the valve interlock is to close valves DH–11 and DH–12 if they are open. If power is removed, disabling automatic valve actuation, when the valve is closed the interlock is not required since the valves are already in a closed position. The valves could be opened locally by manual manipulation of the valve hand wheel. This is not likely, however, because the valves are inaccessible when the plant is operating. Therefore, the proposed amendment would not: (1) involve a significant increase in the probability or consequence of on 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 safety margin.

Therefore, the Commission proposed to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for Licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

The Toledo Edison Company and The Cleveland Electric Illuminating Company Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: February 28, 1984.

Description of amendment request: The proposed amendment would delete from the tabulation of post-accident monitoring instrumentation the requirement for at least one operable channel of instrumentation to provide Containment Air Recirculating Fan status. The associated Surveillance Requirement would also be deleted.

Basis for proposed no significant hazards consideration determination: Amendment No. 66, dated January 20, 1984, deleted Technical Specification Section 3.6.4.2 which required two independent containment recirculation systems to be operable. With the requirement for these systems to be operable deleted, all other operability and surveillance requirements associated with them should have been deleted also. Amendment No. 66 failed to delete the post-accident monitoring requirement in Tables 3.3–10 and 4.3–10.

The Commission has provided examples (48 FR 14870) of amendments considered not likely to involve a significant hazards consideration. One example is a purely administrative change to the technical specifications such as a change to achieve consistency throughout the technical specifications or to correct an error. The proposed amendment fits this example. Therefore, the Commission proposes to determine that the application does not invovle a significant hazards consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for Licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

The Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50–356, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: July 20, 1984.

Description of amendment request: The amendment would permit operation of the Davis-Besse Nuclear Power Station for Cycle 5. The design cycle length would be 390 effective full power days (EFPD). The amendment would revise the Appendix A Technical Specifications to account for changes in power peaking and control rod worths and would consist of revised Reactor Protection System trip setpoints, regulating rod group insertion limits, axial power shaping rod insertion limits, axial power imbalance limits, and control rod group assignments.

Basis of proposed no significant hazards consideration: The Cycle 5 core design would require the loading of 64 new fuel assemblies and the reinsertion of one fuel assembly previously discharged from an earlier refueling. The cycle design lifetime is 390 EFPD resulting in an extension of the nominal operating cycle to 18 months from the 12-month nominal cycle which characterized the previous core designs.

To control the increased core reactivity required for the longer cycle, burnable poison rod assemblies (BPRAs) will be located in each of the 64 new fuel assemblies. The new fuel assemblies (Mark B–5 design) will be identical in mechanical design to the other fuel assemblies (Mark B–4 design) except for a redesigned upper end fitting which avoids the need for a BPRA hold-down mechanism.

The only significant changes in the Cycle 5 design from Cycle 4 are the increase in cycle life to 390 EFPD and the accompanying BPRAs to provide additional reactivity control. The Cycle 5 design allows for withdrawal of the Axial Power Shaping Rods (APSRs) to permit power coastdown near the end of the cycle. APSR withdrawal and power coastdown has been utilized for previous cycles.

There have been no significant changes to the analytical methods used and previously accepted for Cycle 4 to demonstrate conformance with acceptance criteria and NRC regulations. Previous fuel cycle evaluations included a rod bow penalty for each fuel batch based on the highest burnup fuel rod in the batch. No departure from nucleate boiling ratio (DNBR) reduction due to fuel rod bowing has been considered for Cycle 5. A topical report, which as been reviewed and approved by the NRC, has concluded that the rod bow penalty is insignificant and is offset by other effects.

The changes requested result from a core reloading. No fuel assemblies differ significantly from those found acceptable to the NRC for a previous core at this facility and there have been no significant changes to the acceptance criteria and analytical methods used to demonstrate conformance with regulations.

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples (Example (iii)) of actions involving no significant hazards considerations relates to reload amendments involving no fuel assemblies significantly different from those found previously acceptable to the NRC for a previous core at the facility in question. This assumes that no significant changes are made to the acceptance criteria for the Technical Specifications, that the analytical methods used to demonstrate conformance with the Technical Specifications and regulations are not significantly changed, and that NRC has previously found such methods acceptable.

As shown in the above discussion, the proposed amendment is similar to this example; therefore, the Commission proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

The Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: August 4, 1984.

Description of amendment request: The amendment would add a condition to the license that would require the licensee to follow the approved plan for integrated scheduling of plant improvements and modifications. This includes improvements and modifications identified by the licensee, the NRC, or other regulatory agencies. The license condition would require the licensee to periodically update the schedule to maintain it current and to provide reports as specified in the approved plan. The license condition, which would be effective for a two-year period only but subject to renewal upon application, also provides a framework for changing project schedules when necessary.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications.

The incorporation of a license condition requiring the use of a plan to provide for scheduling plant modifications and to provide a framework for making necessary schedule alterations is a change that constitutes an additional control not presently included in the operating license for the facility. Therefore, the proposed license condition matches example (ii) of the Commission's examples of amendments that are considered not likely to involve a significant hazards consideration. On the basis, the Commisssion's staff proposes to determine that the application involves no significant hazards considerations.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

The Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: August 27, 1984, Item 1 only.

Description of amendment request: The proposed amendment would modify Technical Specification Table 4.4–5 by deleting specific irradiation surveillance capsule locations and by revising the capsule removal schedule. The amendment also would change Surveillance requirement 4.4.9.1.2 to clarify that the surveillance specimens

are representative of the Davis-Besse reactor vessel materials and would change Basis Section 3/4.4.9 to delete redundant information relating to the general guidelines for the capsule removal schedule. The proposed amendment is in response to Item 1 of the Licensee's application. Item 2 will be the subject of a separate notice.

Basis for proposed no significant hazards consideration determination: The withdrawal schedule in the proposed amendment was developed in accordance with the 1982 edition of ASTM E 185 and provides a better defined removal secheule for the surveillance capsules based on accumulated neutron fluence rather than on the basis of refueling cycle. Thus, any change in the nominal cycle time will not greatly influence the characterization of reactor vessel material condition as a function of accumulated neutron fluence. The original removal schedule was developed in accordance with the 1973 edition of ASTM E 185. Appendix H to 10 CFR 50 provides for the use of ASTM E 185–82 in the material surveillance program.

The deletion of specific locations in the reactor vessel for the surveillance capsules permits the use of a revised capsule management program which would decrease the time required for capsule handling and eliminate the need for all but one dummy capsule. Thus, personnel radiation exposure is reduced and less radioactive waste is generated. The revised capsule management program will not reduce the effectiveness of the reactor vessel material surveillance program.

The Commission has provided guidance concerning the application of the standards of 10 CFR 50.92 by providing certain examples (48 FR 14870). None of these examples are applicable to the proposed amendment. The proposed amendment relates only to a materials surveillance program and does not involve any change in the facility or its operation. Furthermore, neither the quantity nor the quality of the information obtained from the surveillance program is reduced. The change also is within all acceptable criteria with respect to the program specified in the Standard Review Plan. The proposed amendment, therefore, meets the requirements specified in 10 CFR 50.92(c) for an amendment which does not involve a significant hazards consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

Union Electric Company, Docket 50–483, Callaway Plant, Unit No. 1, Callaway County, Missouri

Date of amendment request: August 1, 1984.

Description of amendment request: The purpose of the proposed amendment request is to modify Technical Specification Table 3.3–1 by revising one action statement (Action 4) and adding an additional action statement (Action 12) for the source range neutron flux monitors during shutdown conditions. The source range monitors provide in part, protection for a boron dilution accident during Modes 2, 3, 4 and 5. These monitors initiate, upon doubling of neutron flux within 10 minutes, a switchover of the suction for the charging pumps from the Volume Control Tank (VCT) to the Refueling Water Storage Tank (RWST). The addition of Action 12 specifies appropriate compensatory actions, when two channels are out of service, to maintain the plant in a safe condition. The revision to Action 4 provides for a limited time, a block of both flux doubling channels in order to perform a reactor startup. Initial criticality is not achievable without this change. This situation occurred through an oversight because the Callaway Plant is the first to receive an operating license with the Westinghouse Boron Dilution Mitigation System. During development of the Callaway Technical Specifications, greater consideration was given to assuring that the system fulfilled its intended safety function than was given to possible operational limitations. Recent surveillances of the system have identified that the technical specifications do not allow both channels to be blocked as designed to permit a planned reactor startup.

Basis for proposed no significant hazards consideration determination: The licensee, in his letter of August 1, 1984, stated that the proposed change does not involve a significant increase in the probability or consequences of an accident or other adverse condition over previous evaluations; nor create the possibility of a new or different kind of accident or condition over previous evaluations; nor involve a significant reduction in a margin of safety. Based on the foregoing, the requested amendment does not present a significant hazard. The Commission has prrovided guidance concerning the application of the Standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). For the addition of Action 12, the request is similar to the example of a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications. The change to Action 4 is similar to the example of an administrative change to technical specifications for correction of an error. In this case, the Technical Specifications are not consistent with the plant design and would not allow plant startup.

Local Public Document Room locations: Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and the Olin Library of Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington. D.C. 20036.

NRC Branch Chief: B.J. Youngblood.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: February 29 as modified June 7, 1984.

Description of amendment request: The proposed amendments would revise an earlier submittal which provided limiting conditions for operation and surveillance requirements for new systems installed in accordance with NUREG–0737, TMI Action Plan. Specifically, a correction was made to the sample calibration gas hydrogen concentrations for surveillance of the hydrogen gas monitor. The calibration frequency is also revised to show that electronic calibration is done each refueling interval and the gas calibration is done quarterly (the previous submittal listed the calibration frequency as once per refueling interval).

The revised submittal also corrects errors in the previous submittal concerning the Reactor Coolant Gas Vent System limiting conditions for operation and provides clarification regarding actual system operation. Notice of Consideration of Issuance of Amendments and Proposed No Sigificant Hazards Determination relating to the licensee's February 29, 1984 submittal was published in the **Federal Register** (49 FR 25350 at 25381).

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples of actions likely to involve no

significant hazards considerations is example (i), purely administrative changes to the technical specifications, for example, a change to achieve consistency throughout the technical specifications, correction of an error or a change in nomenclature. The licensee's submittal corrects errors in the surveillance of the hydrogen monitor and clarifies the system operation and corresponding limiting conditions for operation for the reactor coolant gas vents systems from an earlier submittal. Therefore, the staff finds that these changes are administrative in nature and proposes to determine that the proposed amendments involve no significant hazards considerations.

Local Public Document Room location: Joseph P. Mann Public Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036.

NRC Branch Chief: James R. Miller.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: June 8, 1984.

Description of amendment request: The proposed amendments would revise Technical Specification 15.3.10 for Point Beach Units 1 and 2 to redefine the "fully withdrawn" term for control rods as equal to or greater than 225 steps. Previously "fully withdrawn" was equal to 228 steps.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidelines concerning the application of these standards (48 FR 14870). Several categories of license amendments are considered as likely not to involve a significant hazards consideration. One of these categories (vi) involves changes which may reduce in some way a safety margin, but the results of the change are clearly within all acceptable criteria.

The licensee performed an evaluation of inserting the control rod to a parked elevation of 225 steps of the core and the effects were shown to be minimal. Redefinition of "fully withdrawn" as being 225 steps or greater does not alter the conclusions of the reload safety evaluations performed for the existing Unit 1 and 2 cycles. At 225 steps withdrawn, the control rods are only 0.3 inches into the active fuel. Because of the low rod worth in the top region of the core, the power distribution perturbations resulting from the shallow rod insertion are very small. FQ(Z) is expected to increase in the bottom of the core by less than 1%; and the axial offset is expected to be more negative by less than 1%. Sufficient peaking factors and DNB margin are available to accommodate this small perturbation in power distribution. The minimal reduction in shutdown margin for an insertion of 3 steps can be easily accommodated by the substantial excess shutdown margin. The impact on other key safety parameters is negligible.

As discussed above, the proposed change has a minimal effect on the power distributions and related safety parameters for Point Beach Units 1 and 2; however, the evaluated results are well within the parameters outlined in the Technical Specifications and do not invalidate the conclusions of the current cycle reload safety evaluations for Units 1 and 2. Therefore, while the proposed change may reduce a safety margin, the results of the change are clearly within all acceptable criteria. Accordingly, the staff proposes to determine that the proposed amendments do not involve a significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Public Library, 1516 Sixteeneth Street, Two Rivers, Wisconsin.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 1800 M Street N.W., Washington, D.C. 20036.

NRC Branch Chief: James R. Miller.

Wisconsin Public Service Corporation, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: July 27, 1984.

Description of amendment request: This proposed amendment would revise the Kewaunee Nuclear Power Plant Technical Specifications to be consistent with the new reporting requirements of 10 CFR 50.73, "Licensee Event Report System".

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of these, Example (vii) involving a no significant hazards consideration, is "a change to make a licensee conform to changes in the regulations, where the change results in very minor changes to facility operations clearly in keeping with the regulations." The requested amendment matches the example and the staff, therefore, proposes to determine that the amendment does not involve a significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: Steven E. Keane, Esquire, Foley and Lardner, 777 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.

NRC Branch Chief: Steven A. Varga.

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this regular monthly notice. They are repeated here because the monthly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Duke Power Company, et al., Docket No. 50–413, Catawba Nuclear Station, Unit 1, York County, South Carolina

Date of amendment request: July 31, 1984.

Brief description of amendment: The amendment would change the surveillance requirement acceptance criteria for the Auxiliary Feedwater pumps. The new surveillance requirements specify lower flows at slightly higher pressures. These changes would make the Technical Specifications consistent with the values assumed in the accident analysis.

Date of publication of individual notice in **Federal Register:** August 20, 1984 (49 FR 33068).

Expiration date of individual notice: September 19, 1984.

Local Public Document Room Location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50–278, Peach Bottom Atomic Power Station, Unit No. 3, York County, Pennsylvania

Date of amendment request: May 30, 1984.

Brief description of amendment: The amendment would change the Technical Specifications (TSs) to permit continued operation of Peach Bottom Unit 3 after reaching End of Cycle 6 (EOC–6) exposure in the region of the operating map bounded by the constant recirculation pump speed line between 100% power, 105% core flow (100,105) and 70% power, 110% core flow (70,110) with or without the last stage feedwater heaters valved out-of-service. The change would specifically involve increasing the TS values on Table 3.5.K.3 for the Minimum Critical Power Ratio (MCPR) of P8X8R and PTA fuel by 0.01 during the period from 2000 MWD/t before EOC to EOC–6.

Date of publication of individual notice in **Federal Register:** August 10, 1984, 49 FR 32136, as corrected August 30, 1984, 49 FR 34434.

Expiration date of individual notice: September 10, 1984.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Buliding, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the 30-day period since publication of the last monthly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Alabama Power Company, Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2, Houston County, Alabama

Date of application for amendments: December 12, 1983.

Brief description of amendments: Technical Specifications are modified to add: (1) reactor vessel head vents, (2) noble gas effluent monitors, (3) containment water level monitors, and (4) instrumentation for detection of inadequate core cooling required by the Commission in NUREG–0737 dated November 1, 1983.

Date of issuance: September 12, 1984.

Effective date: September 12, 1984.

Amendment Nos.: 47 and 38.

Facilities Operating License Nos. NPF–2 and NPF–8: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 22, 1984 (49 FR 10731).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 12, 1984.

No significant hazards consideration comments received.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Arkansas Power & Light Company, Docket No. 50–368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of amendment request: March 28, 1984.

Description of amendment request: The amendment revised the Technical Specifications (TS) pertaining to the Surveillance Requirements for diesel generator testing.

Date of issuance: September 7, 1984.

Effective date: September 7, 1984.

Amendment No.: 56.

Date of initial notice in **Federal Register:** June 20, 1984 (48 FR 25352).

The Commission's related evaluation of the amendment is contained in a letter dated September 7, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of application for amendment: March 27, 1984.

Brief description of amendment: The changes revise the fire protection Technical Specifications to reflect changes made to the station in accordance with the requirements of Appendix R to 10 CFR Part 50. Only the changes relative to penetration fire barriers are included in this amendment. The other requested changes in the fire protection specifications are being reviewed and will be addressed in a future action.

Date of issuance: August 22, 1984.

Effective date: August 22, 1984.

Amendment No.: 76.

Facility Operating License No. DPR–35. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 23, 1984, 49 FR 21826.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 22, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of application for amendment: March 20, 1984.

Brief description of amendment: This amendment changes the Technical Specifications by extending the Power/Flow Map; requiring the rod block

monitor maximum trip level to be set at 107% power for core flows of 100% rated or greater; and correcting a typographical error (from "REM" to "RBM"). These changes do not permit continuous operation at power levels greater than 100% of the present rating.

Date of issuance: August 28, 1984.

Effective date: August 28, 1984.

Amendment No.: 77.

Facility Operating License No. DPR-35. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 20, 1984, 49 FR 25353.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 28, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of application for amendment: December 28, 1983, as supplemented February 21, 1984 and July 12, 1984.

Brief description of amendment: The amendment authorizes Cycle 7 operation of the reactor with 160 new fuel bundles identical to some of the partially used fuel from Cycle 6 and with 32 new fuel bundles with barrier type fuel. The latter is similar to the other new fuel except that a thin Zirconium liner has been added to the inner surface of the cladding to reduce cladding failures due to pellet-clad interaction.

Date of issuance: September 4, 1984.

Effective date: September 4, 1984.

Amendment No.: 78.

Facility Operating License No. DPR-35. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 25, 1984, 49 FR 17855.

Subsequent to the initial notice in the **Federal Register**, the Boston Edison Company, by letter dated July 12, 1984, provided a revision to an identification number in the reload report. This revision is within the scope of the original notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 4, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of application for amendment: June 26, 1984.

Brief description of amendment: These changes to the Technical Specifications apply to the new scram discharge instrument volumes with redundant and diverse instrumentation which have been installed in response to an NRC Confirmatory Order dated June 24, 1983.

Date of issuance: September 6, 1984.

Effective date: September 6, 1984.

Amendment No.: 79.

Facility Operating License No. DPR-35. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 6, 1984 (49 FR 31349).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 6, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Carolina Power & Light Company, Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendment: May 7, 1984.

Brief description of amendment: The proposed amendments would revise section 3/4.7.5 of the Technical Specifications to eliminate Table 3.7.5-1 (Safety-Related Hydraulic Snubbers) and conform with guidance provided by the Commission in its letter dated May 3, 1984 (Generic Letter No. 84-13) and to incorporate miscellaneous administrative changes to sections 3/4.7.6 and 3/4.7.7.

Date of issuance: September 10, 1984.

Effective date: September 10, 1984.

Amendment Nos.: 74 and 100.

Facility Operating License Nos. DPR-71 and DPR-62. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 24, 1984 (49 FR 29904).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 10, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Carolina Power and Light Company, Docket No. 50-261, H.B. Robinson Steam Electric Plant, Unit No. 2, Darlington, South Carolina

Date of application for amendment: October 14, 1983.

Brief description of amendment: The amendment would revise the Technical Specification to incorporate new heatup and cooldown limitation curves.

Date of issuance: September 4, 1984.

Effective date: September 4, 1984.

Amendment No.: 82.

Facility Operating License No. DPR-23. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 26, 1984 (49 FR 3346).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 4, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Carolina Power and Light Company, Docket No. 50-261, H.B. Robinson Steam Electric Plant, Unit No. 2, Darlington, South Carolina

Date of application for amendment: October 24, 1983 as clarified by letters dated December 12, 1983 and March 28, 1984.

Brief description of amendment: Would revised the Technical Specifications to add the Standard Westinghouse Specification Section 4.05.

Date of issuance: September 10, 1984.

Effective date: September 10, 1984.

Amendment No.: 83.

Facility Operating License No. DPR-23. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 21, 1983 (48 FR 52658).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 4, 1984.

Significant hazards consideration comments received: No.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Commonwealth Edison Company, Docket Nos. 50-237/249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of application for amendment: June 11, 1984.

Brief description of amendment: The amendments approve Technical Specifications which revise the present Technical Specifications, without changing the technical content, into a format which has improved legibility and versatility.

Date of issuance: August 6, 1984.

Effective date: August 6, 1984.

Amendment Nos.: 82, 75.

Provisional Operating License No. DPR-19, and Facility Operating License No. DPR-25. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 3, 1984 (49 FR 27385). The Commission's related evaluation of the amendments is contained in a letter dated August 6, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

Commonwealth Edison Company, Docket No. 50-249, Dresden Nuclear Power Station, Unit No. 3, Grundy County, Illinois

Date of application for amendment: March 19, 1984 as supplemented by letters dated April 9, 1984 and August 2, 1984. The latter submittal transmitted a copy of the proposed Technical Specification (TS) page in the recently approved reformatted TS style with no change in the technical content from the earlier submittals.

Brief description of amendment: The amendment authorizes an extension of the MAPLHGR limits for two fuel types in the Dresden 3 core to 40 000 MWd/STU and also approves slightly higher MAPLHGR limits for one of the fuel types in the range 1250-25 000 MWd/STU.

Date of issuance: September 14, 1984.

Effective date: September 14, 1984.

Amendment No. 76.

Facility Operating License No. DPR-25. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 23, 1984 (49 FR 21827).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 14, 1984. No significant hazards consideration comments received: No.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

Duke Power Company, Dockets Nos. 50-269, 50-270, and 50-287 Oconee Nuclear Station, Units Nos. 1, 2, and 3, Oconee County, South Carolina

Date of application for amendments: February 10, 1983.

Brief description of amendments: These amendments revise the Technical Specifications (TSs) to make the surveillance frequencies of certain pumps and valves consistent with the requirements of Section XI of the ASME Boiler and Pressure Vessel Code and applicable Addenda, as required by 10 CFR 50.55a(g)(4).

Date of issuance: August 27, 1984.

Effective date: August 27, 1984.

Amendment Nos. 130, 130 and 127.

Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 21, 1983, 48 FR 56502.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 27, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

Duke Power Company, Dockets Nos. 50-269, 50-270, and 50-287 Oconee Nuclear Station, Units Nos. 1, 2, and 3, Oconee County, South Carolina

Date of application for amendments: February 10, 1983.

Brief description of amendments: These amendments revised the Technical Specifications (TSs) to reflect that Penetrations 24 and 42 are to be used as part of the Reactor Building Hydrogen Analyzer, in lieu of their being spare penetrations into the reactor building. Other changes requested in the February 10, 1983, submittal are still under staff review and will be addressed by separate safety evaluation and license amendment.

Date of issuance: September 13, 1984.

Effective date: September 13, 1984.

Amendment Nos. 131, 131 and 128.

Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 21, 1983, 48 FR 56502.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 13, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

Florida Power and Light Company, Docket No. 50-335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of application of amendment: May 21, 1984.

Brief description of amendment: The amendment changes the Technical Specifications to add technical specifications dealing with the reactor coolant system vents.

Date of issuance: September 5, 1984.

Effective date: September 5, 1984.

Amendment No.: 68.

Facility Operating License No. DPR-67. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 24, 1984 (49 FR 29902 at 29908).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 27, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida.

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: August 6, 1982, as modified September 1, 1982, January 3, 1983, April 25, 1983, January 31, 1984 and April 23, 1984.

Brief description of amendments: These amendments provide requirements in the Technical Specifications for protection of safety-related equipment subjected to sustained degraded voltage conditions at the offsite power source and interactions between the onsite and offsite power systems.

Date of issuance: August 14, 1984.

Effective date: August 14, 1984.

Amendment Nos.: 104 and 98.

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1983 (48 FR 38403) and renoticed June 20, 1984 (49 FR 25359).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 14, 1984.

No significant hazards consideration comments have been received.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: September 12, 1983, as supplemented on October 26, 1983.

Brief description of amendments: These amendments delete non-radiological Environmental Technical Specifications in Appendix B which address the groundwater monitoring program and environmental protection limits.

Date of issuance: August 24, 1984.

Effective date: August 24, 1984.

Amendment Nos.: 105 and 99.

Facility Operating Licenses Nos. DPR–31 and DPR–41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 21, 1983 (48 FR 56503) and renoticed March 28, 1983 (49 FR 18898).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 24, 1984.

No significant hazards consideration comments have been received.

An Environmental Assessment has been prepared in accordance with 10 CFR 50.12(b) and a finding of No Significant Impact made dated August 20, 1984 (49 FR 33069).

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: December 29, 1982.

Brief description of amendments: These amendments revise the Technical Specifications by adding additional Limiting Conditions of Operation for Purge Isolation; setpoints for high containment radioactivity; surveillance requirements for turbine trip including basis; and requirements for reporting power operated relief valve and safety valve challenges and failures

Date of issuance: August 27, 1984

Effective date: August 27, 1984.

Amendments Nos. 106 and 100.

Facility Operating Licenses Nos. DPR–31 and DPR–41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1983 (48 FR 38404).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 27, 1984.

No significant hazards consideration comments have been received.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: May 21, 1984.

Brief description of amendments: These amendments revise and expand the Table of Safety-Related Snubbers in section 3.13 in Appendix A of the Technical Specifications.

Date of issuance: August 27, 1984.

Effective date: August 27, 1984.

Amendments Nos.: 107 and 101.

Facility Operating Licenses Nos. DPR–31 and DPR–41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 24, 1984 (49 FR 29914).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 27, 1984.

No significant hazards consideration comments have been received.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: April 27, 1984.

Brief description of amendments: These amendments prohibit the travel of heavy loads over irradiated fuel assemblies in the spent fuel pools with the exception of a temporary crane for use during proposed reracking of the spent fuel pools.

Date of issuance: August 29, 1984.

Effective date: August 29, 1984.

Amendment Nos.: 108 and 102.

Facility Operating Licenses Nos. DPR–31 and DPR–41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 24, 1984 (49 FR 29913).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 29, 1984.

No significant hazards consideration comments have been received.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

GPU Nuclear Corporation, Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: April 21, 1980 as supplemented March 9, 1981, August 31, 1982, July 22 and October 28, 1983, and May 1, 1984.

Brief description of amendment: The proposed Technical Specification (TS) changes would revise cycle dependent parameters in support of Core 10 operations following refueling.

Date of Issuance: August 27, 1984.

Effective date: August 27, 1984.

Amendment No.: 75.

Provisional Operating License No. DPR–16. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 20, 1983 (48 FR 33081) and July 20, 1984 (49 FR 29495).

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated August 27, 1984.

No significant hazards consideration comments have been received: No.

Local Public Document Room: 101 Washington Street, Toms River, New Jersey 08753.

GPU Nuclear Corporation, et al., Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: March 28, 1984, revised May 11, 1984.

Brief description of amendment: This amendment revises the definition of OPERABLE or OPERABILITY to assure that the single failure criterion for safety system is preserved. Existing requirements are extended to include multiple outages of redundant components and to include the effects of outages support systems. The amendment includes limiting conditions for operation and ACTION statements.

Date of Issuance: August 7, 1984.

Effective date: 45 days after the date of issuance.

Amendment No.: 98.

Facility Operating License No. DPR–50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 20, 1984, 49 FR 25362.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 7, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and

Walnut Streets, Harrisburg, Pennsylvania 17126.

GPU Nuclear Corporation, et al., Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: July 11, 1983, as supplemented November 8, 1983.

Brief description of amendment: This amendment adds general requirements on the applicability of surveillance TSs, section 4, so that surveillance requirements do not have to be performed on systems/components during operational conditions for which the systems/components are not required to be operable. Surveillance interval tolerances are removed from section 4 because they are provided in Table 1.2. In section 6.5.4, this amendment requires members of the Independent Onsite Safety Review Group (IOSRG) to have experience in nuclear power plant engineering, operations and/or technology. Also, changes have been made on the TS format in section 6.5.4.

Date of Issuance: August 8, 1984.

Effective date: August 8, 1984.

Amendment No.: 99.

Facility Operating License No. DPR–50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 25, 1984, 49 FR 17862. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 8, 1984.

No significant hazards consideration comments have been received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Indiana and Michigan Electric Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: January 20, 1984, as supplemented March 15, 1984.

Brief description of amendments: The amendments modify the Technical Specifications to add a specification required by the Commission in NUREG–0737 following the Three Miles Island accident. The change adds Technical Specifications on the reactor vessel head vents and on the pressurizer steam space vents.

Date of issuance: August 24, 1984.

Effective date: August 24, 1984.

Amendment Nos.: 81 and 65.

Facilities Operating License Nos. DPR–58 and DPR–74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 25, 1984 (49 FR 17863).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 24, 1984.

No Significant hazards consideration comments received: No.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Iowa Electric Light and Power Company, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: January 27, 1984.

Brief description of amendment: The January 27, 1984 application requested several changes related to NUREG–0737 requirements described in the NRC Generic Letter 83–36, and other miscellaneous items. This amendment relates only to Item II.B.3—Post Accident Sampling and also corrects two typographical errors on page 3.2–23b of your Technical Specifications. Other items in the January 27, 1984 application will be handled in separate actions.

Date of issuance: August 22, 1984.

Effective date: August 22, 1984.

Amendment No.: 104.

Facilities Operating License No. DPR–49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 22, 1984 (49 FR 10736).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 22, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401.

Iowa Electric Light and Power Company, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: April 12, 1984.

Brief description of amendment: This amendment revises the Technical Specifications to meet a new rule on reporting requirements and to make some administrative changes.

Date of issuance: August 24, 1984.

Effective date: August 24, 1984.

Amendment No.: 105.

Facilities Operating License No. DPR–49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 20, 1984 (49 FR 25362).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 24, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401.

Iowa Electric Light and Power Company, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: August 29, 1978, as supplemented November 5, 1981 and March 16, 1984.

Brief description of amendment: This amendment revises the Technical Specifications to incorporate changes resulting from compliance with those 10 CFR 50, Appendix J requirements which do not require future plant modifications.

Date of issuance: August 24, 1984.

Effective date: August 24, 1984.

Amendment No.: 106.

Facilities Operating License No. DPR–49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 26, 1983 (48 FR 49583) and May 23, 1984 (49 FR 21831).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 24, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 426 Third Avenue, S. E., Cedar Rapids, Iowa 52401.

Iowa Electric Light and Power Company, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: January 27, 1984.

Brief description of amendment: The amendment revises the Technical Specifications pertaining to NUREG–0737 TMI Action Plan Item II.F.1.3 related to containment high-range radiation monitors only. Other items in the January 27, 1984 application will be handled in separate actions.

Date of issuance: September 4, 1984.

Effective date: September 4, 1984.

Amendment No. 107.

Facility Operating License No. DPR–49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 22, 1984 (49 FR 10736).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 4, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 426 Third Avenue, S. E., Cedar Rapids, Iowa 52401.

Northeast Nuclear Energy Company (NNECO), Docket No. 50–245, Millstone Nuclear Generating Station, Unit No. 1, New London County, Connecticut

Date of application for amendment: February 1, 1984.

Brief description of amendment: The Technical Specification changes proposed by the amendment request modify the Appendix A Technical Specifications to include provisions for the new steam tunnel ventilation radiation monitoring system.

Date of issuance: September 14, 1984.

Effective date: September 14, 1984.

Amendment No. 100.

Provisional Operating License No. DPR–21. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 25, 1984 (49 FR 17867).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 14, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06358.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, Town of Waterford, Connecticut

Date of application for amendment: October 12, 1983 as supplemented May 16, 1984.

Brief description of amendment: This amendment modified the Technical Specifications as follows: (1) Revised the pressurizer level band to a wider range during periods of normal operation; and (2) Imposed more restrictive operability requirements for the pressurizer heaters.

Date of issuance: September 5, 1984.

Effective date: September 5, 1984.

Amendment No.: 97.

Facility Operating License No. DPR–65. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 22, 1983 (49 FR 52804 at 52817). The May 16, 1984 letter provided clarifying information for each transient and accident analysis affected by the proposed amendment and did not revise the initial noticing action.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 5, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Waterford Public Library, Rope Ferry Road, Waterford, Connecticut.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: March 30, 1984.

Brief description of amendment: Revises the Technical Specifications to extend the allowable interval between integrated containment leakage rate tests, add requirements pertaining to the recently-installed intake structure sprinkler system, and make various non-safety related changes to the Technical Specifications.

Date of issuance: August 15, 1984.

Effective date: August 15, 1984.

Amendment No. 25.

Facility Operating License No. DPR–22. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 23, 1984 (49 FR 21832).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 15, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendment: April 10, 1984 as supplemented July 9, 1984.

Brief description of amendment: The amendments revised the TS to implement the requirements of NUREG–0737 Items II.B.3, II.F.1.2, and III.D.3.4 and correct typographical errors.

Date of issuance: September 12, 1984.

Effective date: September 12, 1984.

Amendment Nos.: 70 and 64.

Facility Operating License Nos. DPR–42 and DPR–60. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 20, 1984 (49 FR 25350 at 25367).

The licensee's letter of July 9, 1984 provided information on new methodology for estimation of incapacitation times following exposures to toxic gases which was utilized during performance of a control room habitability study and resulted in a significant reduction in the number of toxic chemicals that would have to be monitored to assure an adequate habitability of the control room. Use of the new methodology concludes that only the chlorine detection is necessary to meet the requirements of NUREG–0737 Item III.D.3.4. The new methodology would affect our conclusion of the safety evaluation issued by letter dated April 9, 1982. Therefore our initial safety evaluation on NUREG–0737 Item III.D.3.4 related to the toxic gases originating from off-site sources will be revised to reflect the results of the new methodology before putting TSs in place. The license withdrew from consideration the proposed Toxic Gas Monitoring System TS requested in the April 10, 1984 application.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 12, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota. Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska.

Date of application for amendment: October 3, 1983 as supplemented June 22, 1984.

Brief description of amendment: The amendment updated the surveillance capsule removal schedule (Table 3–7).

Date of issuance: September 7, 1984.

Effective date: September 7, 1984.

Amendment No.: 83.

Facility Operating License No. DPR–40. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 22, 1983 (48 FR 52819). Supplemental information was received from the licensee after the initial notice was published in the **Federal Register.** This supplemental information did not affect the discussion which was contained in the original notice. On this basis, we did not renotice the application.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 7, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of application for amendment: June 8, 1984.

Brief description of amendment: The amendment changed the administrative controls section of the technical specifications to reflect changes to the plant support and plant organizations.

Date of issuance: September 7, 1984.

Effective date: September 7, 1984.

Amendment No.: 84.

Facility Operating License No. DPR–40. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 24, 1984 (49 FR 29902 at 29915).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 7, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Portland General Electric Company, et al., Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: April 27, 1984.

Brief description of amendment: The amendment makes miscellaneous changes involving fire protection and administrative controls.

Date of issuance: August 17, 1984.

Effective date: August 17, 1984.

Amendment No.: 92.

Facility Operating License No. NPF–1. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 20, 1984 (49 FR 25350 at 25370).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 17, 1984.

No significant hazards consideration comments received: No comments received.

Location of Local Public Document Room: Multnomah County Library, 801 S.W. 10th Avenue, Portland, Oregon.

Portland General Electric Company, et al., Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: April 24, 1984 as supplemented June 1, 1984.

Brief description of amendment: The amendment incorporated technical specifications for some equipment added or modified as a result of post-TMI safety improvements approved by the Commission in NUREG–0737. The amendment request was submitted in response to NRC Generic Letter 83–37. Items included in this amendment are: reactor coolant system vents (II.B.1), auxiliary feedwater pumps (II.E.1.1), containment pressure monitor (II.F.1.4), containment hydrogen monitor (II.F.1.6), and control room habitability (III.D.3.4) (chlorine detectors).

Date of issuance: September 5, 1984.

Effective date: September 5, 1984.

Amendment No.: 93

Facility Operating License No. NPF–1. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 20, 1984 (49 FR 25350 at 25369) and July 24, 1984 (49 FR 29902 at 29918).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 5, 1984.

No significant hazards consideration comments received: No comments received.

Location of Local Public Document Room: Multnomah County Library, 801 S.W. 10th Avenue, Portland, Oregon.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: February 20, 1981.

Brief description of amendment: The revision of the Technical Specifications adds the use of the term "operable" as it applies to safety systems in power reactors. The change includes a definition of "operable" as well as a section on operability requirements in the Limiting Conditions for Operation and surveillance section of the Technical Specifications.

Date of issuance: August 28, 1984.

Effective date: August 28, 1984.

Amendment No.: 83.

Facility Operating License No. DPR–59. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 20, 1983, 48 FR 33085.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 28, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Public Service Electric and Gas Company, Docket No. 50–311, Salem Nuclear Generating Station, Unit 2, Salem County, New Jersey

Date of application for amendment: June 30, 1983.

Brief description of amendment: The amendment adds License Conditions which ensure the implementation of fire protection modifications on Unit 2.

Date of issuance: August 30, 1984.

Effective date: August 30, 1984.

Amendment No.: 25.

Facility Operating License No. DPR–75: Amendment revised the Salem Unit 2 license.

Date of initial notice in **Federal Register:** November 22, 1983 (48 FR 52822).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 30, 1984.

No significant hazards consideration comments have been received.

Local Public Document Room location: Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment requests: August 1, 1983 and January 20, 1984.

Description of amendment request: The amendment approves changes to the Technical Specifications (TS) which: (1) consolidate the positions of Superintendent of Nuclear Production and Superintendent of Ginna; and (2) recognize certain organizational title changes within the Rochester Gas and Electric Corporation.

Date of issuance: August 14, 1984.

Effective date: August 14, 1984.

Amendment No.: 63.

Provisional Operating License No. DPR–18. Amendment revised the Technical Specifications.

Date of initial notices in **Federal Register:** May 23, 1984 (49 FR 21836 and 21837).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 14, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Rochester Public Library, 155 South Avenue, Rochester, New York 14604.

Southern California Edison Company et al., Docket Nos. 50-206/361/362, San Onofre Nuclear Generating Station, Unit Nos. 1/2/3, San Diego County, California

Date of application for amendment: December 16, 1983 as modified April 2, 1984.

Brief description of amendment: The amendment approves changes to the Physical Security Plan which (1) consolidate several adjacent vital areas into a single vital area; (2) reduce the size of several large vital areas by compression of the boundaries; and (3) move certain equipment not required for safety outside of the vital boundary.

Date of issuance: August 7, 1984.

Effective date: Amendment is effective upon issuance and shall be fully implemented upon completion of modifications but no later than January 1, 1985.

Amendments Nos.: 78, 23, and 12.

Operating License Nos. DPR-13, NPF-10 and NPF-15 respectively: Amendments revised the licenses.

Date of initial notice in **Federal Register:** May 23, 1984 (49 FR 21839).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 7, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: San Clemente Branch Library, 242 Avenida Del Mar, San Clemente, California 92672.

Southern California Edison Company, Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of application for amendment: December 12, 1983 as supplemented March 20, 1984.

Brief description of amendment: The amendment approves changes to the Technical Specifications to add the radiological effluent technical specifications necessary to implement the requirements of 10 CFR Part 50, Appendix I. The amendment provides new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring, concentration, dose and treatment of liquid, gaseous and solid wastes and total dose.

Date of issuance: August 27, 1984.

Effective date: January 1, 1985.

Amendment No. 79

Provisional Operating License No. DPR-13. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 23, 1984 (49 FR 21839).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 27, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: San Clemente Branch Library, 242 Avenida Del Mar, San Clemente, California 92672.

Southern California Edison Company, Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of application for amendment: May 17, 1984.

Brief description of amendment: The amendment incorporates a license condition requiring (1) plant shutdown for steam generator inspection within 6 equivalent months of operation after the start of operation from the backfitting outage that began on February 27, 1982, (2) the inspection program be submitted to the Commission at least 45 days prior to scheduled, and (3) Commission approval must be obtained before resuming power operation following this inspection. The license condition requiring a shutdown within 6 equivalent months of operation after the start of Cycle 8 operation is deleted.

Date of issuance: September 4, 1984.

Effective date: September 4, 1984.

Amendment No. 80.

Provisional Operating License No. DPR-13. The amendment modifies the license.

Date of initial notice in **Federal Register:** July 24, 1984 (49 FR 29920).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 4, 1984. No significant hazards consideration comments received: No.

Local Public Document Room location: San Clemente Branch Library, 242 Avenida Del Mar, San Clemente, California 92672.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendment: December 17, 1982.

Brief description of amendment: The amendments change the Technical Specifications to permit the main steam line high temperature isolation function to be made inoperable for up for four hours for testing and maintenance purposes.

Date of issuance: August 15, 1984.

Effective date: August 15, 1984.

Amendment Nos. 110, 103 and 76.

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 22, 1983 (48 FR 52832).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 15, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Tennessee Valley Authority, Docket Nos. 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 2 and 3, Limestone County, Alabama

Date of application for amendment: September 21, 1981, as supplemented June 3, 1982.

Brief description of amendment: The amendments revise the Technical Specifications to change the neutron flux trip setting adjustment factor from a limiting safety system setting to a limiting condition for operation with a six hour action statement.

Date of issuance: August 17, 1984.

Effective date: August 17, 1984.

Amendment Nos. 104 and 77.

Facility Operating License Nos. DPR-52 and DPR-68. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 22, 1983 (48 FR 52828).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 17, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Tennessee Valley Authority, Docket No. 50-296, Browns Ferry Nuclear Plant, Unit 3, Limestone County, Alabama

Date of application for amendment: January 23 and June 6, 1984.

Brief description of amendment: The amendment revises the Technical Specifications to reflect changes in instrumentation requirements, testing and surveillance requirements as well as in administrative changes resulting from modifications made during the current refueling outage. Changes related to the reload were issued in Amendment No. 70.

Date of issuance: August 27, 1984.

Effective date: August 27, 1984.

Amendment No. 78.

Facility Operating License No. DPR-68. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 23, 1984 (49 FR 21841).

The June 6, 1984 letter did not add or modify any of the January 23, 1984 change requests; it only withdrew some of them, therefore no additional notice was issued subsequent to May 23, 1984.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 27, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Tennessee Valley Authority, Docket Nos. 50–259, 50–260 and 50–296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendment: November 5, 1982.

Brief description of amendment: The amendments change the Technical Specifications to increase the Main Steam Isolation Valve (MSIV) surveillance test interval.

Date of issuance: September 4, 1984.

Effctive date: September 4, 1984.

Amendment Nos.: 111, 105 and 79.

Facility Operating License Nos. DPR–33, DPR–52 and DPR–68. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 26, 1984 (49 FR 3356).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 4, 1984.

No significant hazards consideration commnets received: No.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

The Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of applications for amendment: July 10, 1981 as revised May 2, February 22, and August 18, 1983.

Brief description of amendment: The amendment modifies Technical Specifications (TSs) 4.8.1.1.2 and 4.8.1.2 to correct errors concerning surveillance testing of the diesel generators to demonstrate operability. The amendment also corrects typographical errors in TS 6.9.1.5.b and TS Table 3.6–2.

Date of issuance: August 27, 1984.

Effective date: August 27, 1984.

Amendment No. 75.

Facility Operating License No. NPF–3. Amendment revised the Technical Specifications.

Date of initial notices in **Federal Register:** December 21, 1983 (48 FR 56514) and January 26, 1984 (49 FR 3357).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 27, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the 30-day period since publication of the last monthly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, a press release seeking public comment as to the proposed no significant hazards consideration determination was used, and the State was consulted by telephone. In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant, a shorter public comment period (less than 30 days) has been offered and the State consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special cricumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For futher details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By October 29, 1984, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility 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. Requests 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, designated by the Commission or by the Chairman of the 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 should 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 aspect(s) 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.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

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, NW., 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) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Branch Chief*): 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 the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertined 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).

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: June 14, 1984.

Brief description of amendments: The amendments expand the Power Distribution Limits section of the Unit 1 Technical Specifications to include Base Load Operation in addition to the currently approved Relaxed Axial Offset Control operation.

Date of issuance: September 13, 1984.

Effective date: June 21, 1984.

Amendment Nos.: 34 and 15.

Facility Operating License Nos. NPF–9 and NPF–17. Amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation is contained in a Safety Evaluation dated September 13, 1984.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, P.O. Box 33189, 422 South Church Street, Charlotte, North Carolina 28242.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28242.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50–366, Edwin I. Hatch Nuclear Plant, Unit No. 2, Appling County, Georgia

Date of application for amendment: August 6, 1984, as supplemented August 10, 14 and 16, 1984.

Brief description of amendment: The amendment revises Technical Specification Table 3.6.3–1 to require certain containment isolation valves to automatically close upon receipt of a low-low-low reactor water level signal rather than upon receipt of a low reactor water level signal as currently required.

Date of issuance: August 22, 1984.

Effective date: August 22, 1984.

Amendment No.: 40.

Facility Operating License No. DPF–5. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment and final determination of no significant hazards consideration are contained in a Safety Evaluation dated August 22, 1984.

Attorney for licensee: G.F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, D.C. 20036.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Tennessee Valley Authority, Docket No. 50–259, Browns Ferry Nuclear Plant, Unit 1, Limestone County, Alabama

Date of application for amendment: July 31, 1984.

Brief description of amendment: The amendment changes the Technical Specifications to temporarily permit Train A of the Containment Air Dilution System to be considered operable with valve FCV–84–8B inoperable.

Date of issuance: August 15, 1984.

Effective date: August 15, 1984.

Amendment No.: 109.

Facility Operating License No. DPR–33. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment and final determination of no significant hazards consideration are contained in a Safety Evaluation dated August 15, 1984.

Attorney for licensee: H.S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce

Avenue, E. 11B 33C, Knoxville, Tennessee 37902.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Tennessee Valley Authority, Docket No. 50-328, Sequoyah Nuclear Plant, Unit 2, Hamilton County, Tennessee

Date of application for amendment: July 11, 1984.

Brief description of amendment: The amendment authorizes a one-time 36-hour extension of the time allowed for ECCS operability with one centrifugal charging pump inoperable.

Date of issuance: August 23, 1984.

Effective date: July 11, 1984.

Amendment No.: 27.

Facility Operating License No. DPR-79. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation is contained in a Safety Evaluation dated August 23, 1984.

Attorney for licensee: Herbert S. Sanger, Jr., Esq., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue (E11B 33), Knoxville, Tennessee 37902.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Dated at Bethesda, Maryland this 20th day of September 1984.

For the Nuclear Regulatory Commission.

Donald E. Sells,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 84-25529 Filed 9-27-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-369 and 50-370]

Duke Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Appendix J to 10 CFR Part 50 to the Duke Power Company (the licensee) for the McGuire Nuclear Station, Units 1 and 2, located at the licensee's site in Mecklenburg County, North Carolina.

Environmental Assessment

Identification of Proposed Action

The exemption would relieve the licensee from meeting the requirements of 10 CFR Part 50, Appendix J, paragraph III.D.2(b)(ii) of the Commission's regulations which states "Airlocks opened during periods when containment integrity is not required by the plant's Technical Specifications shall be tested at the end of such periods at no less than Pa", as reflected in the McGuire Technical Specification 4.6.1.3.b. The accompanying amendment would exempt the requirement for an overall airlock leakage test except when maintenance has been performed on the airlock that could affect the airlock sealing capability. The proposed technical specification amendment change and the concomitant exemption request is in accordance with the licensee's request dated August 2, 1983.

The Need for the Proposed Action

By letter dated August 2, 1983, the licensee requested a change in the McGuire Nuclear Station Technical Specification 4.6.1.3.b which currently requires overall containment airlock leakage tests to be performed "* * * if opened when CONTAINMENT INTEGRITY was not required * * * " The proposed change would be to require the overall airlock leakage test to be performed "* * * when maintenance has been performed on the airlock that could affect the airlock sealing capability." This change requires an exemption from the requirements of Appendix J, to 10 CFR Part 50.

The existing airlock doors are so designed that a full pressure, i.e., (14.8 psig), test of an entire airlock can only be performed after strong backs (structural bracing) have been installed on the inner door. Strong backs are needed since the pressure exerted on the inner door during the test is in a direction opposite to that of the accident pressure direction. Installing strong backs, performing the test, and removing strong backs requires at least 6 hours per airlock (there are 2 airlocks) during which access through the airlock is prohibited. Implementation of this procedure then entails additional periods of time during which the reactor must remain in a shutdown condition.

If the periodic 6-month test of paragraph III.D.2(b)(i) of Appendix J and the test required by paragraph III.D.2.(b)(iii) of Appendix J are current, no maintenance has bee performed on the airlock, and the airlock is properly sealed, there should be no reason to expect the airlock to leak excessively just because it has been opened in Mode 5 or Mode 6. Accordingly, the staff finds that the licensee's proposed approach of relying on the seal leakage test of paragraph III.D.2(b)(iii) of Appendix J is acceptable when no maintenance has been performed on an airlock, and will not adversely affect maintaining containment integrity. Whenever maintenance has been performed on an airlock, the testing requirement of paragraph III.D.2(b)(ii) of Appendix J must still be met.

Environmental Impacts of the Proposed Action

The proposed exemption only relies on requirement of the seal leakage test of paragraph III.D.2(b)(iii) of Appendix J. 10 CFR Part 50, for a similar requirement of III.D.2(b)(ii). If the tests required by III.D.2(b) (i) and (iii) are current, no maintenance having been performed on the airlock and with it properly sealed, this exemption will not affect containment integrity and does not affect the risk of facility accidents. Thus, post-accident radiological releases will not be greater than previously determined nor does the proposed relief otherwise affect radiological plant effluents, nor any significant occupational exposure. Likewise, the relief does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there is no significant radiological or non-radiological environmental impacts associated with the proposed exemption.

Since we have concluded that there is no measurable environmental impact associated with the proposed exemption, any alternative will either have no environmental impact or greater environmental impact. The principal alternative to the exemption would be to require literal compliance with paragraph III.D.2(b)(ii) of Appendix J to 10 CFR Part 50. Such action would not enhance the protection of the environment and would result in unnecessary power station downtime.

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 May 1974 relating to this facility.

Agencies and 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 exemption.

Based upon the 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 licensee's request dated August 2, 1983, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28242.

Dated at Bethesda, Maryland, this 24th day of September 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-25808 Filed 9-27-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co., Big Rock Point Plant; Request for Action Under 10 CFR 2.206

Notice is hereby given that, by a Motion for Show Cause Order dated August 15, 1984, John O'Neill II, sought action to require the licensee to demonstrate that it is financially qualified to modify and operate the spent fuel pool of its Big Rock Point facility. The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations and, accordingly, appropriate action will be taken on the request within a reasonable time. A copy of the petition is available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the local public document room for the Big Rock Point facility, located at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Dated at Bethesda, Maryland, this 7th day of September 1984.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 84-25809 Filed 9-27-84; 8:45 am]

BILLING CODE 7590-01-M

PENSION BENEFIT GUARANTY CORPORATION

Privacy Act of 1974; System of Records, Amendment

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Amendment to System PBGC-9.

SUMMARY: This document amends Privacy Act System PBGC-9 to permit disclosure of the name and social security number of unlocatable participants and beneficiaries of certain pension plans to the Social Security Administration as a routine use.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Stuart E. Bernsen, Attorney, Legal Department, Code 250, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006, (202) 254-4895. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation ("PBGC") published a proposed amendment to Privacy Act System PBGC-9 on pages 31018-31019 of the **Federal Register** of August 2, 1984, and invited comments for 30 days ending September 4, 1984. The amendment establishes a new routine use of System PBGC-9 to allow disclosure to the Social Security Administration of names and social security numbers of participants and beneficiaries of pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA") including PBGC-trusteed plans and non-trusteed and other plans for which PBGC receives a specific request for assistance. No comments have been received regarding the proposed amendment.

Based on the foregoing, PBGC hereby amends System PBGC-9 as follows:

PBGC-9

SYSTEM NAME:

Plan Participant and Beneficiary Address Identification File—PBGC.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Certain plan participants and beneficiaries in pension plans covered by Title IV of ERISA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain name, social security number, name of pension plan, and address received from the Internal Revenue Service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302, 1322 and 1341, 26 U.S.C. 6103.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made only to the extent permitted by 26 U.S.C. 6103 and 26 CFR 404.6103, except that names and social security numbers of plan participants and beneficiaries may be disclosed to the Social Security Administration in order to utilize the Social Security Administration's Letter Forwarding Service.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders.

RETRIEVABILITY:

Indexed by participant or beneficiary name and social security number.

SAFEGUARDS:

Records are kept in locked file cabinets in areas of restricted access under procedures that meet Internal Revenue Service safeguarding standards, except that records of the name and social security number of the participant or beneficiary may be released to the Social Security Administration pursuant to the routine uses of this system.

RETENTION AND DISPOSAL:

Records for participants in PBGC trusteed plans for which the address is verified are transferred to PBGC-6 on verification or on further verification through the Social Security Administration's Letter Forwarding Service. Record for which IRS has no address, for which the address was not verified or was not further verified through the Social Security Administration's Letter Forwarding Service, and records for participants in sufficient plans or plans with a third-party trustee will be retained for two years from the date the request was sent to the Internal Revenue Service and then will be sent to Internal Revenue Service for disposal or destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Benefit Payments Department, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 2607.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Information is received from the Internal Revenue Service.

Charles C. Tharp,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84-25 732 Filed 9-27-84; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Notice 84-14]

Inventory of Commercial Activities

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: Under Office of Management and Budget Circular A-76, DOT publishes an inventory of commercial activities, with schedules for their review, that it currently performs in-house but that might be more efficiently and economically performed by commercial enterprises.

FOR FURTHER INFORMATION CONTACT: Philip Rockmaker, Office of Installations and Logistics, M-60, Department of Transportation, Washington, DC (202) 426-4243.

SUPPLEMENTARY INFORMATION: OMB Circular A-76, revised, Performance of Commercial Activities, establishes the policy that the Government will rely on private sources to supply the products and services it needs whenever it is economical to do so. The Circular also requires that studies be performed to compare the cost of contracting and the cost of in-house performance to determine who will do the work. It is also required that the schedules for these studies be published periodically by Federal agencies. Accordingly, DOT herewith publishes an inventory of such activities and their review schedules as of September 10, 1984. Information about the activities and schedules, as well as any other relevant information, can be obtained at the address and telephone number given above.

Issued in Washington, DC, on September 18, 1984.

Barnett M. Anceleitz,,

Director of Installations and Logistics.

DEPARTMENT OF TRANSPORTATION

[Inventory of existing in-house commercial activities with 10 FTE's or less—fiscal year 1984]

Activity description	Activity location	Number of FTE's	Date of next review[1]	Reason for continued in-house performance[2]
Warehouse	Washington, DC	2	Underway	H.
	U.S. Coast Guard			
Food Service	Base Southwest Harbor, ME	3	Underway (NC)	
Security	Base South Portland, ME	3	do	
Food Service	do	4	do	
Do	Station Point Allerton, MA	2	do	
Do	Base Woods Hole, MA	4	do	
Do	Air Station Cape Cod, MA	9	do	
Buildings/Grounds Maintenance	Hyde Park Housing, MA	3	do	
Food Service	Base St. Louis, MO	4	do	
Parade Ground	Support Center New York, NY	2	do	
Housing Maintenace	do	10	do	
Sanitation Service	do	5	do	
Housing Maintenance	Group New York, NY	2	do	
Do	Group Shinnecock, NY	4	do	
Food Service	Air Station Brooklyn, NY	3	do	
Grounds Maintenance	do	3	do	
Housing Maintenance	Group Long Island Sound, NY	2	do	
Custodial Service	Group Cape May, NJ	4	do	
Food Service	Station New Haven, CT	3	do	
Do	Station Manasquan, NJ	2	do	
Do	Station New London, CT	4	do	
Food Service	Station Sandy Hook, NJ	3	do	
Housing Maintenance	do	3	do	
Food Service	Station Atlantic City, NJ	3	do	
Security	Group Cape Hatteras, NC	6	do	
Steam Plant Operation & Maintenance	Support Center Elizabeth City, NC	9	do	
Food Service	do	8	do	
Do	Support Center Portsmouth, VA	6	do	
Grounds Maintenance	do	10	do	
Boiler Plant Operations & Maintenance	do	8	do	
Utility System Maintenance	do	8	do	
Grounds Maintenance	Communication Station, Portsmouth, VA	2	do	
Custodial Service	Air Station Elizabeth City, NC	3	do	
Janitorial Service	Group Baltimore, MD	2	do	
Utility Service	Group/Base Fort Macon, NC	4	do	
Grounds Maintenance & Janitorial Service	Group Eastern Shore, MD	2	do	
Grounds Maintenance	Air Station Borinquen, PR	5	do	
Do	Group/Station, St. Petersburg, FL	2	do	
Food Service	Air Station Miami, FL	5	do	
Janitorial Service	Group/Base Charleston, SC	2	do	
Food Service	do	2	do	
Do	Section/Base San Juan, PR	5	do	
Do	Base Galveston, TX	4	do	
Security	do	4	do	
Food Service	Base New Orleans, LA	5	do	
Security	do	4	do	
Food Service	Port Safety Station, Houston, TX	3	do	
Grounds Maintenance	do	2	do	
Security	do	4	do	
Janitorial Service	Air Station New Orleans, LA	2	do	
Grounds Maintenance	do	2	do	
Do	Air Station Traverse City, MI	3	do	
Food Service	do	6	do	

DEPARTMENT OF TRANSPORTATION—Continued

(Inventory of existing in-house commercial activities with 10 FTE's or less—fiscal year 1984)

Activity description	Activity location	Number of FTE's	Date of next review[1]	Reason for continued in-house performance[2]
Do	Group Buffalo, NY	3	do	
Grounds Maintenance	do	2	do	
Food Service	Group Detroit, MI	2	do	
Do	Station Marblehead, OH	2	do	
Do	Group Duluth, MN	2	do	
Do	Group Milwaukee, MI	3	do	
Do	Group Sault Ste. Marie, MI	4	do	
Grounds Maintenance	Base Detroit, MI	2	do	
Food Service	Station Channel Island, CA	5	do	
Do	Base Terminal Island, CA	7	do	
Security	do	7	do	
Grounds Maintenance	do	4	do	
Fire Fighting Service	Support Center Alameda, CA	5	do	
Custodial Service	Base Yerba Buena Island, CA	6	do	
Do	Air Station San Francisco, CA	3	do	
Food Service	Air Station/Group Humboldt Bay Arcata, CA	7	do	
Custodial Service	do	3	do	
Food Service	Group Monterey, CA	5	do	
Custodial Service	do	2	do	
Food Service	Communications Station, San Francisco, CA	4	do	
Do	Station Quillayute River, WA	2	do	
Do	Station Chetco River, OR	2	do	
Do	Station Coos Bay, OR	3	do	
Do	Group Portland, OR	6	do	
Do	Station Umpqua River, OR	2	do	
Do	Station Yaquina Bay, OR	2	do	
Grounds Maintenance	Support Center Seattle, WA	2	do	
Security	do	5	do	
Food Service	do	10	do	
Do	Station Grays Harbor, WA	3	do	
Do	Station Cape Disappointment, WA	4	do	
Do	Station Tillamook Bay, OR	3	do	
Do	Station Neah Bay, WA	2	do	
Do	Air Station Barbers Point, HI	5	do	
Security	Base Honolulu, HI	5	do	
Food Service	do	8	do	
Do	Marine Safety Office, Valdez, AK	4	do	
Do	Base Ketchikan, AK	6	do	
Family Housing Maintenance	Support Center Kodiak, AK	7	do	
Janitorial Service	do	8	do	
Grounds Maintenance	do	2	do	
Utility Operations & Maintenance	do	5	do	
Waste Water Treatment	do	3	do	
Food Service	do	10	do	
Security	Academy, New London, CT	6	do	
Boiler Plant Operations	do	10	do	
Custodial Service	do	10	do	
BOQ/BEQ Cleaning Service	Aviation Training Center, Mobile, AL	1	do	
Food Service	do	6	do	
Grounds Maintenance	do	6	do	
Food Preparation	do	9	do	
Firefighting Service	Training center Petaluma, CA	10	do	
Grounds Maintenance	do	4	do	
Food Service	do	9	do	
Powerhouse Operations	Coast Guard Yard, Baltimore, MD	6	do	
Food Service	Station Alexandria, VA	5	do	
Federal Aviation Administration				
Fabrication Shops	Various offices—New York, NY; Ft. Worth, TX	4	Underway	H.
Telephone Switchboard Services	Various offices—Atlantic City, NJ; Oklahoma City, OK	5	do	H.
Aircraft Maintenance and Ramp Services	Various locations	8	do	H.
Aeronautical Mobile Services	Anchorage, AK	5	do	G.
Packing Crate Fabrication Repack Material	Oklahoma City, OK	7	do	H.
Environment and Noise Training Course	do	1	do	H.
Police and Fire Dispatching	Washington National and Dulles Airports	10	do	H.
Nursing Services	do	5	do	H.
Upholstering and Carpet Repair	do	2	do	H.
Industrial Waste Treatment Operations	do	1	do	H.
Federal Highway Administration				
ADP Support Services	Eastern, Central and Western Direct Federal Divisions (Arlington, VA; Denver, CO; and Vancouver, WA).	9	Underway	F.
Property and Supply Support (warehousing, equipment inspection, etc.).	Central Direct Federal Divsion, Denver, CO	5	do	F.
Maritime Administration				
Painting of Buildings	United States Merchant Marine Academy, Kings Point, New York	4	Underway	F.
Grounds Maintenance	do	5	do	F.

See footnotes at end of last table.

DEPARTMENT OF TRANSPORTATION

[Inventory of existing in-house commercial activities with more than 10 FTE's—fiscal year 1984]

Activity description	Activity location	Number of FTE's	Date of next review [1]	Reason for continued in-house performance [2]
Office of the Secretary				
ADP Services	Washington, D.C	40	Underway	F.
U.S. Coast Guard				
Ferryboard Operation & Maintenance	Support Center, New York, NY	75	Underway	F.
Food Services	Support Center, Alameda, CA	12	do	
Power Plant Operation	Support Center, Kodiak, AK	13	do	
Federal Aviation Administration				
ADP Operations	Mike Monroney Aeronautical Center, Oklahoma City, OK	35	Underway	F.
Industrial Shops (Exchange/Repair)	do	87	Underway (NC)	
Electrical Services	Technical Center, Atlantic City, NJ	11	Underway	F.
Maintenance of Structures, Grounds, Roads & Runways	National and Dulles Airports, Washington, DC	63	Underway (NC)	
Operation and Maintenance of Utility Systems	do	116	do	
Operation and Maintenance of Automotive and Other Equipment (including mobile lounges at Dulles).	do	94	do	
Word Processing Centers, Clerical, Secretarial	Various FAA offices—Atlanta, Chicago, Anchorage, Boston, New York, Kansas City, Forth Worth, Los Angeles, Seattle, Atlantic City, Washington, D.C.	115	Underway	H.
Maintenance, Modification and Repair of Buildings, Structures, Grounds, Roads and Other Surfaced Areas.	Approximately 7,500 facility locations in all 50 States	94	do	H.
ADP Operations	Various FAA offices—Atlanta, New York, Atlantic City, Kansas City, Ft. Worth, Los Angeles, and Anchorage.	38	do	H.
Mail/Messenger/Delivery Services	Various FAA offices—Atlanta, New York, Atlantic City, Chicago, Kansas City, Ft. Worth, Los Angeles, Seattle, Anchorage, Boston, Oklahoma City.	28	do	H.
Warehousing/Supply Services	Various FAA locations—New York, Atlantic City, Chicago, Kansas City, Oklahoma City, Los Angeles, Anchorage, Ft. Worth, Washington, DC (National and Dulles Airports).	69	do	H.
Engineering Drafting Services	Various FAA offices—Boston, Kansas City, Ft. Worth, Seattle, Oklahoma City, Anchorage.	14	do	H.
Printing Services	Various FAA offices—Ft. Worth, Oklahoma City, Atlantic City	16	do	H.
NAS Documentation—editing, graphics, production of microfilm and microfiche.	Atlantic City, NJ	21	do	H.
Data Transcription, Data Entry	Oklahoma City, OK	17	do	H.
Maritime Administration				
Security/Fire Protection	United States Merchant Marine Academy, Kings Point, NY	11	Underway	F.

See footnotes at end of last table.

DEPARTMENT OF TRANSPORTATION

[Inventory of new requirements and expansions with 10 FTE's or less—fiscal year 1984]

Activity description	Activity location	Number of FTE's	Date of next review [1]	Reason for continued in-house performance [2]
New Requirements				
Expansions				
U.S. Coast Guard				
New Shops & Blast/Paint Facility	Base Charleston, SC	9	Underway (NC)	

See footnotes at end of last table.

DEPARTMENT OF TRANSPORTATION

[Inventory of New Requirements and Expansions With More Than 10 FTE's—Fiscal Year 1984]

Activity description	Activity location	Number of FTE's	Date of next review [1]	Reason for continued in-house performance [2]
New Requirements				
Expansions				
U.S. Coast Guard				
Replace Industrial Facility	Base Galveston, TX	28	Underway (NC)	

See footnotes at end of last table.

DEPARTMENT OF TRANSPORTATION

[Inventory of existing in-house commercial activities with 10 FTE's or less—fiscal year 1985]

Activity description	Activity location	Number of FTE's	Date of next review [1]	Reason for continued in-house performance [2]
Office of the Secretary				
Accounting Functions	Washington, DC	5	May 1985	F
Library Operations	....do	9	October 1984	F.
U.S. Coast Guard				
Electronic Maintenance	Base Southwest Harbor, ME	4	NC	
Do	Base South Portland, Me	9	NC	
Do	Group Boston, MA	5	NC	
Do	Station Chatham, MA	6	NC	
Do	Station Castle Hill, RI	7	NC	
Telephone/Teletype Overhaul, Pole Line Maintenance & Cable Overhaul.	Electronics Shop Major (Telephone) Portsmouth, NH	3	NC	
Telephone/Teletype Overhaul, Pole Line & Antenna Maintenance	Electronic Shop Major (Telephone) Cape Code, MA	2	NC	
Data Processing	District Office, Boston, MA	7	NC	
Do	District Office St. Louis, MO	2	NC	
Electronic Maintenance	Group Lower Mississippi River, Memphis, TN	6	NC	
Do	Base St. Louis, MO	6	NC	
Do	Support Center New York, NY	7	NC	
Teletype/Telephone Maintenance	....do	4	NC	
Vehicle Maintenance	....do	9	NC	
Electronics Maintenance	Group Rockaway, NY	10	NC	
Do	Group Shinnecock, NY	10	NC	
Do	Group Sandy Hook, NJ	8	NC	
Data Processing	District Office, New York, NY	6	NC	
Electronics Maintenance	Station New London, CT	7	NC	
Do	Electronic Shop Major (telephone), Cape Hatteras, NC	6	NC	
Do	Support Center Elizabeth City, NC	3	NC	
Equipment Maintenance & Motor Pool Operations	Support Center Portsmouth, VA	6	NC	
Electronics Maintenance	....do	4	NC	
Telephone/Teletype Overhaul & Repairs	....do	7	NC	
Electronics Maintenance	Air Station Elizabeth City, NC	3	NC	
Vehicle Maintenance	Group/Base Fort Macon, NC	2	NC	
Electronics Maintenance	....do	6	NC	
Do	Group Chincoteague, VA	6	NC	
Data Processing	District Office, Portsmouth, VA	3	NC	
Electronics Maintenance	Group/Station St. Petersburg, FL	7	NC	
Do	Group/Base Charleston, SC	5	NC	
Do	Section/Base San Juan, PR	7	NC	
Do	Group/Base Mayport, FL	4	NC	
Do	Group/Station Key West, FL	3	NC	
Data Processing	District Office, Miami, Fl	4	NC	
Vehicle Maintenance	Air Station New Orleans, LA	2	NC	
Electronics Maintenance	Base Mobile, AL	8	NC	
Data Processing	District Office New Orleans, LA	4	NC	
Electronics Maintenance	Group Corpus Christi, TX	2	NC	
Do	Station Destin, FL	2	NC	
Electronic Maintenance	Station Grand Isle, LA	2	NC	
Do	Group Buffalo, NY	10	NC	
Do	Group Duluth, MN	3	NC	
Data Processing	District Office, Cleveland, Ohio	6	NC	
Vehicle Opleration & Maintenance	Base Yerba Buena Island,m CA	2	NC	
Electronics Maintenance	Air Station/Group Humboldt Bay, Arcata, CA	5	NC	
Data Processing	District Office, Long Beach, CA	4	NC	
Electronic Maintenance	Group San Diego, CA	3	NC	
Do	Station Channel Island, CA	2	NC	
Data Processing	District Office, Alameda, Ca	4	NC	
Vehicle Operation & Maintenance	Support Center Alameda, Ca	4	NC	
Electronics Maintenance	Group Portland, OR	2	NC	
Data Processing	District Office, Seattle, WA	2	NC	
Electronics Maintenance	Group Port Angeles, WA	7	NC	
Do	Station Yaquina Bay, OR	2	NC	
Do	Electronics Shop Major (Telephone), Port Angeles,	9	NC	
Do	Station Grays Harbor, WA	2	NC	
Do	Station Cape disappointment, WA	3	NC	
Do	Group North Bend, OR	8	NC	
Do	Electronics Shop Major Telephone), Empire, OR	8	NC	
Data Processing	District Office, Honolulu, Hawaii	6	NC	
Electronics Maintenance	Base Honolulu, HI	5	NC	
Data Processing	District Office Juneau, AK	5	NC	
Electronics Maintenance	Marine Safety Office, Valdez, AK	2	NC	
Do	Marine Safety Office, Juneau, AK	4	NC	

DEPARTMENT OF TRANSPORTATION—Continued

[Inventory of existing in-house commercial activities with 10 FTE's or less—fiscal year 1985]

Activity description	Activity location	Number of FTE's	Date of next review [1]	Reason for continued in-house performance [2]
Do	Base Ketchikan, AK	9	NC	
Garage & Vehicle Maintenance	Support Center Kodiak, Ak	8	NC	
Vehicle Operation & Maintenance	Training Center, Cape May, NJ	5	NC	
Vehicle Maintenance	Academy, New London, CT	6	NC	
Administrative Computing Service	do	8	NC	
Vehicle/Equipment Maintenance	Aviation Training Center, Mobile, AL	4	NC	
Motor Pool & Vehicle Maintenance	Training Center Petaluma, CA	3	NC	
Data Processing	Yard Baltimore, MD	9	NC	
Motor Pool	Reserve Training Center, Yorktown, VA	6	NC	
Electronics Maintenance	do	5	NC	
Data Processing	Supply Center Brooklyn, NY	7	NC	
Federal Aviation Administration				
Carpentry/Painting Services	FAA Technical Center, Atlantic City, NJ	9		E
Research and Special Programs Administration				
Logistics Support: Mailroom	TSC, Cambridge, MA	2		E
Maritime Administration				
Utility Systems Operation & Repair	United States Merchant Marine Academy, Kings Point, New York	5	November 1984	F

DEPARTMENT OF TRANSPORTATION

[Inventory of existing in-house commercial activities with more than 10 FTE's—fiscal year 1985]

Activity description	Activity location	Number of FTE's	Date of next review [1]	Reason for continued in-house performance [2]
Office of the Secretary				
Initial and subsequent distribution	Washington, DC	28	May 1985	F
U.S. Coast Guard				
Electronics maintenance	Base, Woods Hole, MA	13	NC	
Security	Support Center, Boston, MA	14	NC	
Food services	do	11	NC	
Electronic maintenance	Group, Cape May, NJ	17	NC	
Fire fighting service	Support Center, New York, NY	20	NC	
Grounds maintenance	do	20	NC	
Electronics maintenance	Group, Long Island Sound, NY	16	NC	
Security	Support Center, Elizabeth City, NC	13	NC	
Grounds, runways, taxiways & roadways maintenance	do	12	NC	
Vehicle maintenance	do	12	NC	
Electronics maintenance	Group/Base, Miami, FL	20	NC	
Do	Base, New Orleans, LA	14	NC	
Do	Group, Milwaukee, WI	15	NC	
Do	Group, Muskegon, MI	12	NC	
Do	Group, Detroit, MI	18	NC	
Food services	Air Station, San Diego, CA	11	NC	
Electronics maintenance	Base, Terminal Island, CA	12	NC	
Security	Support Center, Alameda, CA	12	NC	
Food service	Base, Yerba Buena Island, CA	16	NC	
Electronic maintenance	do	24	NC	
Do	Communications Station, San Francisco, CA	19	NC	
Do	Group, Seattle, WA	11	NC	
Do	Group, Astoria, OR	18	NC	
Family housing maintenance	Base, Honolulu, HI	18	NC	
Security	Support Center, Kodiak, AK	31	NC	
Fire fighting services	Do	36	NC	
Electronic maintenance	Do	16	NC	
Security	Training Center, Cape May, NJ	12	NC	
Fire fighting services	Do	13	NC	
Grounds maintenance	Station, Alexandria, VA	11	NC	
Security	Training Center, Petaluma, CA	13	NC	
Data processing	Aircraft Repair & Supply Center, Elizabeth City, NC	24	NC	
Grounds maintenance	Reserve Training Center, Yorktown, VA	12	NC	
Fire fighting services	Do	15	NC	
Security	Do	12	NC	
Utility maintenance	U.S. Coast Guard Academy, New London, CT	30	NC	
Grounds maintenance	Do	11	NC	
Federal Aviation Administration				
Level I VFR Air Traffic Control Towers—Operation and Administration.	Various locations throughout the 50 states	135	(NC)	

DEPARTMENT OF TRANSPORTATION—Continued

[Inventory of existing in-house commercial activities with more than 10 FTE's—fiscal year 1985]

Activity description	Activity location	Number of FTE's	Date of next review [1]	Reason for continued in-house performance [2]
Maritime Administration				
General facilities maintenance	United States Merchant Marine Academy, Kings Point, NY	19		F.
Ship preservation and maintenance	James River Reserve Fleet, Fort Eustis, VA	100	November 1984	F.
Do	Beaumont Reserve Fleet, Beaumont, Texas	47	Do	F.
Do	Suisun Bay Reserve Fleet, Benecia, CA	67	Do	F.

See footnotes at end of last table.

DEPARTMENT OF TRANSPORTATION

Inventory of existing in-house commercial activities with 10 FTE'S or less—fiscal year 1986

Activity description	Activity location	Number of FTE'S	Date of next review [1]	Reason for Continued in-house performance [2]
U.S. Coast guard				
Shore station maintenance	Base, Southwest Harbor, ME	9	NC	
Repair, preparation and transport of buoys	Buoy Depot, South Weymouth MA	10	NC	
Building maintenance	Group, Sandy Hook, NJ	4	NC	
Industrial support	Base, Gloucester City, NJ	9	NC	
Building maintenance	Support Center, Portsmouth, VA	7	NC	
Shore unit renovation	do	2	NC	
Building maintenance	Communication Station, Portsmouth, VA	2	NC	
Facility maintenance	Group Baltimore, MD	2	NC	
ATON support	do	7	NC	
Building and structure maintenance	Group/Base Fort Macon, NC	9	NC	
Public Works	Group/Station, St. Petersburg, FL	8	NC	
Do	Group/Base, Mayport, FL	4	NC	
Industrial Support	do	5	NC	
Building maintenance	Base, Mobile, AL	7	NC	
Do	Group, Corpus Christi, TX	3	NC	
Do	Station, Destin, FL	2	NC	
Do	Air Station, New Orleans, LA	3	NC	
Buoy maintenance	Base, Yerba Buena Island, CA	9	NC	
Facility maintenance	Air Station, San Francisco, CA	10	NC	
Building maintenance	Air Station/Group, Humboldt Bay, Arcata, CA	7	NC	
Building maintenance	Group, Monterey, CA	4	NC	
Building/grounds maintenance	Station, Quillayute River, WA	2	NC	
Do	Station, Seattle, WA	2	NC	
Do	Station, Coos Bay, OR	3	NC	
Do	Group, Portland, OR	6	NC	
Do	Station, Umpqua River, OR	2	NC	
Do	Station, Yaquina Bay, OR	2	NC	
Do	Station, Grays Harbor, WA	8	NC	
Do	Station, Cape Disappointment, WA	4	NC	
Do	Station, Tillamock Bay, OR	5	NC	
Do	Group, North Bend, OR	8	NC	
Do	Station, Neah Bay, WA	2	NC	
Equipment/grounds maintenance	Communication Station, Honolulu, HI	7	NC	
Buildings/grounds maintenance	Air Station, Barbers Point, HI	5	NC	
Facility maintenance	Communication Station, Kodiak, AK	5	NC	
Do	Marine Safety Office, Valdez, AK	5	NC	
Building maintenance	Base, Ketchikan, AK	8	NC	
Do	Station, Alexandria, VA	8	NC	
Federal Aviation Administration				
Metal/mechanical services	FAA Technical Center, Atlantic City, NJ	5		E.

See footnotes at end of last table.

DEPARTMENT OF TRANSPORTATION

[Inventory of existing in-house commercial activities with more than 10 FTE's—fiscal year 1986]

Activity description	Activity location	Number of FTE's	Date of next review [1]	Reason for continued in-house performance [2]
U.S. Coast Guard				
Buildings/grounds maintenance	Air Station, Cape Cod, MA	72	NC	—
Do	Support Center, Boston, MA	52	NC	—
Industrial support	Base, St. Louis, MO	14	NC	—
Buoy maintenance	Support Center, New York, NY	13	NC	—
Warehousing	do	11	NC	—
ATON maintenance and fabrication	Support Center, Portsmouth, VA	11	NC	—
Boat overhaul	do	19	NC	—

DEPARTMENT OF TRANSPORTATION—Continued

[Inventory of existing in-house commercial activities with more than 10 FTE's—fiscal year 1986]

Activity description	Activity location	Number of FTE's	Date of next review [1]	Reason for continued in-house performance [2]
Industrial support	Section/Base, San Juan, PR	27	NC	—
Do	Group/Base, Miami, FL	31	NC	—
Do	Base, Mobile, AL	20	NC	—
Do	Base, New Orleans, LA	59	NC	—
Do	Depot, Corpus, Christi, TX	12	NC	—
Do	Base, Terminal Island, CA	19	NC	—
Component maintenance	do	12	NC	—
Facility maintenance	Support Center, Alameda, CA	35	NC	—
Do	Base, Yerba Buena Island, CA	30	NC	—
Do	Communications Station, San Francisco, CA	12	NC	—
Building/grounds maintenance	Group, Astoria, OR	11	NC	—
Do	Group, Port Angeles, WA	12	NC	—
Industrial support	Base, Honolulu, HI	27	NC	—
Building maintenance	Air Station, Sitka, AK	14	NC	—
Do	Air Station, Kodiak, AK	13	NC	—
Industrial support	Base, Ketchikan, AK	34	NC	—
Cutter renovation support	Yard, Baltimore, MD	24	NC	—
Building and utilities maintenance	do	16	NC	—
Utility operation	Training Center, Cape May, NJ	13	NC	—
Food services	do	20	NC	—
Facility maintenance	Training Center, Petaluma, CA	14	NC	—
Aircraft and aircraft component maintenance overhaul, repair, and testing	Aircraft Repair and Supply Center, Elizabeth City, NC	245	NC	—
Food services	Reserve Training Center, Yorktown, VA	24	NC	—
Building maintenance	do	54	NC	—
Warehousing	Supply Center, Brooklyn, NY	58	NC	—
Electronic maintenance	do	53	NC	—
Building maintenance	U.S. Coast Guard Academy, New London, CT	17	NC	—
Food services	do	44	NC	—
Federal Aviation Administration				
Audiovisual products and services	Mike Monroney Aeronautical Center, Oklahoma City, OK	26		E.
Maintenance of special purpose vehicles	do	17		E.

See footnotes at end of last table.

DEPARTMENT OF TRANSPORTATION

[Inventory of existing in-house commercial activities with 10 FTE's or less, fiscal year 1987]

Activity description	Activity location	Number of FTE's	Date of next review [1]	Reason for continued in-house performance [2]
Office of the Secretary				
Motor pool	Washington, DC	4		E.
Self service copy centers	do	5		F.
U.S. Coast Guard				
Print shop	Support Center, New York, NY	3	NC	—
Heavy equipment/vehicle operations	do	2	NC	—
Servmart warehousing operation	do	4	NC	—
Clothing locker operation	do	2	NC	—
Island bus service	do	2	NC	—
Library	do	2	NC	—
Architect engineering services	District Office, New York, NY	4	NC	—
Special Services	Support Center, Elizabeth City, NC	7	NC	—
Do	Support Center, Portsmouth, VA	8	NC	—
Architect-engineering services	District Office, Portsmouth, VA	2	NC	—
Architect-engineering	District Office, Miami, FL	1	NC	—
Photographic processing	do	1	NC	—
Photo processing	District Office, New Orleans, LA	2	NC	—
Court reporting	do	1	NC	—
Do	District Office, Cleveland, OH	1	NC	—
Photo processing	do	1	NC	—
Architect-engineering services	do	4	NC	—
Architect-engineering service	District Office, Long Beach, CA	1	NC	—
Court reporting	Marine Safety Office, Los Angeles/Long Beach, CA	1	NC	—
Public works	Group, San Diego, CA	2	NC	—
Do	Base, Terminal Island, CA	10	NC	—
Photographic processing	District Office, Alameda, CA	1	NC	—
Court reporting	do	4	NC	—
Housing referral and management	do	3	NC	—
Motor pool	Support Center, Alameda, CA	4	NC	—
Mail/messenger service	do	2	NC	—
Recreational service	do	4	NC	—
Bus service	do	2	NC	—
Family housing management	District Office, Seattle, WA	4	NC	—
Photographic processing	do	1	NC	—

DEPARTMENT OF TRANSPORTATION—Continued

[Inventory of existing in-house commercial activities with 10 FTE's or less, fiscal year 1987]

Activity description	Activity location	Number of FTE's	Date of next review [1]	Reason for continued in-house performance [2]
Court reporting	do	3	NC	—
Do	Marine Safety Office, Seattle, WA	1	NC	—
Do	Marine Safety Office, Portland, OR	1	NC	—
Warehousing	Support Center, Seattle, WA	2	NC	—
Architect-engineering service	District Office, Honolulu, HI	5	NC	—
Recreation service	Base, Honolulu, HI	5	NC	—
BEQ maninternance	do	3	NC	—
Shipping and receiving	do	10	NC	—
Graphics service	Support Center, Kodiak, AK	1	NC	—
Mail handling	do	6	NC	—
Recreation and morale service	do	3	NC	—
Bowling alley and ceramic shop	do	3	NC	—
Movie theater	do	2	NC	—
Auto and wood hobby shop	do	4	NC	—
Warehousing, packing and crating	do	8	NC	—
Servmart	do	3	NC	—
Clothing and small stores	do	1	NC	—
Laundry service	do	2	NC	—
Fuel farm	do	6	NC	—
Trash removal	do	1	NC	—
Heavy equipment repair	do	4	NC	—
Barracks maintenance	do	4	NC	—
Architectural engineering services	Training Center, Cape May, NJ	3	NC	—
Photographic processing	do	3	NC	—
Family housing administration	Academy, New London, CT	4	NC	—
Architectural-engineering service	do	8	NC	—
Maintenance and safety service	do	4	NC	—
Logistics support	do	9	NC	—
Property and clothing administration	do	9	NC	—
Athletic trainers	do	3	NC	—
Cadet social activities	do	3	NC	—
Educational media service	do	1	NC	—
Library	do	1	NC	—
Fuel farm operation	Aviation Training Center, Mobile, AL	9	NC	—
Graphic service	Yard, Baltimore, MD	5	NC	—
Requisitions processing	Supply Center, Brooklyn, NY	7	NC	—
Customer service	do	10	NC	—
Small arms repair	do	6	NC	—
Depot level repair support (DLRS)	Station, Alexandria, VA	9	NC	—
Test equipment repair and calibration	do	2	NC	—
Graphics service	do	3	NC	—

See footnotes at end of last table.

DEPARTMENT OF TRANSPORTATION

[Inventory of existing in-house commercial activities with more than 10 FTE's—fiscal year 1987]

Activity description	Activity location	Number of FTE's	Date of next review [1]	Reason for continued in-house performance [2]
U.S. Coast Guard				
Shore station maintenance	Base, South Portland, ME	16	NC	-
Shore station and vessel maintenance	Base, Woods Hole, MA	19	NC	-
Industrial support	Support Center, Boston, MA	47	NC	-
Public works	Support Center, New York, NY	118	NC	-
Industrial support	do	51	NC	-
Buildings and utility systems maintenance	Support Center, Elizabeth City, NC	41	NC	-
Public works	Air Station, Miami, FL	11	NC	-
Do	Air Station, Clearwater, FL	15	NC	-
Do	Air Station, Borinquen, PR	13	NC	-
Do	Group/Base, Miami, FL	13	NC	-
Facility maintenance	Port Safety Station, Houston, TX	11	NC	-
Building maintenance	Base, Galveston, TX	11	NC	-
Architect engineering services	District Office, New Orleans, LA	20	NC	-
Industrial support	Base, Yerba Buena Island, CA	30	NC	-
Architect engineering service	District Office, Alameda, CA	16	NC	-
Building maintenance	Support Center, Seattle, WA	17	NC	-
Buoy maintenance	Base, Astoria, OR	19	NC	-
Facility maintenance	Base, Honolulu, HI	16	NC	-
Architect engineering services	District Office, Juneau, AK	13	NC	-
Facility maintenance	Support Center, Kodiak, AK	64	NC	-
Ship construction and repair—structural, mechanical, electrical, electronic, ordnance, and materials handling work	Yard, Baltimore, MD	530	NC	-
Building/grounds maintenance	Training Center, Cape May, NJ	48	NC	-
Building and vehicle maintenance	Aviation Training Center, Mobile, AL	13	NC	-

See footnotes at end of last table.

DEPARTMENT OF TRANSPORTATION

(Inventory of existing in-house commercial activities with 10 FTE's or less—fiscal year 1988)

Activity description	Activity location	Number of FTE's	Date of next review [1]	Reason for continued in-house performance [2]
Research and Special Programs Administration				
Facilities (MROF)	TSC, Cambridge, MA	10		E.

[1] Indicates noncost review will be conducted to determine: (1) If in-house performance will be continued, based on national defense, no commercial sources available or program disruption, (2) if a cost study will be performed, or (3) if activity will be converted directly to contract. Where no schedule date of next review is provided it is to be established at a latter time.

[2] A Indicates that the activity has been exempted by the Secretary of Defense for national defense reasons.
B Indicates that there is no satisfactory commercial source capable of providing the product or service needed.
C Indicates procurement of a product or service from a commercial source would cause an unacceptable delay or disruption of an essential program.
D Indicates activity is performed at Government hospital and, in the best interests of direct patient care, is being retained in-house.
E Indicates that based on a cost study the Government is providing the product or service at a lower total cost than if it were acquired from a commercial source.
F Indicates function is being performed in-house now, but decision to continue in-house or contract is pending the results of a scheduled cost comparison analysis. Where no schedule date of next review is provided it is to be established at a latter time.
G Indicates function is being performed in-house now, but will be converted to contract because of cost comparison analysis results.
H Indicates function is being performed in-house now, but a decision has been made to convert to contract under a non-competitive source preferential procurement program, or in accordance with procedures for 10 or less FTE's, or under waiver of cost study for more than 10 FTE's

[FR Doc. 84-25635 Filed 9-27-84; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Solicitation of Comment on the National Airspace System, (NAS) Requirements Document

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Draft National Airspace System (NAS) Operational Requirements Document availability and request for comments.

SUMMARY: A draft NAS Operational Requirements Document has been prepared by the FAA which contains the operational requirements to be satisfied by the National Airspace System Plan. The Opreational Requirements Document is one of several documents designed to guide the FAA in their efforts to accomplish a major upgrade of the NAS which satisfies the needs of the users and the FAA.

The FAA will hold a public meeting to introduce the Operational Requirements Document, to provide insight into its background, purpose, and scope, and to answer any questions presented by attendees. Attendees will be provided a copy of the document at the meeting and will be requested to forward their initial comments to the FAA by November 16, 1984.

DATE: The meeting will be held on October 18, 1984, starting promptly at 1:00 pm. until 4:00 pm.

ADDRESS: The meeting is to be held in the Federal Aviation Administration Building, 800 Independence Avenue, SW, Washington, D.C., in the Third Floor Auditorium. Comments on the draft should be sent to: Federal Aviation Administration, ATTN: AES-210, 800 Independence Avenue, SW, Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Mr. John M. Fugett, Requirements Identification & Analysis Program, AES-210, 800 Independence Avenue, SW, Washington, D.C. 20591. Commercial telephone (202) 755-9397 or FTS 755-9397.

Issued in Washington, D.C., September 20, 1984.

Lee Page,

Director, Systems Engineering Service.

[FR Doc. 84-25746 Filed 9-27-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: September 24, 1984.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980. Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7225, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0030
Form Number: ATF F 4483A (5300.11)
Type of Review: Extension
Title: Quarterly Firearms Manufacturing and Exportation Report

OMB Number: 1512-0105
Form Number: ATF F 2052 (5120.37)
Type of Review: Existing Regulation
Title: Pre-payment Wine Tax Return

Clearance Officer: Howard Hood (202) 566-7077 Bureau of Alcohol, Tobacco and Firearms Room 2228, Federal Building 1200 Pennsylvania Avenue, NW. Washington, D.C. 20226

OMB Reviewer: Milo Sunderhauf (202) 395-6880 Office of Management and Budget Room 3208, New Executive Office Building Washington, D.C. 20503

Joseph F. Maty,

Departmental Reports, Management Office.

[FR Doc. 84-25782 Filed 9-27-84; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: September 25, 1984.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7225, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545-0228
Form Number: IRS Form 6252
Type of Review: Revision

Title: Computation of Installment Sale Income
OMB Number: 1545–0165
Form Number: IRS Form 4224
Type of Review: Extension
Title: Exemption from Withholding of Tax on Income Effectively Connected with the Conduct of a Trade or Business in the United States.
OMB Number: 1545–0092
Form Number: IRS Form and Related Schedules—Schedules D, J, K–1
Type of Review: Revision
Title: U.S. Fiduciary Income Tax Return, Capital Gains and Losses, Trust Allocation of an Accumulation Distribution, Beneficiary's Share of Income, Deductions, Credits, Etc.
OMB Number: New
Form Number: IRS Form 8281
Type of Review: New Collection
Title: Information Return for Publicly Offered Original Issue Discount Obligations

Clearance Officer: Garrick Shear (202) 566–6254, Room 5571, 1111 Constitution Avenue, NW. Washington, D.C. 20224

OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Joseph F. Maty,

Departmental Reports, Management Officer.

[FR Doc. 84–25783 Filed 9–27–84; 8:45 am]

BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 190
Friday, September 28, 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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	Items
Federal Maritime Commission	1
National Mediation Board	2

1

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m.—October 3, 1984.

PLACE: Hearing Room One—1100 L Street, NW., Washington, D.C. 20573.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Agreement No. 203–010633: Establishment of a corporation between Flota Mercante Grancolombiana and Andino Chemical Shipping Co. to transport liquid bulk cargoes between the United States and Colombia.

2. Agreements Nos. 202–005850–041, et al.: Merger of Westbound Conferences and Eastbound Conferences in the North Atlantic trades.

3. Petition of Ivaran Lines for relief under section 19 of the Merchant Marine Act of 1920 concerning conditions in the United States/Argentina trades.

4. Docket No. 83–50: Jacksonville Maritime Associations, Inc, Amoco Transport Company, and McGiffin and Company, Inc. v. The City of Jacksonville—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

Francis C. Hurney,

Secretary.

[FR Doc. 84–25920 Filed 9–26–84; 11:44 am]

BILLING CODE 6730–01–M

2

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Tuesday, October 9, 1984.

PLACE: Board Hearing Room 8th Floor, 1425 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of September, 1984.

2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary, Tel: (202) 523–5920.

DATE OF NOTICE: September 25, 1984.

Rowland K. Quinn, Jr.,

Executive Secretary, National Mediation Board.

[FR Doc. 84–25867 Filed 9–26–84; 9:33 am]

BILLING CODE 7550–01–M

federal register

Friday
September 28, 1984

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions; Notice

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Orders 9–83, 48 FR 35736 (1983), and 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Order 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Program Operations, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arkansas:	
AR84–4090	Jan. 13, 1984.
AR84–4091	Do.
AR84–4092	Do.
AR84–4093	Do.
California:	
CA84–5001	Mar. 30, 1984.
CA84–5007	May 18, 1984.
Kansas:	
KS84–4052	Aug. 24, 1984.
KS84–4051	Do.
Massachusetts: MA84–3007	Apr. 6, 1984.
Michigan:	
MI83–2020	Mar. 18, 1983.
MI83–2015	Mar. 11, 1983.
North Dakota: ND81–5131	July 6, 1981.
Oklahoma:	
OK84–4049	Sept. 7, 1984.
OK84–4050	Do.
Tennessee: TN83–1087	Nov. 25, 1983.
Utah: UT83–5120	Sept. 30, 1983.
Wisconsin: WI83–2078	Oct. 7, 1983.
West Virginia WV83–3022	Nov. 18, 1983.

Supersedeas Decision to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the number of the decisions being superseded.

Florida: FL83–1021 (FL84–3038)	Apr. 15, 1983.
Louisiana: LA84–4010 (LA84–4055)	Mar. 9, 1984.
Vermont: VT82–3003 (VT84–3029)	Jan. 22, 1982.
Wisconsin: WI83–2085 (WI84–5037)	Oct. 28, 1983.

Signed at Washington, D.C., this 21st day of September 1984.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510–27–M

	Basic Hourly Rates	Fringe Benefits
DECISION NO. AR84-4090 - MOD. #6 (49 FR 1844 - January 13, 1984) Garland, Clark and Hot Spring Counties, Arkansas		
CHANGE:		
Lineman	$16.00	$3-3/4%
Cable Splicer	16.125	3-3/4%
Truck Drivers with winch	80%JR	3-3/4%
Groundman, Truck Drivers (flat bed)	64%JR	3-3/4%
Boilermakers	16.125	2.95
DECISION NO. AR84-4091 - MOD. #6 (49 FR 1845 - January 13, 1984) Union and Ouachita Counties, Arkansas		
CHANGE:		
Boilermakers	$16.125	$2.95
DECISION NO. AR84-4092 - MOD. #8 (49 FR 1846 - January 13, 1984) Sebastian, Crawford, & Washington Counties, Arkansas		
CHANGE:		
Sebastian and Crawford Counties:		
Boilermakers	$16.125	$2.95
DECISION NO. AR84-4093 - MOD. #7 (49 FR 1847 - January 13, 1984) Pulaski and Jefferson Counties, Arkansas		
CHANGE:		
Boilermakers	$16.125	$2.95
DECISION NO. KS84-4052 - MOD. #1 (49 FR 33780 - August 24, 1984) Sedgwick County, Kansas		
CHANGE:		
Elevator Constructors	$13.845	$4.00
Elevator Constructors' Helpers	9.69	
DECISION NO. KS84-4051 - MOD. #1 (49 FR 33782 - August 24, 1984) Shawnee County, Kansas		
CHANGE:		
SHEET METAL WORKERS	$14.68	$3.10+ 3%

	Basic Hourly Rates	Fringe Benefits
DECISION #CA84-5001 - Mod. #6 (49 FR 12873 - March 30, 1984) Alameda, Alpine, Amador, Butte, Calaveras Counties, California		
Change:		
Steamfitters:		
Area 1	$29.16	$4.92
DECISION #CA84-5007 - - Mod. #6 (49 FR 21245 - May 18, 1984) Imperial, Inyo, Kern, etc., Counties, California		
Change:		
Plumbers; Steamfitters:		
Area 1	$21.24	$8.42

	Basic Hourly Rates	Fringe Benefits
DECISION NO. MA84-3007 MOD. NO. 3 (49 FR 13804 - April 6, 1984) Berkshire, Franklin, Hampden, and Hampshire Counties, Massachusetts		
CHANGE:		
Boilermakers	$18.16	3.691
Carpenter, Soft floor layers;		
Drywall Carpenters:		
Area 2	15.91	4.25
Electricians		
Area 3	16.33	3%+3.78
Elevetar Constructors	16.56	3.29+ a+b
Elevator Constructors Helpers	11.59	3.29+ a+b
Elevator Constructors Helpers (Prob)	8.28	
Ironworkers		
Area 1	15.75	5.82
Area 2:		
Building, Heavy and Highway	14.90	3.99
Residential (4 stories or less)	11.18	3.99

	Basic Hourly Rates	Fringe Benefits
DECISION NO. WV83-3022 - MOD. #12 (48 FR 52547 - November 18, 1983) Statewide West Virginia excluding the counties of Berkley, Jefferson and Morgan		
CHANGE:		
AREA 3:		
Carpenters	$15.76	3.53 + 3%
Piledrivers	16.14	28%

MODIFICATIONS P. 3

DECISION NO. MI83-2020 - Mod.#4
(48 FR 11615 - March 18, 1983)
Genesee, Huron, Lapeer, Saginaw, St. Clair, Sanilac, and Shiawassee Counties, Michigan

	Basic Hourly Rates	Fringe Benefits
Change:		
Carpenters & Soft Floor Layers:		
St. Clair County, & Sanilac County (Remainder of County):		
Carpenters	$15.50	$5.11
Soft Floor Layers	15.07	1.80+8%
Huron and Saginaw Counties, & Sanilac County (West 5 mile portion of County):		
Carpenters	10.41	1.90
Soft Floor Layer	10.42	2.11

DECISION NO. MI83-2015 - Mod. #4
(48 FR 10579 - March 11, 1983)
Allegan, Barry, Berrien, etc., Counties, Michigan

	Basic Hourly Rates	Fringe Benefits
Change:		
Carpenters, Piledrivermen, & Soft Floor Layers:		
Jackson & Lenawee Counties	$12.99	$2.15

DECISION NO. ND81-5131 - Mod. #10
(46 FR 35008 - July 6, 1981)
Burleigh, Cass, Grand Forks, Morton, Richland, Steele, Traill, Walsh and Ward Counties, North Dakota

	Basic Hourly Rates	Fringe Benefits
Change:		
Ironworkers:		
Structural, Ornamental and Reinforcing	$14.63	$ 3.16

DECISION NO. UT83-5120 - Mod. #8
(48 FR 44992 - September 30, 1983)
Statewide, Utah

	Basic Hourly Rates	Fringe Benefits
Change:		
ELECTRICIANS:		
Cable Splicers in Modification No.4, published in the Federal Register dated 3-23-84, Vol. 49, No. 58, Page 11061 to read:		
ELECTRICIANS:		
Area 1:		
Zone 4:		
Cable Splicers	$20.30	$2.00+ 3-8/10%

MODIFICATIONS P. 4

DECISION #OK84-4049 - MOD. #2
(49 FR 35473 - September 7, 1984
Adair, Atoka, Bryan, Coal, Cherokee, Craig, Creek, Delaware, Haskell, Hughes, Leflore, Latimer, McIntosh, Mayes, Muskogee, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Pittsburg, Pushmataha, rogers, Tulsa, Sequoyah, Wagoner, and Washington Cos., Oklahoma

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters Area VI	$12.19	1.72
Millwrights and Piledrivers	12.69	1.72
Elevator Constructors:		
Area II		
Journeymen	15.43	3.00
Helpers	10.80	3.00
Prob. Helpers	7.715	

DECISION NO. OK84-4050 - (49 FR 35477 - Sept. 7, 1984)
Alfalfa, Beckham, Blaine, Caddo, Canadian, Carter, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Lincoln, Logan, Love, McClain, Major, Marshall, Murray, Noble, Oklahoma, Payne, Pontotoc, Roger Mills, Pottawatomie, Seminole, Stephens, Tillman, Washita, Woods, & Wood ward Cos., Oklahoma

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Area VII		
Carpenters	12.40	1.67
Millwrights	12.90	1.67

DECISION NO. OK84-4050 (CONT'D)

	Basic Hourly Rates	Fringe Benefits
Area VII (Cont'd)		
Piledrivers	12.90	1.67
Power Saw Operator	12.75	1.67
Elevator Constructors:		
Journeymen-Mechanic	15.43	3.00
Helpers	10.80	3.00
Probationary Helpers	7.715	

DECISION NO. TN83-1087 Mod # 7 (48 FR 53270 - November 25, 1983)	Basic Hourly Rates	Fringe Benefits
Hamilton, Marion, Polk & Rhea Counties, Tennessee		
CHANGE:		
IRONWORKERS:		
Commercial *(See scope of work):		
Ironworker/Rodman	$ 12.00	2.45
Light Steel Buildings * (See scope of work):		
Metal Building Erector	10.50	2.45
Maintenance Work (Any work performed of a renovation, replacement, repair or maintenance charactor within the limits of plant property or other locations related therein.:		
Ironworker	11.20	2.45
All Other Building Work & Heavy Construction - Hamilton County	13.05	2.45

*SCOPE OF WORK
IRONWORKERS:
Commercial - All work on two story or less structures as listed below: Service Stations, Thrift Stores, Convenience Stores, State Parks, Car Washes, Two Story Office Bldgs., School Work (except new schools), Resturants, Branch Banks, Storage Warehouses, Churches.
Light Steel Buildings - All work involved in handling assembly erection & installation required to construct & erect all mass produced, specially designed pre-engineered &/or pre-fabricated light steel

DECISION NO. TN83-1087 Mod # 7 (Cont'd)	Basic Hourly Rates	Fringe Benefits
*SCOPE OF WORK IRONWORKERS: Light Steel Buildings (Cont'd) - buildings and their component parts. 1) All work in connection with wire mesh 2) Unloading, handling, placing & tying of all rebar.		

DECISION #WI83-2078-MOD #6 (48 FR 45919-October 7, 1983) Columbia, Dane, Iowa, and Sauk Counties, Wisconsin	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$17.345	3.25
Elevator Constructor:		
Constructors	15.88	3.00
Helpers	11.12	3.00
Helpers (Prob)	7.94	-
Ironworkers	14.08	3.00
Line Construction:		
Lineman	16.09	1.00+ 9⅓%
Heavy Equipment Op.	14.48	1.00 + 9⅓%
Light Equipment Op.	12.87	1.00 + 9⅓%
Heavy Groundman Truck-driver	11.26	1.00 + 9⅓%
Light Groundman Truck-driver	10.46	1.00 + 9⅓%
Groundman	8.85	1.00 + 9⅓%
Sheet metal workers Columbia Dane and Iowa Counties	17.47	3.24
Power Equipment Operators:		
Group 1	15.72	3.42
Group 2	15.22	3.42
Group 3	14.44	3.42
Group 4	13.88	3.42
Group 5	13.40	3.42

DECISION NO. WI83-2078
(Cont'd)

POWER EQUIPMENT OPERATORS (Classifications)

Group 1: Cranes,shovels, draglines, backhoes, clamshells, derricks, caisson rigs, pile driver, skid rigs, dredge operator and traveling crane (bridge type), concrete paver (over 27E), concrete spreader and distributor.

Group 2: Concrete and grout pumps, material hoists, stack hoists, tractor or truck mounted hydraulic backhoe, tractor or truck mounted hydraulic crane (10 tons or under), manhoists, tractor (over 40 h.p.), bulldozer (over 40 h.p.), endloader (over 40 h.p.), motor patrol, scraper operator, sideboom, straddle carrier, mechanic and welder, bituminous plant and paver operator, roller (over 5 tons), rail level-machine (railroad), tie placer, tie extractor, tie tamper, stone leveler, rotary drill operator and blaster, percussion drilling machine, trencher (wheel type or chain type having over 8-inch bucket), elevator.

Group 3: Backfiller, concrete auto breaker (large), concrete finishing machines (road type), roller (rubber tire), concrete batch hopper, concrete mixers (14S or over), screw type pumps, and gypsum pumps, tractor, bulldozer, endloader (under 40 h.p.), pumps (well points), trencher (chain type having bucket 8- inch and under), industrial locomotives, roller (under 5 tons) and fireman (pile drivers and derricks), hoists (automatic), forklift (over 12'), tampers-compactors (riding type), assistant engineer, "A" frames and winch trucks, concrete auto breaker, hydrohammers (small), brooms and sweeper, hoists (tuggers), stump chipper (large), boats (tug, safety, work barges and launch).

Group 4: Shouldering machine operator, screed operator, farm or industrial tractor mounted equipment, post hole digger, stone crushers and screening plants, fireman (asphalt plants), air compressor (400 CFM or over), augers (vertical and horizontal), air, electric, hydraulic jacks (slip form), prestress machines, skid steer loader, boiler operators (temporary heat), forklift (12' and under).

Group 5: Generators over 150 KW, pumps over 3" combination small equipment operator: compressors (under 400 CFM), welding machines, heaters (mechanical), generators (under 150 KW), pumps (3" and under), winches (small electric), oiler and greaser, conveyor.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

STATE: FLORIDA COUNTIES: MARTIN & PALM BEACH
DECISION NO.: FL84-3038 DATE: DATE OF PUBLICATION
Supersedes Decision No.: FL83-1021 dated April 15, 1983 in 48 FR 16402.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments of four stories or less).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	17.73	3.11
BOILERMAKERS	17.70	3.315
BRICKLAYERS: Bricklayers, Cement Masons, Marble Setters, Plasterers, Stonemasons, Tile and Terrazzo Workers	14.95	1.39
CARPENTERS & SOFT FLOOR LAYERS	13.55	1.53
ELECTRICIANS:		
Wireman	15.63	21%
Cable Splicers	17.19	21%
ELEVATOR CONSTRUCTORS:		
Mechanics	17.20	3.00+a
Helpers	12.04	3.00+a
Probationary Helpers	8.60	
GLAZIERS	15.42	1.75
IRONWORKERS	13.80	2.03
LABORERS:		
a. Permit Value $500,000 & over:		
Air Tool Oper., Mason Tenders, Mortar Mixers, & Pipelayers	10.20	2.01
Plasterers Tenders	10.38	2.01
Unskilled Laborers	10.10	2.01
b. Permit Value up to $500,000		
Air Tool Oper., Mason Tenders, Mortar Mixers, Pipelayers	8.50	2.01
Plasterers Tenders	8.68	2.01
Unskilled Laborers	8.40	2.01
LATHERS	9.73	.125
LINEMEN:		
Heavy Equipment Operators & Linemen	16.04	.45+ 9.75%
Winch Truck Operator	12.76	.45+ 9.75%
Cable Splicers	16.34	.45+ 9.75%
Truck Drivers	10.31	.45+ 9.75%
Groundmen	8.52	.45+ 9.75%
MILLWRIGHTS	14.02	2.10
PAINTERS:		
Brush	10.53	1.55
Paperhanger, Roller Spray, Taper	10.78	1.55
	11.03	1.55
PILEDRIVERS	14.10	2.60
PLUMBERS:		
a. Commercial-51 or more plbg. fixtures, w/41 or more tons	13.97	3.31
b. Commercial-50 or less plbg. fixtures, w/40 or less tons A/C.	12.65	3.31
c. Industrial-All manufacturing & processing plants	18.61	3.46
ROOFERS	11.00	1.10
SHEET METAL WORKERS	13.95	1.68
SPRINKLER FITTERS	16.15	3.33
WELDERS - Rate for craft to which the welding is incidental.		
POWER EQUIPMENT OPERATORS:		
Group I	15.00	1.96
Group II	14.85	1.96
Group III	14.35	1.96
Group IV	13.90	1.96
Group V	13.75	1.96
Group VI	13.40	1.96
Group VII	13.15	1.96
Group VIII	13.05	1.96
Group IX	12.10	1.96

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

FOOTNOTE: a. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for Employees who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for Employee who has worked in business less than 5 years.

POWER EQUIPMENT OPERATORS--Classification Definitions:

Group I-All tower cranes(must have 2 operators;mobile,rail,climbers, static mount),cranes with boom length 250 ft. & over(with or without jib), derricks, helicopters, all types of flying cranes & all nuclear powered equipment, single station hydro cranes over 18 tons, but not more than 50 tons, finish grader.

Group II-All cranes with boom length 150 ft and over (with or without jib; friction, hydro, electric, or otherwise), cranes 150 tons & over with boom length less than 250 ft., gantry & overhead cranes.

Group III-Cranes with boom length less than 150 ft (with or without jib), single station hydro cranes 18 tons & under, single station hydro cranes over 50 tons, dual station hydro cranes,clam shell, shovel, backhoe, gradall, dragline, piledriver,drilling of piling, tugger (all types), mechanic, sideboom, or tractor boom, concrete mixer, cableway.

Group IV-Boring & Drilling Machine,concrete pumping machine (all types), batching plant (on job sites), inside elevator, forklift(with vertical lift of over 20 ft).

Group V-Locomotive operator,motor mixing pump (all types),winch truck, A-frame truck, grease truck operator, front end loader, bulldozer, pan, motor grader, forklift

Group VI-Trenching & ditching machine, roller, fireman, distributor, (bituminous), finish machine (paving), wellpoint system(installation & or operation), siphon, vacuum pump, tractor,conveyor.

Group VII-Utility Operator (any combination of equipment up to and including 4 pieces of equipment listed in Group VIII), welding machines (3-4).

Group VIII-Pump(s) or any combination over 2 1/2 inch, compressors or any combination over 125 CFM, generator (s) or any combination over 5 KW.

Group IX-Oiler, fuel truck driver, mechanical helper, boom hauling truck driver, lowboy truck driver.

SUPERSEDEAS DECISION

STATE: Louisiana PARISH: Statewide
DECISION NO.: LA84-4055 DATE: Date of Publication
Supersedes Decision No. LA84-4010, dated March 9, 1984 in 49 FR 9064.
DESCRIPTION OF WORK: Building projects (does not include single family homes & apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
ZONE 1	19.145	2.335
ZONE 2	16.71	2.94
ZONE 3	16.10	3.02
ZONE 4	14.34	1.95
BOILERMAKERS	16.125	2.95
BRICKLAYERS & STONEMASONS:		
ZONE 1	12.50	2.26
ZONE 2	13.22	1.90
ZONE 3	13.67	2.32
ZONE 4	14.50	2.04
ZONE 5	13.75	
ZONE 6	12.30	1.70
ZONE 7	14.10	.30
ZONE 8	14.15	.75
ZONE 9	14.50	
ZONE 10	13.00	
CARPENTERS:		
ZONE 1:		
Carpenters	13.25	.60
Millwrights	13.97	.60
Piledrivermen	14.15	.60
ZONE 2:		
Carpenters, Piledrivermen & Soft Floor Layers	13.19	1.60
Millwrights	15.46	.07
ZONE 3:		
Carpenters & Drywall	13.25	2.50
Millwrights	13.95	2.50
Piledrivermen	13.65	2.50
ZONE 4:		
Carpenters & Piledrivermen	13.50	1.96
Millwrights	19.775	1%
ZONE 5:		
Carpenters & Soft Floor Layers	14.76	2.60
Millwrights	15.15	2.60
Piledrivermen	14.86	2.60
ZONE 6:		
Carpenters & Soft Floor Layers	14.60	2.60
Millwrights	15.15	2.60
Piledrivermen	14.86	2.60
CARPENTERS (CONT'D):		
ZONE 7:		
Carpenters & Soft Floor Layers	13.35	
Millwrights	14.10	
Piledrivermen	13.85	
ZONE 8:		
Carpenters & Soft Floor Layers	12.00	1.78
Millwrights	12.75	1.78
Piledrivermen	12.25	1.78
ZONE 9:		
Carpenters & Soft Floor Layers	12.30	1.85
Millwrights	13.20	1.85
Piledrivermen	12.80	1.85
ZONE 10:		
Carpenters, Piledrivermen, Soft Floor Layers	9.90	1.60
Millwrights	15.46	.07
CEMENT MASONS:		
ZONE 1	15.07	.05
ZONE 2	13.42	
ZONE 3	12.65	1.70
ZONE 4	14.21	1.68
ZONE 5	13.75	
ZONE 6	10.50	
ZONE 7	12.10	.85
ZONE 8	12.65	.75
ZONE 9	11.90	.30
ELECTRICIANS:		
ZONE 1: Electricians	17.64	13.30%+5/10%
Cable Splicers	17.89	"
ZONE 2: Electricians	15.90	1.02+3%
Cable Splicers	16.40	"
ZONE 3: Electricians	17.70	2.00+3-5/10%
Cable Splicers	18.20	"
ZONE 4: Electricians	18.10	.70+3-2/10%
Cable Splicers	18.35	"
ZONE 5: Electricians	16.15	1.68+9%
Cable Splicers	16.15	"

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	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS (CONT'D):		
ZONE 6: Electricians	16.15	1.15+ 3.5%
Cable Splicers	16.65	1.15+ 3.5%
ZONE 7: Electricians	15.25	2.40+4%
Cable Splicers	15.75	2.40+4%
ZONE 8: Electricians	15.28	.80+ 3.5%
Cable Splicers	15.53	"
ELEVATOR CONSTRUCTORS:		
ZONE 1: Mechanics	14.82	3.00+a
Helpers	70%JR	3.00+a
Helpers (Prob.)	50%JR	
ZONE 2: Mechanics	13.03	3.00+a
Helpers	70%JR	3.00+a
Helpers (Prob.)	50%JR	
GLAZIERS:		
ZONE 1	15.25	.02+b
ZONE 2	13.25	.01
ZONE 3	16.62	1.41
ZONE 4	9.88	.34
ZONE 5	10.99	
IRONWORKERS:		
ZONE 1	15.00	2.43
ZONE 2:		
Rodmen	11.04	2.55
All other classifications	12.29	2.55
ZONE 3:		
Rodmen	9.94	2.55
All other classifications	11.04	2.55
ZONE 4:		
Rodmen	10.75	2.55
All other classifications	12.25	2.55
ZONE 5:		
Rodmen	10.79	2.51
All other classifications	12.29	2.51
ZONE 6:		
Rodmen	9.00	2.29
All other classifications	12.51	2.29
ZONE 7:		
Ironworkers erecting structural steel on bldgs. 6 stories & over	14.82	2.42
All other work	13.10	2.42
LABORERS:		
ZONE 1:		
Group 1	7.20	.30
Group 2	7.40	.30
Group 3	7.45	.30
LABORERS (CONT'D):		
ZONE 2:		
Group 1	8.92	.80
Group 2	9.12	.80
ZONE 3	9.85	1.04
ZONE 4	7.40	1.04
ZONE 5:		
Group 1	11.67	.85
Group 2	11.77	.85
Group 3	11.82	.85
ZONE 6:		
Group 1	11.27	.85
Group 2	11.37	.85
Group 3	11.42	.85
ZONE 7:		
Group 1	10.89	1.08
Group 2	10.99	1.08
Group 3	11.09	1.08
Group 4	11.05	1.08
Group 5	11.15	1.08
ZONE 8:		
Group 1	10.57	1.08
Group 2	10.72	1.08
Group 3	10.77	1.08
ZONE 9:		
Projects $2,000.000.00 & less:		
Group 1	6.78	.80
Group 2	6.98	.80
Group 3	7.03	.80
Group 4	7.08	.80
Group 5	7.43	.80
Projects over $2,000.000.00:		
Group 1	8.11	.80
Group 2	8.31	.80
Group 3	8.36	.80
Group 4	8.41	.80
Group 5	8.76	.80
ZONE 10:		
Group 1	8.90	.80
Group 2	9.00	.80
Group 3	9.05	.80
Group 4	9.10	.80
ZONE 11:		
Group 1	8.45	.80
Group 2	8.60	.80
Group 3	8.75	.80

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	Basic Hourly Rates	Fringe Benefits
LATHERS:		
ZONE 1	14.78	2.30
ZONE 2	15.70	1.86
ZONE 3	13.25	.60
ZONE 4	13.19	1.60
ZONE 5	9.90	1.60
ZONE 6	12.50	1.78
ZONE 7	13.35	
ZONE 8	12.30	1.85
LINE CONSTRUCTION:		
ZONE 1:		
Linemen	16.15	1.68+9%
Hole digging equip.; tractor w/winch & derrick; line truck w/winch & derrick working hot lines	75%JR	1.68+9%
Pole truck & trailer or pole hauling & setting truck (not energized lines)	65%JR	1.68+9%
Truck w/o winch	45%JR	1.68+9%
Groundmen	50%JR	1.68+9%
ZONE 2:		
Linemen	17.64	13.30% +5/10%
Cable Splicers	17.89	13.30% +5/10%
Heavy equipment ops.	75%JR	13.30% +5/10%
Truck Drivers & Groundmen	45%JR	13.30% +5/10%
ZONE 3:		
Linemen, equipment opr.	17.70	2.00+ 3-1/10%
Cable Splicers	18.20	2.00+ 3-1/10%
Groundmen	15.70	2.00+ 3-1/10%
ZONE 4:		
Linemen, equipment opr.	14.60	.70+3%
Cable Splicers	14.85	.70+3%
Groundmen	50%JR	.70+3%
ZONE 5:		
Linemen, equipment opr.	15.36	3.5%
Cable Splicers	15.61	3.5%
Groundmen	40%JR	3.5%
ZONE 6:		
Linemen, equipment oprs.	16.15	1.15+ 3.5%
Cable Splicers	16.65	1.15+ 3.5%
Groundmen	4.19	1.15+ 3.5%
LINE CONSTRUCTION (CONT'D)		
ZONE 7		
Linemen, Operators	15.25	2.40+ 3-3/4%
Cable Splicers	15.75	2.40+ 3-3/4%
Groundmen	12.65	2.40+ 3-3/4%
MARBLE, TILE & TERRAZZO WORKERS & FINISHERS:		
ZONE 1:		
Marble Setters	14.50	2.04
Tile & Terrazzo Workers	14.65	.70
Marble, Tile & Terrazzo Finishers	10.60	1.15
ZONE 2:		
Marble & Terrazzo Workers	13.67	2.32
Tile Setters	15.07	1.70
ZONE 3:		
Marble Setters	14.50	
Terrazzo Workers	11.65	
ZONE 4:		
Marble, Tile & Terrazzo Workers	12.85	.75
ZONE 5:		
Marble, Tile & Terrazzo Workers	10.95	.85
ZONE 6:		
Marble,Tile & Terrazzo Workers	17.25	
Marble, Tile & Terrazzo Finishers	10.60	1.15
ZONE 7:		
Tile Setters	13.75	
Tile Finishers	10.60	1.15
PAINTERS:		
ZONE 1:		
Work on apartments over 4 stories	11.70	.60
All other work	14.00	.60
ZONE 2:		
Group 1	10.75	1.38
Group 2	11.00	1.38
Group 3	10.00	1.38
ZONE 3:		
Group 1	13.235	2.115
Group 2	13.61	2.115
Group 3	15.535	2.115

	Basic Hourly Rates	Fringe Benefits
PAINTERS (CONT'D):		
ZONE 4:		
Group 1	10.99	
Group 2	11.43	
Group 3	11.12	
Group 4	12.25	
Group 5	12.59	
Group 6	11.09	
Group 7	11.33	
ZONE 5:		
Painters, tape & pointing, drywall & paperhanger	10.50	1.10
ZONE 6:		
Group 1	10.05	
Group 2	10.55	
Group 3	11.05	
ZONE 7:		
Painters	10.85	.83
Industrial	11.00	1.38
PLASTERS:		
ZONE 1	13.20	
ZONE 2	14.25	.01
ZONE 3	14.20	
ZONE 4	16.40	.01
ZONE 5	12.08	1.58
ZONE 6	11.00	.01
ZONE 7	12.10	.85
ZONE 8	14.15	.75
ZONE 9	14.10	.30
PLUMBERS & PIPEFITTERS:		
ZONE 1	16.80	2.43
ZONE 2	13.42	2.58
ZONE 3:		
Journeymen: Contracts containing $75,000.00 or less of plumbing work & 50 tons of air conditioning/refrigeration or less (excluding chilled water systems & all work on industrial jobsites	10.00	2.70
All other work	15.25	2.70
Helpers (exterior sewer & all related work including bell holding & cramming, cutting holes,unloading & loading of materials, equipment & tools to & from jobsites & distribution & stock piling of same, dismantling, erecting & dismembering scaffolding, general clean up of site:		
Contracts containing $75,000.00 or less plumbing work & 50 tons of air conditioning/refrigeration or less (excluding chilled water systems & all work on industrial jobsites	4.50	
All other work	4.575	.03
ZONE 4	15.19	3.14
ZONE 5	17.98	3.00
ZONE 6:		
Journeymen	15.05	2.15
Helpers (exterior sewer & all related work including bell holding & cramming, cutting holes unloading & loading of materials, equipment & tools to & from jobsite & distribution & stock piling of same, dismantling, erecting & dismembering scaffold, general clean up of site	4.515	.03
POWER EQUIPMENT OPERATORS:		
ZONE 1 - GROUP 1	13.25	2.20
GROUP 2	11.42	2.20
GROUP 3	10.07	2.20
GROUP 4	9.57	2.20
GROUP 5	10.81	2.20
GROUP 6	12.00	2.20
ZONES 2,3 & 4-GROUP 1	9.55	2.20
GROUP 2	10.58	2.20
GROUP 3	10.68	2.20
GROUP 4	11.15	2.20
GROUP 5	13.32	2.20
GROUP 6	12.32	2.20

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS (CONT'D):		
ZONE 5 - GROUP 1	13.36	2.50
GROUP 2	9.25	2.50
GROUP 3	13.61	2.50
GROUP 4	13.86	2.50
GROUP 5	14.11	2.50
GROUP 6	14.36	2.50
GROUP 7	14.86	2.50
GROUP 8	8.59	2.50
ZONE 6 - GROUP 1	16.11	2.50
GROUP 2	16.36	2.50
GROUP 3	16.61	2.50
GROUP 4	16.86	2.50
GROUP 5	17.36	2.50
GROUP 6	17.11	2.50
GROUP 7	15.86	2.50
GROUP 8	13.18	2.50
GROUP 9	11.61	2.50
GROUP 10	9.45	2.50
GROUP 11	10.78	2.50
ZONE 7 - GROUP 1	15.23	2.50
GROUP 2	12.49	2.50
GROUP 3	12.68	2.50
GROUP 4	15.73	2.50
GROUP 5	10.79	2.50
GROUP 6	9.08	2.50
GROUP 7	15.48	2.50
GROUP 8	15.73	2.50
GROUP 9	15.98	2.50
GROUP 10	16.23	2.50
GROUP 11	16.73	2.50
GROUP 12	17.23	2.50
ROOFERS:		
ZONE 1:		
Roofers	15.70	.20
Roofers helpers remove old roofing, hustle material & cleanup under supervision of a journeymen	12.30	.20
ZONE 2:		
Roofers	10.11	3.20
Preparers remove old roofing, place, stock or move materials, tools or equipment for journeymen	4.90	1.50
ZONE 3:		
Roofers	12.78	1.94
Preparers remove old roofing, place, stock or move materials, tools or equipment for journeymen	5.00	

	Basic Hourly Rates	Fringe Benefits
ROOFERS (CONT'D):		
ZONE 4:		
Roofers	11.50	.30
Kettlemen	9.20	.30
ZONE 5 - Roofers	12.86	.24
SHEET METAL WORKERS:		
ZONE	17.28	3.12+ 3%
ZONE 2	15.47	3.03+ 3%
ZONE 3	16.26	1.86+ 3%+c
ZONE 4	13.92	1.83+ 3%
SPRINKLER FITTERS	15.07	3.23
SOUND INSTALLERS:		
The installation (except the installation of conduit, the wiring of light circuits & the wiring of power circuits up to the final distribution panel), operation, maintenance & repair of video sound or audio & associated signal equip. & apparatus by means of which electricity is applied in the transmission or transference, production or reproduction of voice or sound with or without ethereal aid, including all types of signal systems that may be required: JEFFERSON, ORLEANS, PLAQUEMINES, ST. BERNARD & ST. CHARLES PARS.	11.82	1.86+ 3%+d
TRUCK DRIVERS:		
ZONE 1:		
Pickups, stake bodies; dumps; trailer trucks; winch truck; Mississippi wagon	11.24	1.10

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS (CONT'D):		
ZONE 2:		
GROUP 1	9.05	.60
GROUP 2	9.30	.60
GROUP 3	9.85	.60
GROUP 4	9.70	.60
GROUP 5	10.15	.60
GROUP 6	10.25	.60
GROUP 7	10.55	.60
GROUP 8	10.70	.60
ZONE 3:		
GROUP 1	9.87	
GROUP 2	9.95	
GROUP 3	10.20	
GROUP 4	10.35	
GROUP 5	10.50	
GROUP 6	10.70	
GROUP 7	11.05	
ZONE 4:		
GROUP 1	13.18	
GROUP 2	13.48	
GROUP 3	13.63	
GROUP 4	13.83	
GROUP 5	13.98	
GROUP 6	13.78	
ZONE 5:		
GROUP 1	10.89	1.20
GROUP 2	11.50	1.20
GROUP 3	11.55	1.20
GROUP 4	11.81	1.20
ZONE 6:		
Pickups, stake bodies, dumps; trailer trucks; winch truck; Mississippi wagon	8.50	1.10

FOOTNOTES:

a - 1st 6 mos.-none; 6 mos. to 5 yrs.-6%; over 5 yrs.-8% of basic hourly rate & 7 paid holidays A thru G

b - 5 days paid vacation and 6 paid holidays A thru F

c - Labor Day shall be apaid holiday at the straight time rate only for employees who have been on the payroll at least 2 weeks & who have worked the 5 full working days prior to Labor Day unless no work was available, employee was excused from attendance by employer or can provide a statement from his physician that he was ill & unable to work

d - Paid Holidays A,C,D,E,G, Mardi Gras Day & Christmas Eve

PAID HOLIDAYS

A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

ZONE DEFINITIONS FOR ASBESTOS WORKERS

ZONE 1 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Rapides, Vermilion & Vernon Parishes

ZONE 2 - Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Grant, Jackson, Lincoln, Natchitoches, Ouachita, Red River, Sabine, Union, Webster & Winn Parishes

ZONE 3 - Ascension, Assumption, Avoyelles, Catahoula, Concordia, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafayette, Lafourche, LaSalle, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge & West Feliciana Parishes

ZONE 4 - East Carroll, Franklin, Madison, Morehouse, Richland, Tensas & West Carroll Parishes

ZONE DEFINITIONS FOR BRICKLAYERS AND STONEMASONS

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Pars.

ZONE 2 - Avoyelles, Catahoula, Concordia, Grant, LaSalle & Rapides Parishes

ZONE 3 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from Tangipahoa Par. on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58, through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes

ZONE 5 - St. Tammany (north half including Covington north of Hwy. 90) & Washington Parishes

ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, & Webster Parishes

ZONE 7 - Natchitoches & Sabine Parishes

ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn

ZONE 9 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Pars.

ZONE 10- Evangeline, Pointe Coupee & St. Landry Parishes

ZONE DEFINITIONS FOR CARPENTERS:

ZONE 1 - All of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of the Atchafalaya River)

ZONE 2 - Calcasieu Parish & Fort Polk in Vernon Parish

ZONE 3 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Par.) & Washington Parishes

ZONE 4 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River), West Baton Rouge & West Feliciana Pars.

ZONE 5 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles & St. John the Baptist Pars.; Parts of St. Tammany & Tangipahoa (south of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Par.) Parishes

ZONE 6 - Assumption, Iberia (east of the Atchafalaya River), Lafourche, St. James (south of the Miss. River), St. Martin (eastern segment of the Atchafalaya River), St. Mary (east of the Atchafalaya River) & Terrebonne Parishes

ZONE DEFINITIONS FOR CARPENTERS (Cont'd)
ZONE 7 - Avoyelles, Grant, LaSalle, Natchitoches, Rapides & Sabine
ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Webster Parishes
ZONE 9 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 10 - Allen, Beauregard, Cameron, Jefferson Davis & Vernon (excluding Fort Polk)

ZONE DEFINITIONS FOR CEMENT MASONS

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (north to Interstate Hwy. 12) & Terrebonne Parishes
ZONE 5 - St. Tammany (northern half including Covington north of Hwy 190) & Washington Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn
ZONE 9 - Natchitoches & Sabine Parishes

ZONE DEFINITIONS FOR ELECTRICIANS

ZONE 1 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Parishes
ZONE 2 - St. Tammany, Tangipahoa & Washington Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Pars.
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northest of the Atchafalaya River) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Pars.
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Pars.

ZONE DEFINITIONS FOR ELEVATOR CONSTRUCTORS:

ZONE 1 - Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge & West Feliciana Parishes

ZONE DEFINITIONS FOR ELEVATOR CONSTRUCTORS (Cont'd):
ZONE 2 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

ZONE DEFINITIONS FOR GLAZIERS:
ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Ascension (north of Hwy. 22), Assumption (north of Hwy. 22), East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Hwy. 51), Vermilion, West Baton Rouge & West Feliciana Pars.
ZONE 3 - Ascension (south of Hwy. 22), Assumption (south of Hwy. 22), Jefferson, Lafourche, Livingston (south of Hwy. 22), Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to city of Natchitoches), Red River, Sabine & Webster
ZONE 5 - St. Tammany (northern 2/3 everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Rt. 51 & everything north ofa straight line running east & west from Madisonville through Ponchatoula) & Washington Parishes

ZONE DEFINITIONS FOR IRONWORKERS:
ZONE 1 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Pars.; Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La. - Miss. border, east of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico)
ZONE 2 - Ascension, East BatonRouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge & West Feliciana Pars. Parts of Livingston & St. James Pars. (west of a straight line drawn from the La. - Miss. border, west ofthe city limits of Warrenton, southwest through Hammond to the Gulf of Mexico)
ZONE 3 - Assumption, Avoyelles, Iberia, St. Helena, St. Martin, St. Mary; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars. (east of a line drawn from the meeting point of the boundaries of the Pars. of Rapides, Avoyelles & Evangeline, southeast along the western city limitsof Abbeville to the Gulf of Mexico); Parts of Lafourche, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La. - Miss. border, west of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico); Parts of Catahoula, Concordia & LaSalle Pars. (south of a line drawn from Natchez through the city of Cottonport to the Rapides Par. line, then west along the southern border of Rapides Par.)

ZONE DEFINITIONS FOR IRONWORKERS (Cont'd):

ZONE 4 - All of Bossier, Caddo, DeSoto, Red River & Webster Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (west of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Sabine Par. (north of a line drawn from the Natchitoches Par. boundary west through the city of Peason to the Tex.-La. border)
ZONE 5 - All of Caldwell, East Carroll, Franklin, Grant, Jackson, Lincoln, Morehouse, Ouachita, Rapides, Richland, Tensas, Union & West Carroll Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (east of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Madison Par. (except the cities of Mound, Delta & adjacent areas); Parts of Catahoula, Concordia & LaSalle Pars. (north of a line drawn from Natchez through the city of Cottonport to the Rapides Par. line)
ZONE 6 - That part of Madison Par. (including the cities of Mound, Delta & adjacent areas)
ZONE 7 - All of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars. (southwest of Rapides Par. & west of a line south of the western most border between Rapides & Evangeline)

LABORERS - ZONE 1 (CLASSIFICATION DEFINITIONS)

GROUP 1 - Building and labor construction
GROUP 2 - Stone mason tenders, mechanical tool operators, sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. or over); tender of all crafts; sandblaster (nozzlemen); sandblaster (pot tender); laying non-metallic pipe over 4 ft. deep, including sewer, drain & underground tile; septic tank diggers & installers, over 4 ft. deep; gas & oil pipeline laborers & wrappers
GROUP 3 - Gunite tool operators
LABORERS - ZONE 2
GROUP 1 - Building laborer; rotary drill laborers; foundation drill crewman
GROUP 2 - Mason mixer; plaster mixer; mechanical tool op. (jackhammer, vibrator, tamper, chipping gun, soil tillers); sandblaster; laying concrete, clay, plastic, asbestos cement, casing & corrugated metal pipe, as sewer, drain & underground tile (caulkers, joint wrappers hot pot & pipe layers); gas & oil pipeline laborers wrappers & dopers

LABORERS (CLASSIFICATION DEFINITIONS)(Cont'd):

LABORERS - ZONES 5 & 6
GROUP 1 - Building and general laborers, carpenter tenders
GROUP 2 - Power tool ops. (hammer men, tamper, vibrator, power buggies, concrete chippers & cutters, chain saw ops.,etc.); pipelayers (non-metallic)
GROUP 3 - Mason tenders, plaster tenders, cement mix (wet or dry) tenders, hod carrier tender; mortar mixers & cement maxers (wet or dry)
LABORERS - ZONE 7
GROUP 1 - Laborers
GROUP 2 - Laborers handling pans, stone mason tenders, mechanical tool ops., sewermen, sandblaster; laying non-metallic pipe over 4' deep, including sewer pipe, drain pipe, & underground tile; septic tank diggers & installers over 4' deep; gas & oil pipeline laborers & wrappers; scalers using boatswain's chair, safety belt or power tool; scaler & cleaners
GROUP 3 - Gunnite tool operators
GROUP 4 - Bricklayer & mason tender
GROUP 5 - Hod carrier using a prime mover to serve a bricklayer; mortar mixer, either hand or machine

LABORERS - ZONE 8
GROUP 1 - Common laborers
GROUP 2 - Jackhammermen, sewermen, mason tenders, plaster tenders, stone mason tenders, vibratormen
GROUP 3 - Mortar mixers

LABORERS - ZONE 9
GROUP 1 - Common laborers; carpenter tenders; mason tenders (other than cement); plasterers tenders; stone mason tenders; concrete workers; scaffold builders
GROUP 2 - Air tool ops. (jackhammer, vibrator & tamper); sewer pipe joiners & setters; concrete cutters; hod carriers; creosote materials handler; acid worker; mason tenders (cement); Mortar mixer (wet or dry); motorized buggy op.; water proofers (mastic); form setters (steel paving forms)
GROUP 3 - Chain saw operator
GROUP 4 - Asphalt raker, tamper, smoother & shovelers; sewer pipelayers; blaster tenders
GROUP 5 - Powderman
LABORERS - ZONE 10
GROUP 1 - Laborers, Plasterer tenders, asphalt rakers & smoothers
GROUP 2 - Mason tenders
GROUP 3 - Mortar mixers
GROUP 4 - Sewer pipe layers & wipers, burners on demolition, mechanical tool ops. (including but not limited to jackhammer, tamper, vibrator chipping hammer)
LABORERS - ZONE 11
GROUP 1 - Laborers, tenders (brickmasons, stonemasons, cement masons, carpenters, plasterers), stripping & dismantling; concrete form work; loading, unloading, carrying & handling steel & steel mesh; assisting to the setting of cut stone, granite or artificial stone; building scaffolds; shoring
GROUP 2 - Mechanical tool op. (air, electric, motor, engine, etc.); sewer pipelayers; mortar mixers (hand or machine); gunnite op., tile, terrazzo & marble setter finishers
GROUP 3 - Pipe dopers & burners

ZONE DEFINITIONS FOR LABORERS:

ZONE 1 - St. Tammany (as far south as Bayou Lacombe & east to the Miss. State Line at Pearlington), Tangipahoa (all butsouthwestern corner) & Washington Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Lanry, St. Martin, St. Mary (excluding that part of Par. to the Calumet Locks west) & Vermilion
ZONE 3 - Calcasieu Parish & Ft. Polk in Vernon Parish
ZONE 4 - Allen, Beauregard, Cameron, Jefferson Davis & Vernon (excluding Ft. Polk) Parishes
ZONE 5 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge & West Feliciana Pars.; Parts of Assumption, St. James, St. John the Baptist Pars. (north of a line drawn from the southern limits of the town of St. James in St. James Par. to the northern limits of the town of Napoleonville in Assumption Par. & then directly west to the Par. Line, all of St. James Par. except that part which is east of a line drawn from Lutcher to U.S. Hwy. 61 (Airline Hwy.) then west on U.S. 61 to Blind River & on a direct line to Manchac)
ZONE 6 - Livingston, St. Helena & Tangipahoa (south & west of a line running from the western Par. line to a point directly east which touches the northern limits of the town of Independence, then directly south to Lake Pontchartrain) Parishes
ZONE 7 - Jefferson (except Grand Isle), Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist (on the west bank of the Miss. River & the portion of St. John the Baptist on the east bank of the Miss. River as far as the Sycamore Inn at Lutcher & north to Blind River & Manchac) & St. Tammany (north as far as Bayou Lacombe, east to the Miss. State Line at Pearlington) Pars.
ZONE 8 - Assumption (north of Napoleonville), Jefferson (Grand Isle), Lafourche, St. James (on the west bank & including the town of Vacherie), St. Mary (that part of Parish to the Calumet Locks west) & Terrebonne Parishes
ZONE 9 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides & Winn Parishes
ZONE 10 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Parishes
ZONE 11 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Ricland, Tensas, Union & West Carroll Parishes

ZONE DEFINITIONS FOR LATHERS:

ZONE 1 - Assumption, Iberia (east of the Atchafalaya River), Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (south of the Miss. River), St. John the Baptist, St. Martin (eastern segment of the Atchafalaya River), St. Mary (east of the Atchafalaya River), St. Tammany, Tangipahoa, Terrebonne and Washington Parishes
ZONE 2 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River), West Baton Rouge & West Feliciana Parishes
ZONE 3 - All of Acadia, Evangeline, Lafayette, St. Landry, & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of the Atchafayala River)

ZONE DEFINITIONS FOR LATHERS (Cont'd):

ZONE 4 - Calcasieu Parish
ZONE 5 - Allen, Beauregard, Cameron, Jefferson Davis & Vernon Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Avoyelles, Grant, LaSalle, Natchitoches, Rapides & Sabine Parishes
ZONE 8 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

ZONE DEFINITIONS FOR LINE CONSTRUCTION

ZONE 1 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
ZONE 2 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Pars.
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Pars.
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Pars.

ZONE DEFINITIONS FOR MARBLE, TILE & TERRAZZO WORKERS AND FINISHERS

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from the Tangipahoa Par. Line on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58 through the lower limits of Covington, along State Hwy. 58 through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Pars.
ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, De Soto, Red River & Webster Parishes
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 7 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Parishes

PAINTERS CLASSIFICATION DEFINITIONS

ZONE 1
GROUP 1 - Painters brush, roller & buffer
GROUP 2 - Paperhanging, taping & floating
GROUP 3 - Spray, sandblasting, hydroblasting, spider op., rubberizing & pyroflexing, steam jennies, taping & floating machine
GROUP 4 - Water towers, radio & TV towers

ZONE 2
GROUP 1 - Brush; drywall, taping & floating, sheetrock, texture
GROUP 2 - Sandblasting, industrial & steel, spray
GROUP 3 - Maintenance repaint

ZONE 3
GROUP 1 - Painters, paperhangers & sheetrock tapers & floaters
GROUP 2 - Structural steel painters of new building under construction; the following overall of 30 ft.; tanks, air conditioning, towers, smoke stacks, sprinkler systems, wharves & structural steel in old buildings; spray painters, swing stage painter
GROUP 3 - Industrial

ZONE 4
GROUP 1 - Brush
GROUP 2 - Brush swing stage
GROUP 3 - Brush industrial
GROUP 4 - Spray; spray steel, sandblasting
GROUP 5 - Spray swing stage
GROUP 6 - Paperhanger
GROUP 7 - Sheetrock finishers

ZONE 6
GROUP 1 - Painters, paperhangers, tapers & floaters
GROUP 2 - Stage,window jacks,bosun chairs,structural steel,rollers,equipment painting;sandblasting, spray, stack sign,tank painting,steeple jack
GROUP 3 - Structural steel brush

PAINTERS ZONE DEFINITIONS

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, & Jefferson Davis Parishes
ZONE 2 - Ascension (north of Hwy. 22), Assumption (north of Hwy.22), Concordia, East Baton Rouge, East Feliciana, Iberville, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, Tangipahoa (west of Hwy. 51), West Baton Rouge & West Feliciana Parishes
ZONE 3 - Ascension (south of Hwy. 22), Assumption (south of Hwy. 22), Lafourche, Livingston (south of Hwy. 22), Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne
ZONE 4 - St. Tammany (northern 2/3, everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Rt. 51 & everything north of a straight line running east & west from Madisonvillethrough Ponchatoula) & Washington Pars.
ZONE 5 - Avoyelles, Bienville (western half), Bossier, Caddo, Catahoula, Claiborne, DeSoto, Evangeline, Grant, LaSalle, Natchitoches (except northeast corner) Rapides, Red River, Sabine, St. Landry (northern portion), Vernon, Webster & Winn (southern half from a line running east & west through the intersection of Rts. 84 & 71 including the town of Winnfield at that intersection) Pars.

PAINTERS ZONE DEFINITIONS (Cont'd):
ZONE 6 - Bienville (eastern portion, everything east of Rt. 9 inclusive), Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Natchitoches (northeast corner), Ouachita, Richland, Tensas, Union, West Carroll & Winn (northern half, everything north of a line running east & west through Winnfield, excluding Winnfield) Parishes
ZONE 7 - Acadia, Iberia, Lafayette, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area) & Vermilion Parishes

PLASTERERS ZONE DEFINITIONS

ZONE 1 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. James, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (Par. line on the west along U.S. Hwy. 190 through the lower limits of Covington & Abita Springs along State Hwy. 435 to Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn
ZONE 9 - Natchitoches & Sabine Parishes

PLUMBERS & PIPEFITTERS ZONE DEFINITIONS

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (northern 2/3 of Par.), St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne & Washington Parishes
ZONE 2 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia (eastern 1/2 of Par.), Iberville, Livingston, Pointe Coupee, St. Helena, St. James (western 1/3 of Par.), St. Martin (southern part of eastern 1/2 of Par.),St. Mary, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Avoyelles, Catahoula, Concordia,Evangeline, Grant, LaSalle, Natchitoches (south of Hwy. 84 & 86 from Winnfield to Natchitoches & southeast from Natchitoches to Anacoco through Bellwood), Rapides, Vernon (northeast of Hwy. 10 & Winn (south of Hwy. 84) Parishes
ZONE 4 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Pars.; Parts of Natchitoches & Vernon Pars. (northwest from a line drawn from Natchitoches to Anacoco through Bellwood & north of Hwy. 111 between Anacoco & Haddens) Parishes
ZONE 5 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia (western 1/2 of Par.), Jefferson Davis, Lafayette, St. Landry, St. Martin (west of Hwy. 31) & Vermilion Parishes
ZONE 6 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn north of Hwy. 84) Parishes

POWER EQUIPMENT OPERATORS - ZONE 1 - CLASSIFICATION DEFINITIONS

GROUP 1 - Asphalt spreader;backhoes,track mounted,over 1 CY;backhoe,rubber tired;crawler tractors,bulldozers & front end loaders (over D-4 & equivalent);cableways;concrete mixers,over 16-S;Cranes w/lattice boom;cranes w/hydraulic boom;clamshells;derricks;draglines;forklifts,over 10,000 lbs. capacity;grease serviceman;hoist,material,2 drums & over;hoist, 1 drum 4 stories or more or 40 ft.;heavy duty mechanic and/or welder;hydraulifts & boom trucks;motor patrols;piledrivers;pump,concrete (6" & over);road pavers;rollers on asphalt or brick;scoopmobiles;scrapers;sideboom cats; shovels;trenching & ditching machines,over 66" digging depth;tractorvators; winch cats (hoisting)

GROUP 2 - Air compressors,over 500 CFM;asphalt plant op.;bull floats;crane, hydraulic,7½ tons & less;crawlertractors,bulldozers & front end loaders (D-4 & equivalent & under);concrete spreader;finish machines;forklifts to 10,000 lbs.;distributor (bitum surface);dowel bar machine;elevator op. riding inside cab;rubber tire tractor with all attachments (excluding backhoe); fireman;hoist,1 drum,less than 4 stories or 40 ft.;kolum buff machine;pull cats;pump,concrete (under 6");rollers,except on asphalt or brick; straddle buggies;motorized sweepers on streets & roads;winch trucks,A-frame;water pumps,gasoline or diesel (over 6")

GROUP 3 - Unit operator

GROUP 4 - Oiler

GROUP 5 - Oiler/driver

GROUP 6 - Well point operator

POWER EQUIPMENT OPERATORS - ZONE 2 - CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler

GROUP 2 - Oiler-Driver

GROUP 3 - Scaleman

GROUP 4 - Air compressor; Asphalt plant op.; Bulldozer, D-4 equivalent & under; Bullfloats; Concrete spreader; Finishing machines; Concrete mixer (16-s or less); Concrete saw; Distributors (bitum surface); Dowell bar machine; Farm-type tractor (with all attachments except backhoe); Fireman; Fork lifts (other than setting steel, machinery or pipe); Hoist, 1 drum less than 4 stories; Kolum buff machine; Pull cats; Pump (3" & over); Pump, concrete (under 6"); Rollers, except on asphalt or brick; Straddle buggies; Sweepers on streets & roads (motorized); Winch truck, A-frame (other than handling steel or pipe)

GROUP 5 - Asphalt spreader, Backhoe, Bulldozer, over D-4 & equivalent; Cableways; Concrete mixer, over 16-s; Cranes, Derricks; Ditching or trenching machines; Draglines; Fork lifts (setting steel, machinery or pipe); Front end loaders (except farm-type tractors); Grease serviceman; Hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings); Hoist, 2 drums & over; Hydrolifts; Heavy duty mechanic; Motor patrols; Piledrivers; Pump, concrete (6" & over); Road pavers; Rollers on asphalt or brick; Scoopmobiles; Scrapers; Sideboom cats; Shovels; Tractorvators; Welder, journeyman; Winch cats (hoisting); Winch truck, A-frame (handling steel or pipe)

GROUP 6 - Well point system & unit operator

POWER EQUIPMENT OPERATORS - ZONE 3 - CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler

GROUP 2 - Oiler-Driver

GROUP 3 - Scaleman

POWER EQUIPMENT OPERATORS - ZONE 3 - CLASSIFICATION DEFINITIONS (Cont'd)

GROUP 4 - Air compressor; Asphalt plant; Bulldozer, D-4 equivalent & under; Bullfloats; Concrete spreader; Finishing machines; Concrete mixer (16-s or less); Concrete saw; Distributors (bitum surface); Dowell bar machine; Farm-type tractor (with all attachments except backhoe); Fireman; Fork lifts (other than setting steel, machinery or pipe); Hoist, 1 drum less than 4 stories; Kolum buff machine; Pull cats; Pump (3" & over); Pump, concrete (under 6"); Rollers, except on asphalt or brick; Straddle buggies; Sweepers on streets & roads (motorized); Winch truck, A-frame (other than handling steel or pipe)

GROUP 5 - Asphalt spreader; Backhoe; Bulldozer, over D-4 & equivalent; Cableways; Concrete mixer, over 16-s; Cranes; Derricks; Ditching or trenching machines; Draglines; Fork lifts (setting steel, machinery or pipe); Front end loaders (except farm-type tractors); Grease serviceman; Hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings); Hoist, 2 drums & over; Hydrolifts; Heavy duty mechanic; Motor patrols; Piledrivers; Pump, concrete (6" & over); Road pavers; Rollers on asphalt or brick; Scoopmobiles; Scrapers; Sideboom cats; Shovels; Tractorvators; Welder, journeyman

GROUP 6 - Well point & unit operator

POWER EQUIPMENT OPERATORS - ZONE 4 - CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler

GROUP 2 - Oiler-Driver

GROUP 3 - Scaleman

GROUP 4 - Air compressor; Asphalt plant; Bulldozer, D-4 & equivalent & under; Bullfloats; Concrete spreader; Finishing machines; Concrete mixer (16-s or less); Concrete saw; Distributors (bitum surface); Dowell bar machine; Farm-type tractor (with all attachments except backhoe); Fireman; Fork lifts (other than setting steel, machinery or pipe); Hoist, 1 drum less than 4 stories; Kolum buff machine; Pull cats; Pump (3" & over); Pump, concrete (under 6"); Rollers, except on asphalt or brick; Straddle buggies; Sweepers on streets & roads (motorized); Winch truck, A-frame (other than handling steel or pipe)

GROUP 5 - Asphalt spreader; Backhoe; Bulldozer, over D-4 & equivalent; Cableways; Concrete mixer, over 16-s; Cranes; Derricks; Ditching or trenching machines; Draglines; Fork lifts (setting steel, machinery or pipe); Front end loaders (except farm-type tractors); Grease serviceman; Hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings); Hoist, 2 drums & over; Hydrolifts; Heavy duty mechanic; Motor patrols; Piledrivers; Pump concrete (6" & over); Road pavers; Rollers on asphalt or brick; Scoopmobiles; Scrapers; Sideboom cats; Shovels; Tractorvators; Welder, journeyman; Winch cats (hoisting); Winch truck, A-frame (handling steel or pipe)

GROUP 6 - Unit operator

POWER EQUIPMENT OPERATORS: ZONE 5

GROUP 1 - Crane,all types;derricks;deck winches (2);Hi-Ho & similar type equipment;three drum (or more) stabilizers;pulls,all types;concrete mixer 1 yd. & over;all pavers; ditching or trenching machines (track type);mechanics & equipment welders;wellpoint systems;hoist,2 drums or more;hoist,1 drum, 40 vertical ft. or more;scrapers;bulldozers,rubber-tired or track,other than farm-type;scoopmobiles;motor patrol;gradeall;rollers on hot mix;asphalt paving machines;front-end loaders,other than farm-type,one cubic yard or over;shovels & backhoes,all types, & equivalent equipment;piledriver operator;side-boom cats;boom trucks;bush hog;cableways;cherry pickers (all types);dredges;foundation drill locomotives (all types);motorized street sweepers (self-propelled); push cat;test pump (internal combustion engine powered)

POWER EQUIPMENT OPERATORS (CONT'D: ZONE 5

GROUP 2 - 2 drum & single drum stabilizers;frontend loaders under 1 cubic yard; A-frame truck when handling steel or pipe;finishing machines (concrete);power subgraders;2 tractors (crawler type);1 drum hoist under 40 vertical ft.;fireman;concrete spreader;pugmill op.;bituminous distributor on surface treatment & equivalent equipment;bull floats & equivalent equipment;job greaseman;work boats,not requiring licensed ops.;inboard & outboard motored crew boats;concrete mixer under 1 yd.;spray curing machines;rollers on subgrade;1 air compressor over 125 cu. ft.;form graders;asphalt finisher screedman;pump over 4 inches;scale ops.;crusher ops.;concrete jointing machines;concrete saw;tack machines & equivalent equipment;pumpcrete;electric elevator (inside);oiler drivers;farm-type,rubber-tired tractor,with attachments,except backhoes;Kolum buff & similar equipment;fork lifts,10-ton capacity & under; batch plant op.;oiler on crane using air to drive piles,fireman operating steam valve,unit ops.;fireman;mixers (1 sack under);oiler;oiler-compressor op. oiler-driver on motor crane;oiler-fireman;pump (under 3" suction);scale op.; water blast pump;welding machine

GROUP 3 - Op. on crane 60 to 99 tons;crane w/boom 100 ft. to 149 ft.
GROUP 4 - Op. on crane 100 to 125 tons;crane w/boom 150 ft. to 224 ft.
GROUP 5 - Op. on crane 126 to 200 tons
GROUP 6 - Op. on crane 201 to 300 tons;crane w/boom 225 ft. to 299 ft.
GROUP 7 - Op. on crane over 300 tons;crane w/boom 300 ft. & over
GROUP 8 - Oiler

POWER EQUIPMENT OPERATORS - ZONE 6 - CLASSIFICATION DEFINITIONS

GROUP 1 - Crane op. 60 tons & over; Crane op boom 100 ft. & over but less than 150 ft.; Piledriver op. leads 100 ft. & over but less than 150 ft.
GROUP 2 - Crane op. 100 tons up to 125 tons; Crane op. boom 150 ft. & over but less than 225 ft.; Piledriver op. leads 150 ft. & over but less than 225 ft.
GROUP 3 - Crane op. 125 tons up to 200 tons; Crane op. boom 225 ft. & over but less than 300 ft.; Piledriver op. leads 225 ft. & over but less than 300 ft.
GROUP 4 - Crane op. 200 tons up to 300 tons
GROUP 5 - Crane op. 300 tons
GROUP 6 - Crane op. boom 300 ft. & over;Piledriver Op. 300 ft. & Over
GROUP 7 - Crane; Backhoe; Cableway; Concrete mixer, 16S & up; Derrick; Dragline; Dredge; Hoist-2 drums; Locomotvie crane; Paving mixer; Piledriver; Road paver; Roller on asphalt or brick (5 tons or over); Shovel; Sideboom cat; Bulldozer; Motor patrol; Scraper; Hydrolift crane; Hydrolift truck, yard crane, cherry picker, etc.; Foundation, boring & reaming machine; Cement stabilizer; Trenching machine; Asphalt spreader; Traxcavator & similar front end loading equipment with scoop or bucket of 1 cu. yd. or more capacity; Tug boat op.; Turnapull, euclid, DW-10 & other similar self-loading earth moving equipment; Concrete pump (not pumpcrete);Computer Batch Plant
GROUP 8 - A-frame truck; Crew boat op.; Fireman; Fork lift; Straddle buggy; Traxcavator, scoopmobile & similar front end loading equipment with scoop or bucket under 1 cu. yd. capacity; Locomotive; Well point system; Unit operator; Hoist-1 drum, 4 stories & over
GROUP 9 - Air compressor; Asphalt plant engineer; Blade grader; Distributor (bitum surface); Finishing machine (concrete, paving); Hoist-1 drum, less than 4 stories; Concrete mixer under 16-S; Oiler driver; Pump crete; Street & road sweeper; Roller (except on asphalt or brick); Roller, asphalt or brick (under 5 tons); Post-hole digger; Tractor operator bush hog & similar grass or bush cutting equipment; Batch Plant Op.
GROUP 10 - Oiler
GROUP 11 - Pumps, over 3 inch suction; Shatch cat

POWER EQUIPMENT OPERATORS - ZONE 7 - CLASSIFICATION DEFINITIONS

GROUP 1 - A-Frame truck when working with ironworkers, pipefitters, boilermakers & electricians; Bulldozers & tractors; Cableways; Concrete mixer (over 16S) paving machines, crane, derricks, draglines & clamshells; Concrete pump/boom combinations; Deck winches (2); Economobile model #620B or equivalent or heavier equipment; Gradealls; Hi-Ho & similar type equipment; Hoist, 1 drum, 4 stories & over; Hoist, 2 drums or more; Hydro cranes; Mechanics; Motor patrols; Piledrivers; Rollers on brick & asphalt; Rubber-tired front end loader, with or without blade attachment, 1 cu. yd. capacity or more; Scraper; Shovels, Backhoes (all types); Side boom cats; Stabilizers, 3 drums or more; Traxcavators; Trenching machines; Welder, journeyman; Firemen, when firing more than one boiler mounted on one machine
GROUP 2 - A-frame truck except when working with ironworkers or pipefitters; Air compressor; Asphalt plant engineer; Asphalt finisher, screed men; Blade graders; Small boat op.; Bullfloats; Concrete joining machines; Concrete mixer, 16S & under; Concrete spreader; Crusher op.; Deck winch (1); Distributors, asphalt; "Ditch witch" & similar equipment; Electric elevator (inside); Finishing machine; Firemen; Form graders; Fork lifts; Hoist, 1 drum, under 4 stories; Power subgraders; Pug mill; Pull tractors; Pump; Pump crete; Rollers except on brick & asphalt; Rubber-tired front end loader (with or without attachments) less than 1 cu. yd. capacity; Scale op.; Scoopmobile; Snatch cats; Spray machines; Stabilizers, less than 3 drums; Straddle buggy; Track machines & equivalent machine; Outside Electric Elevator Operator
GROUP 3 - Unit and well point operator
GROUP 4 - Work Boat requiring license
GROUP 5 - Batch plant operator, oilers(driver)
GROUP 6 - Oiler
GROUP 7 - Crane op. 60 tons & above; Crane op. boom 100 ft. & over but less than 150 ft.; Tower crane op. boom height 100 ft. & over but less than 150 ft.
GROUP 8 - Crane op. 100 tons & up to 125 tons; Crane op. boom 150 ft. & over but less than 225 ft.; Tower crane op. boom height 150 ft. & over but less than 225 ft.
GROUP 9 - Crane op. 125 tons & up to 200 tons
GROUP 10 - Crane op. 200 tons & up to 300 tons; Crane op. boom 225 ft. & over but less than 300 ft.; Tower crane op. boom height 225 ft. & over up to 30 fl ors
GROUP 11 - Crane op. 30u tons & up to 400 tons; Crane op. boom 300 ft. & over but less than 400 ft.; Tower crane over 30 floors
GROUP 12 - Crane op. over 400 tons; Crane op boom 400 ft & over

POWER EQUIPMENT OPERATORS ZONE DEFINITIONS

ZONE 1 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 2 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides, Sabine, St. Landry & Winn Parishes
ZONE 3 - All of Acadia, Lafayette & Vermilion Parishes; Parts of Iberia, St. Martin & St. Mary Parishes (west of a line drawn from the City of Berwick to the junction of Iberville-St. Landry Pars. border)
ZONE 4 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes
ZONE 5 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

POWER EQUIPMENT OPERATORS ZONE DEFINITIONS (Cont'd):

ZONE 6 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, St. Helena, West Baton Rouge & West Feliciana Pars.; Parts of Assumption & St. James Pars. (northwest of a straight line drawn from the City of Berwick to the City of Lutcher); Parts of Iberia & southern & northern St. Martin Pars. (east & west of a line from the City of Berwick north to the eastern boundary of the City of Krotz Springs); Parts of Livingston, Tangipahoa & Washington Pars. (west of a line drawn north from the City of Lutcher to the east side of the City of Hammond to the Louisiana-Mississippi border)

ZONE 7 - All of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Terrebonne Pars.; Parts of Assumption, Livingston, St. James, St. Martin, St. Mary, Tangipahoa & Washington Pars. (that portion of southeastern Louisiana bounded on the north by the State of Mississippi, on the east by the State of Mississippi & the Mississippi Sound, on the south by the Gulf of Mexico & on the west by a line drawn as follows: beginning at a point on the Louisiana-Mississippi boundary in Washington Par., due north of the town of Hackley, then southwesterly in a straight line to a point on the east bank of the Mississippi River at the southernmost point of Lutcher (including Gramercy in the area), thence in a more southwesterly direction in a straight line to midstream of the Atchafalaya River at Morgan City-Berwick (including Morgan City in this area), thence southerly on a line following midstream of the Atchafalaya River to the Atchafalaya Bay & in a line due south to the Gulf of Mexico

ZONE DEFINITIONS FOR ROOFERS:

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Vermilion & Vernon Parishes

ZONE 2 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, South St. Martin, St. Mary, St. Tammany, Terrebonne & Washington Parishes

ZONE 3 - Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, North St. Martin, Tangipahoa, West Baton Rouge & West Feliciana Parishes

ZONE 4 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Ouachita, Rapides, Richland, Tensas, Union, West Carroll & Winn Parishes

ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes

ZONE DEFINITIONS FOR SHEET METAL WORKERS:

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Pars.

ZONE 2 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany, Terrebonne & Washington Parishes

ZONE 3 - Acadia, Ascension, Assumption, East Baton Rouge, East Feliciana, Evangline, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Mary, Tangiapahoa, Vermilion, West Baton Rouge & West Feliciana Parishes

ZONE 4 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, De Soto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

ZONE DEFINITIONS FOR TRUCK DRIVERS

ZONE 1 - Calcasieu Parish & Ft. Polk in Vernon Parish

ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes

ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster

ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, Washington, West Baton Rouge & West Feliciana Parishes

ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Parishes

ZONE 6 - Allen, Beauregard, Cameron, Jefferson Davis & Vernon (excluding Ft. Polk) Parishes

TRUCK DRIVER CLASSIFICATION DEFINITIONS:

ZONE 2 - GROUP 1 - Teamsters, pick-up drivers
GROUP 2 - Stake bodies (all sizes); platform dump
GROUP 3 - Truck & trailer; dump
GROUP 4 - Mixers on trucks up to & including 3 yds.
GROUP 5 - Mixers over 3 yds.
GROUP 6 - Winch trucks
GROUP 7 - Miss. wagons & Koehring dumpster, tandem dumps & similar dirt moving equip, up to & including 8 yds.
GROUP 8 - Miss. wagons, Koehring dumpsters, tandem dumps & similar dirt moving equipment over 8 yds.

ZONE 3 - GROUP 1 - Pick-ups, spotters & dumpers of dirt, gravel, etc.
GROUP 2 - Stake bodies; flat beds (all sizes)
GROUP 3 - Single axle dumps & water trucks; transit mix, up to & including 3 yds.
GROUP 4 - Tandem axle dump, batch & water trucks over 3 tons, pickups with trailer
GROUP 5 - Miss. wagons, floats, tractor trailers; rubber tired tractors & wobble wheels
GROUP 6 - Euclids, lowboys, dempsey dumpster, Koehring dumps, 5 axle trucks, transit mix over 3 yds.
GROUP 7 - Fork lift

ZONE 4 - GROUP 1 - Pick-ups
GROUP 2 - Over 1 ton up to but not including 3 tons
GROUP 3 - 3 tons up to but not including 5 tons
GROUP 4 - 5 tons & over including but not limited to: winch, dempsey dumpster, lowboy, semi-trailer, euclid, tournapull & similar equipment when used for transporting material
GROUP 5 - Larger trucks, carrying capacity rear axles 50,000 lbs. & over
GROUP 6 - Winch truck with A-frame when used for transporting

ZONE 5 - GROUP 1 - Up to but not including 1-1/2 tons
GROUP 2 - 1-1/2 tons up to but not including 3 tons
GROUP 3 - 3 tons up to but not including 5 tons
GROUP 4 - 5 tons & over

WELDERS: Receive rate prescribed for craft performing operation to which welding in incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: VERMONT
DECISION NO.: VT84-3029
COUNTIES: STATEWIDE
DATE: Date of Publication
Supersedes Decision No.: VT82-3003, dated January 22, 1982 in 47 FR 3275.
Description of Work: Highway Construction Projects (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension and spandrel arch bridges designed for commercial navigation; bridges involving marine construction; and other major bridges).

	Basic Hourly Rates	Fringe Benefits
ADDISON COUNTY:		
CARPENTERS	7.88	
CEMENT MASONS	7.30	
ELECTRICIANS	7.58	
IRONWORKERS:		
Structural	8.45	
Reinforcing	6.75	
LABORERS:		
Blasters	7.25	a
Drillers	6.75	a
Pipelayers	6.53	a
Laborers	6.28	a
PAINTERS	7.50	
TRUCK DRIVERS:		
2-Axle	5.84	
3-Axle	5.84	
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Driver	6.00	
Backhoe	10.00	b
Backend/Screedman	7.36	
Broom	2.20	.90+b
Bulldozer	9.65	b
Compactor	7.59	b
Compressor	7.95	.05+b
Crane	10.00	b
Gradall	8.20	.85+b
Grader	7.52	b
Loader	8.83	b
Mechanic	7.75	.90+b
Pavers	7.75	.90+b
Rollers	7.75	.90+b
Backhoe/Loader Combination (Farm Type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Spreader (Material)	7.75	.90+b
BENNINGTON COUNTY:		
CARPENTERS	7.30	
CEMENT MASONS	9.02	
ELECTRICIANS	8.25	
IRONWORKERS:		
Structural	9.72	
Reinforcing	6.78	
LABORERS:		
Blasters	7.25	a
Drillers	7.30	a
Pipelayers	7.09	a
Asphalt Rakers	5.50	
Air Tool Operators	6.30	
Laborers	6.84	a
PAINTERS	10.70	
TRUCK DRIVERS:		
2-Axle	5.77	
3-Axle	5.77	
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Driver	6.00	
Backhoe	11.06	b
Backend/Screedman	7.05	b
Broom	5.93	b
Bulldozer	10.46	b
Compactor	8.70	b
Compressor	8.57	
Crane	11.46	b
Gradall	9.73	b
Grader	8.15	b
Loader	7.75	.90+b
Mechanic	7.75	.90+b
Pavers	8.36	
Rollers	7.92	
Chainsaw	6.00	
Backhoe/Loader Combination (Farm type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Pile Driver	7.65	b
Bituminous Planer	8.55	b
Spreader (Material)	8.00	b
CALEDONIA COUNTY:		
CARPENTERS	7.62	
CEMENT MASONS	7.30	
ELECTRICIANS	7.58	
IRONWORKERS:		
Structural	8.10	
Reinforcing	7.73	
LABORERS:		
Blasters	7.25	a
Drillers	7.50	a
Pipelayers	6.28	a
Laborers	6.03	a
PAINTERS	7.00	
TRUCK DRIVERS:		
2-Axle	6.29	
3-Axle	6.29	

DECISION NO. VT84-3029

	Basic Hourly Rates	Fringe Benefits
CALEDONIA COUNTY (CONT'D)		
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Driver	6.00	
Backhoe	9.33	b
Backend/Screedman	7.75	.90+b
Broom	7.20	.90+b
Bulldozer	9.68	b
Compactor	8.65	b
Compressor	7.95	.05+b
Crane	10.37	b
Gradall	8.65	.90+b
Grader	8.61	b
Loader	8.33	b
Mechanic	7.75	.90+b
Pavers	8.20	1.30+b
Rollers	8.20	.90+b
Shovel	11.44	
Line Striper	9.00	
Backhoe/Loader Combination (Farm Type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Bituminous Planer	7.75	.90+b
Spreader (Material)	8.20	1.30+b
Groundman	7.75	.90+b
Roto Mill	7.75	.90+b
Scraper	10.90	b
Trencher	7.76	b
CHITTENDEN COUNTY:		
CARPENTERS	8.33	
CEMENT MASONS	7.30	
ELECTRICIANS	8.80	
IRONWORKERS		
Structural	8.45	
Reinforcing	5.84	
LABORERS:		
Blasters	8.50	a
Drillers	7.50	a
Pipelayers	5.72	a
Laborers	5.84	a
PAINTERS	7.50	
TRUCK DRIVERS:		
2-Axle	5.01	
3-Axle	5.50	
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Dirver	7.75	.90+b
Backhoe	8.20	.90+b
Backend/Screedman	7.75	.90+b
Broom	6.35	b
Bulldozer	9.07	b
Compactor	9.33	b
Compressor	7.95	.05+b
Crane	8.59	.56+b
Gradall	7.75	.90+b
Grader	7.95	.85+b
Loader	8.65	b
Mechanic	7.75	.90+b
CHITTENDEN COUNTY (CONT'D POWER EQUIPMENT OPERATORS (CONTINUED)		
Oilers	9.79	
Pavers	7.75	.90+b
Rollers	7.75	.90+b
Shovel	10.48	b
Backhoe/Loader Combination (Farm Type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Bituminous Planer	8.20	1.30+b
Spreader (Material)	7.75	.90+b
ESSEX COUNTY:		
CARPENTERS	7.72	
CEMENT MASONS	7.30	
ELECTRICIANS	7.58	
IRONWORKERS:		
Structural	8.10	
Reinforcing	7.73	
LABORERS:		
Blasters	7.25	a
Drillers	7.50	a
Pipelayers	6.28	a
Laborers	6.03	b
PAINTERS	7.00	
TRUCK DRIVERS:		
2-Axle	6.29	
3-Axle	6.29	
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Driver	6.00	
Backhoe	9.33	b
Backend/Screedman	7.75	.90+b
Broom	7.20	.90+b
Bulldozer	9.68	b
Compactor	7.75	.85+b
Compressor	7.95	.05+b
Crane	10.37	b
Gradall	8.65	.90+b
Grader	8.61	b
Loader	8.33	b
Mechanic	7.75	.90+b
Pavers	8.20	1.30+b
Rollers	8.20	1.30+b
Shovel	11.44	b
Line Striper	9.00	
Backhoe/Loader Combination (Farm Type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Bituminous Planer	7.75	.90+b
Spreader (Material)	8.20	1.30+b
Groundman	7.75	.90+b
Roto Mill	7.75	.90+b
Scraper	10.90	
Trencher	7.65	

DECISION NO. VT84-3029

	Basic Hourly Rates	Fringe Benefits
FRANKLIN COUNTY:		
CARPENTERS	7.30	
CEMASONS	7.30	
ELECTRICIANS	8.33	
IRONWORKERS:		
Structural	8.45	
Reinforcing	7.75	
LABORERS:		
Blasters	7.25	a
Drillers	6.88	a
Pipelayers	6.39	a
Laborers	6.14	a
PAINTERS	7.00	
DRIVERS:		
2-Axle	6.06	
3-Axle	6.06	
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Driver	6.00	
Backhoe	9.10	b
Backend/Screedman	7.75	.90+b
Broom	6.35	.90+b
Bulldozer	7.75	.90+b
Compactor	7.75	.85+b
Compressor	7.95	.90+b
Crane	8.20	.90+b
Gradall	8.20	.90+b
Grader	7.95	.85+b
Loader	7.75	.90+b
Mechanic	7.75	.90+b
Pavers	7.75	.90+b
Rollers	7.76	b
Chainsaw	7.95	
Backhoe/Loader Combination (Farm Type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Bituminous Planer	8.20	.90+b
Spreader (Material)	7.75	.90+b
Groundman	8.20	.90+b
Grand Isle County:		
CARPENTERS	8.33	
CEMENT MASONS	7.30	
ELECTRICIANS	7.58	
IRONWORKERS:		
Structural	8.45	
Reinforcing	5.84	
LABORERS:		
Blasters	8.50	a
Drillers	7.50	a
Pipelayers	6.09	a
Laborers	5.84	a
PAINTERS	7.50	
DRIVERS:		
2-Axle	5.01	
3-Axle	5.50	
EQUIPMENT OPERATORS:		
Auger/Post Driver	7.75	.90+b
Backhoe	8.20	.90+b

	Basic Hourly Rates	Fringe Benefits
GRAND ISLE COUNTY (CONT'D)		
POWER EQUIPMENT OPERATORS: (CONTINUED)		
Backend/Screedman	7.75	.90+b
Broom	6.35	b
Bulldozer	9.07	b
Compactor	9.33	b
Compressor	7.95	.05+b
Crane	8.59	.56+b
Gradall	7.75	.90+b
Grader	7.95	.85+b
Loader	8.65	b
Mechanic	7.75	.90+b
Oilers	9.79	
Pavers	7.75	.90+b
Rollers	7.75	.90+b
Shovel	10.48	b
Backhoe/Loader Combination (Farm Type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Bituminous Planer	8.20	1.30+b
Spreader (Material)	7.75	.90+b
LAMOILLE COUNTY:		
CARPENTERS	7.72	
CEMENT MASONS	7.30	
ELECTRICIANS	7.58	
IRONWORKERS:		
Structural	8.10	
Reinforcing	7.73	
LABORERS:		
Blasters	7.25	a
Drillers	7.50	a
Pipelayers	6.28	a
Laborers	6.03	a
PAINTERS	7.00	
TRUCK DRIVERS:		
2-Axle	6.29	
3-Axle	6.29	
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Driver	6.00	
Backhoe	9.33	b
Backend/Screedman	7.75	.90+b
Broom	7.20	.90+b
Bulldozer	9.68	b
Compactor	7.75	.85+b
Compressor	7.95	.05+b
Crane	10.37	b
Gradall	8.65	.90+b
Grader	8.61	b
Loader	8.33	b
Mechanic	7.75	.90+b
Pavers	8.20	1.30+b
Rollers	8.20	.90+b
Shovel	11.44	
Line Striper	9.00	
Backhoe/Loader Combination (Farm Type)	7.00	b

DECISION NO. VT84-3029

	Basic Hourly Rates	Fringe Benefits
LAMOILLE COUNTY (CONT'D)		
POWER EQUIPMENT OPERATORS: (CONTINUED)		
Specialized Earth/Rock Haulers	6.50	
Bituminous Planer	7.75	.90+b
Spreader (Material)	8.20	1.30+b
Groundman	7.75	.90+b
Roto Mill	7.75	.90+b
Scraper	10.90	
Trencher	7.65	
ORANGE COUNTY:		
CARPENTERS	9.00	
CEMENT MASONS	7.30	
ELECTRICIANS	7.58	
IRONWORKERS:		
Structural	8.45	
Reinforcing	6.75	
LABORERS:		
Blasters	7.35	a
Drillers	7.30	a
Pipelayers	6.55	a
Laborers	6.30	a
PAINTERS	7.00	
TRUCK DRIVERS:		
2-Axle	6.53	
3-Axle	6.53	
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Driver	6.00	
Backhoe	11.00	b
Backend/Screedman	7.75	.90+b
Broom	6.35	.90+b
Bulldozer	8.20	.85+b
Compactor	7.20	.85+b
Compressor	7.17	.90+b
Crane	8.20	.85+b
Gradall	8.11	b
Grader	8.50	b
Loader	7.75	.90+b
Mechanic	8.20	.90+b
Pavers	7.75	.90+b
Rollers	8.20	1.30+b
Line Striper	9.82	
Backhoe/Loader Combination (Farm Type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Bituminous Planer	8.10	b
Spreader (Material)	7.75	.90+b
ORLEANS COUNTY:		
CARPENTERS	7.72	
CEMENT MASONS	7.30	
ELECTRICIANS	7.58	
IRONWORKERS:		
Structural	8.10	
Reinforcing	7.73	

	Basic Hourly Rates	Fringe Benefits
ORLEANS COUNTY CONT'D)		
LABORERS:		
Blasters	7.25	a
Drillers	7.50	a
Pipelayers	6.28	a
Laborers	6.03	
PAINTERS	7.00	a
TRUCK DRIVERS:		
2-Axle	6.29	
3-Axle	6.29	
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Driver	6.00	
Backhoe	9.33	b
Backend/Screedman	7.75	.90+b
Broom	7.20	.90+b
Bulldozer	9.68	b
Compactor	7.75	.85+b
Compressor	7.95	.05+b
Crane	10.37	b
Gradall	8.65	.90+b
Grader	8.61	b
Loader	8.33	b
Mechanic	7.75	.90+b
Pavers	8.20	1.30+b
Rollers	8.20	.90+b
Shovel	11.44	
Line Stiper	9.00	
Backhoe/Loader Combination (Farm Type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Bituminous Planer	7.75	.90+b
Spreader (material)	8.20	1.30+b
Groundman	7.75	.90+b
Roto Mill	7.75	.90+b
Scraper	10.90	
Trencher	7.65	
RUTLAND COUNTY:		
CARPENTERS	7.30	
CEMENT MASONS	9.02	
ELECTRICIANS	7.58	
IRONWORKERS:		
Structural	9.72	
Reinforcing	6.78	
LABORERS:		
Air Tool Operators	6.30	
Asphalt Rakers	5.50	
Blasters	7.25	a
Drillers	7.00	a
Pipelayers	7.09	a
Laborers	6.84	a
PAINTERS	10.70	
TRUCK DRIVERS:		
2-Axle	5.77	
3-Axle	5.80	

DECISION NO. VT84-3029 RUTLAND COUNTY (CONT'D)	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS		
Earth Auger/Post Driver	6.00	
Backhoe	11.06	
Backend/Screedman	7.05	
Broom	5.93	b
Bulldozer	10.46	b
Compactor	5.25	
Compressor	7.95	.05+b
Crane	11.46	
Gradall	9.73	
Grader	8.15	
Loader	7.75	.90+b
Mechanic	7.75	.90+b
Pavers	8.36	
Rollers	7.92	
Chainsaw	6.00	
Backhoe/Loader Combination (Farm Type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Pile Drivers	7.65	
Bituminous Planer	8.55	
Spreader (Material)	8.00	
WASHINGTON COUNTY:		
CARPENTERS	7.30	
CEMENT MASONS	7.30	
ELECTRICIANS	8.25	
IRONWORKERS:		
Structural	7.30	
Reinforcing	8.45	
LABORERS:		
Blasters	7.25	a
Drillers	7.30	a
Pipelayers	6.73	a
Asphalt Rakers	5.00	
Laborers	5.80	a
PAINTERS	7.50	
TRUCK DRIVERS:		
2-Axle	6.38	
3-Axle	6.38	
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Driver	6.00	
Backhoe	8.20	.90+b
Backend/Screedman	7.75	.90+b
Broom	7.51	b
Bulldozer	9.08	b
Compactor	9.00	b
Compressor	7.95	.05+b
Crane	9.83	b
Cradall	7.82	.90+b
Grader	8.55	.90+b
Loader	7.75	.90+b
Mechanic	7.75	.90+b
Pavers	7.75	.90+b
Rollers	7.75	.90+b
Shovel	9.15	1.90+b
Line Striper	9.00	

WASHINGTON COUNTY CONT'D POWER EQUIPMENT OPERATORS: (CONTINUED)	Basic Hourly Rates	Fringe Benefits
Backhoe/Loader Combination (Farm Type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Bituminous Planer	7.75	.85+b
Spreader (Material)	7.75	.90+b
WINDHAM COUNTY:		
CARPENTERS	7.30	
CEMENT MASONS	9.02	
ELECTRICIANS	7.58	
IRONWORKERS:		
Structural	9.72	
Reinforcing	6.78	
LABORERS:		
Blasters	7.25	a
Drillers	7.30	a
Pipelayers	7.09	a
Asphalt Rakers	5.50	
Air Tool Operators	6.30	
Laborers	6.84	a
PAINTERS	10.70	
TRUCK DRIVERS:		
2-Axle	5.77	
3-Axle	6.00	
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Driver	6.00	
Backhoe	11.06	b
Backend/Screedman	7.05	
Broom	5.93	b
Bulldozer	10.46	b
Compactor	8.65	.85+b
Compressor	7.95	.05+b
Crane	11.46	b
Gradall	9.73	b
Grader	8.15	b
Loader	7.75	.90+b
Mechanic	7.75	.90+b
Pavers	8.36	
Rollers	7.92	
Chainsaw	6.00	
Backhoe/Loader Combination (Farm Type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Pile Drivers	7.65	
Bituminous Planer	8.55	b
Spreader (Material)	8.00	b
WINDSOR COUNTY:		
CARPENTERS	7.63	
CEMENT MASONS	6.17	
ELECTRICIANS	7.58	
IRONWORKERS:		
Structural	8.45	
Reinforcing	6.75	

DECISION NO. VT84-3029 WINDSOR COUNTY (CONT'D)	Basic Hourly Rates	Fringe Benefits
LABORERS:		
Blasters	7.25	a
Drillers	5.70	a
Pipelayers	9.00	a
Asphalt Rakers	6.03	
Laborers	6.04	a
PAINTERS	7.50	
TRUCK DRIVERS:		
2-Axle	6.29	
3-Axle	6.29	
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Driver	6.44	
Backhoe	8.20	.90+b
Backend/Screedman	7.75	.90+b
Broom	6.89	
Bulldozer	8.34	
Compactor	7.59	b
Compressor	7.70	
Crane	7.64	b
Gradall	8.40	
Grader	8.67	
Loader	7.76	
Mechanic	7.76	
Pavers	7.76	
Rollers	8.09	
Chainsaw	5.00	
Line Striper	9.00	
Backhoe/Loader Combination (Farm Type)	7.00	b
Specialized Earth/Rock Haulers	6.50	
Pile Drivers	9.90	
Spreader (Material)	7.76	

Basic Hourly Rates	Fringe Benefits

FOOTNOTE:

A. Two (2) paid holidays: Memorial Day & Independence Day, providing the employee has been employed the schedule workday prior to the holiday and the schedule workday after the holiday.

b. Nine (9) paid holidays: New Year's Day, Memorial day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day and Veteran's Day, provided the employee has been employed at least 7 days or more prior to the holiday and has worked the day before and the day after the holiday.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))."

STATE: Wisconsin

COUNTIES: Langlade, Lincoln, & Marathon

DECISION NO. WI 84-5037

DATE: Date of Publication

Supersedes Decision No.WI 83-2085, dated October 28, 1983 in 48 FR 50002

DESCRIPTION OF WORK: Building construction (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.65	2.01
BOILERMAKERS	17.345	3.25
BRICKLAYERS & STONEMASONS	13.22	2.19
CARPENTERS: Soft Floor LAYERS & LATHERS	13.66	2.11
CEMENT MASONS	12.72	2.19
ELECTRICIANS	15.13	.75+ 11⅛
ELEVATOR CONSTRUCTORS:		
Mechanic	16.43	2.69
Helpers	8.50	2.69
Helpers (Prob.)	8.215	
IRONWORKERS: Structural, Ornamental and Reinforcing	14.08	3.00
LABORERS:		
General & Air Spade Operator	11.03	1.43
Mason Tender	11.28	1.43
Jackhammer Operator, & Mortar Mixer	11.28	1.43
PAINTERS:		
Brush	13.85	.50
Spray	14.60	.50
PLASTERERS	13.22	2.20
PLUMBERS & STEAMFITTERS	15.45	2.25
ROOFERS	13.50	a
SHEET METAL WORKERS	14.86	3.00
TERRAZZO MECHANIC & TILE SETTER	12.97	2.20

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Group 1	$15.72	3.42
Group 2	15.22	3.42
Group 3	14.44	3.42
Group 4	13.88	3.42
Group 5	13.41	3.42

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

a. Employed for 1 year- 1 week vacation at Regular Pay, Employed for 7 years- 2 weeks Vacation at Regular Pay, Employed for 10 years-3week Vacation at Regular Pay

[FR Doc. 84-25574 Filed 9-27-84; 8:45 am]

BILLING CODE 4510-27-C

POWER EQUIPMENT OPERATORS (Classifications)

Group 1: Cranes,shovels, draglines, backhoes, clamshells, derricks, caisson rigs, pile driver, skid rigs, dredge operator and traveling crane (bridge type), concrete paver (over 27E), concrete spreader and distributor.

Group 2: Concrete and grout pumps, material hoists, stack hoists, tractor or truck mounted hydraulic backhoe, tractor or truck mounted hydraulic crane (10 tons or under), manhoists, tractor (over 40 h.p.), bulldozer (over 40 h.p.), endloader (over 40 h.p.), motor patrol, scraper operator, sideboom, straddle carrier, mechanic and welder, bituminous plant and paver operator, roller (over 5 tons), rail level-machine (railroad), tie placer, tie extractor, tie tamper, stone leveler, rotary drill operator and blaster, percussion drilling machine, trencher (wheel type or chain type having over 8-inch bucket), elevator.

Group 3: Backfiller, concrete auto breaker (large), concrete finishing machines (road type), roller (rubber tire), concrete batch hopper, concrete mixers (14S or over), screw type pumps, and gypsum pumps, tractor, bulldozer, endloader (under 40 h.p.), pumps (well points), trencher (chain type having bucket 8- inch and under), industrial locomotives, roller (under 5 tons) and fireman (pile drivers and derricks), hoists (automatic), forklift (over 12'), tampers-compactors (riding type), assistant engineer, "A" frames and winch trucks, concrete auto breaker, hydrohammers (small), brooms and sweeper, hoists (tuggers), stump chipper (large), boats (tug, safety, work barges and launch).

Group 4: Shouldering machine operator, screed operator, farm or industrial tractor mounted equipment, post hole digger, stone crushers and screening plants, fireman (asphalt plants), air compressor (400 CFM or over), augers (vertical and horizontal), air, electric, hydraulic jacks (slip form), prestress machines, skid steer loader, boiler operators (temporary heat), forklift (12' and under).

Group 5: Generators over 150 KW, pumps over 3" combination small equipment operator: compressors (under 400 CFM), welding machines, heaters (mechanical), generators (under 150 KW), pumps (3" and under), winches (small electric), oiler and greaser, conveyor.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

Federal Register

Friday
September 28, 1984

Part III

Department of the Interior

Bureau of Indian Affairs

Office of Surface Mining Reclamation and Enforcement

25 CFR Part 216

30 CFR Parts 700, 701, 710, 750, and 755

Surface Mining and Reclamation Operations; Federal Program for Indian Lands and Tribal-Federal Intergovernmental Agreements; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Office of Surface Mining Reclamation and Enforcement

25 CFR Part 216

30 CFR Parts 700, 701, 710, 750, and 755

Surface Mining and Reclamation Operations; Federal Program for Indian Lands and Tribal-Federal Intergovernmental Agreements

AGENCY: Bureau of Indian Affairs, Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) promulgates a final rule which sets forth the requirements for surface coal mining and reclamation operations on Indian lands and which describes the roles of the various Federal agencies involved in the regulation of surface coal mining and reclamation operations on Indian lands. A new subchapter, Subchapter E, is added to 30 CFR, Chapter VII, to include the Federal Program for Indian Lands. Part 750 is added to include requirements for mining operations on Indian lands. A new Part 755, covering Tribal-Federal Intergovernmental Agreements, is added to provide for the training of Indian tribes so that if and when Congress authorizes Indian regulation of surface mining through Indian programs, the tribes will be able to develop tribal regulatory programs.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: James M. Kress, Office of Surface Mining, U.S. Department of the Interior, Room 222, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343–5361 or Willis Gainer, Office of Surface Mining, Western Technical Center, 1020 15th Street, Denver, Colorado, 80202. Telephone: (303) 837–5421.

SUPPLEMENTARY INFORMATION:

This preamble is arranged as follows:

I. Background
II. Rules Adopted and Responses to Comments on Proposed Rules
III. Procedural Matters

I. Background

The Surface Mining Control and Reclamation Act of 1977 (the Act), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, provides statutory authority for the development of regulations for surface coal mining operations. Mining on lands within the States is subject to a two-phase regulatory scheme: First an interim regulatory program, then a permanent regulatory program in which primary regulatory authority is vested in the States, or in OSM if the State does not seek or obtain primary regulatory authority ("primacy").

Section 710 of the Act also provides for a two-phase program for the regulation by the Secretary of the Interior ("Secretary") of surface coal mining operations on Indian lands. Section 710(c) of the Act describes the first phase and states: "on and after one hundred and thirty-five days from the enactment of this Act [August 3, 1977], all surface coal mining operations on Indian lands shall comply with requirements at least as stringent as those imposed by subsections 515(b)(2), 515(b)(3), 515(b)(5), 515(b)(10), 515(b)(13), 515(b)(19), and 515(d) of this Act." The Department of the Interior issued regulations implementing these interim performance standards on December 15, 1977. They are codified at 25 CFR Part 216, Subpart B (42 FR 63395, December 16, 1977 and 47 FR 13327, March 30, 1982) and are similar to the interim program performance standards for non-Indian and non-Federal lands found in 30 CFR Part 715 (42 FR 62639). While the interim standards applicable to Indian lands differ little from those applicable to non-Indian lands, they necessarily recognize certain procedures and considerations which apply only to Indian lands. Specifically, the inspection and enforcement procedures in 25 CFR 216.112 through 216.114 differ from those in 30 CFR Parts 720 through 723 in that they provide for tribal involvement in the process.

Section 710(d) describes the second phase for regulating mining on Indian lands. Section 710(d) requires compliance with sections 507, 508, 509, 510, 515, 516, 517 and 519 of the Act, "on and after 30 months from the enactment of the Act [February 1980]." It also requires the Secretary to incorporate the requirements of such provisions in all existing and new leases issued for coal on Indian lands.

On October 24, 1983, OSM published a proposed rule implementing the requirements of section 710(d) for mining on Indian lands (48 FR 49174–49183). The notice announced a 60-day comment period ending on December 23, 1983, and scheduled public hearings for Washington, D.C., and Denver, Colorado, on December 14, 1983. No one asked to testify at the public hearing in Washington, D.C.; therefore, the hearing was canceled. At the public hearing held in Denver, five persons testified.

Shortly before the comment period closed, OSM received several requests to extend the comment period from December 23, 1983, to January 31, 1984, and to hold a public hearing in Gallup, New Mexico. OSM extended the comment period on December 20, 1983 (48 FR 56244) to January 31, 1984, and scheduled the public hearing for January 25, 1984, in Gallup, New Mexico. Seven persons testified at the January 25th public hearing.

OSM sought to provide an opportunity for early and meaningful public participation during its regulatory review. To this end, OSM met with or reviewed comments and recommendations from the Indian tribes, representatives of coal mining States containing Indian lands, industry representatives and representatives of environmental organizations. All substantive comments were carefully considered in the rulemaking process and are addressed in this preamble.

The Federal program for Indian lands is similar to the Federal programs OSM implemented under section 504 of the Act for States not seeking primacy in that it cross-references provisions of the permanent regulatory program in 30 CFR Chapter VII. The final rule also resembles the Federal lands program (30 CFR Chapter VII, Subchapter D) in that it outlines responsibilities of agencies within the Department of the Interior, other than OSM, and takes into account the trust responsibilities the Department has to tribes regarding lands subject to regulation by the Act.

The regulations adopted today implement the sections of the Act specified in section 710(d) of the Act. In addition, the regulations implement other sections of the Act which are otherwise applicable either by necessary implication from one or more of the listed sections or because the sections are applicable to all mining.

The content and organization of the Federal program for Indian lands follows the permanent program regulations which implement the procedures and performance standards of the Act. But, as mentioned above, instead of the full text appearing, each section includes only a reference to the pertinent part in the permanent program regulations. Separate paragraphs were added for sections in which differences exist between the Federal permanent program regulations and the Federal program for Indian Lands. One effect of this cross-referencing to the permanent program regulations is that when the permanent program regulations are revised, the Federal program for Indian lands will be similarly revised.

The content and organization of the Federal program for Indian lands are based on the following provisions of the Federal permanent program regulations, 30 CFR Chapter VII:

Subchapter A—General
Subchapter F—Areas Unsuitable for Mining
Subchapter G—Surface Coal Mining and Reclamation Operations Permits and Coal Exploration Systems Under Regulatory Programs
Subchapter H—Small Operator Assistance
Subchapter J—Bond and Insurance Requirements for Bonding of Surface Coal Mining and Reclamation Operations
Subchapter K—Permanent Program Performance Standards
Subchapter L—Permanent Program Inspection and Enforcement Procedures
Subchapter M—Training Program for Blasters and Members of Blasting Crews, and Certification Program for Blasters

Technical literature cited by OSM in the preamble to the permanent regulatory program (44 FR 14901–15309, March 13, 1979), or in subsequent rulemaking notices revising those rules was relied upon in developing the Federal program for Indian lands. The reader is referred to those preambles for a discussion of the basis and purpose of permanent program rules referenced without substantive change in the Indian lands program.

II. Rules Adopted and Responses to Comments on the Proposed Rules

A. General Comments

A number of commenters suggested that OSM withdraw the proposed regulations which govern surface mining and reclamation activities on Indian lands because they believe that OSM lacks authority to promulgate the regulations at this time. The commenters argued that Congress envisioned in section 710 of the Act a three-part scheme for the regulation of surface coal mining on Indian lands. First, a study of the question of regulation of surface mining on Indian lands was to be completed taking into consideration the special jurisdictional status of these lands. Second, a report was to be made to Congress to include proposed legislation designed to allow Indian tribes to elect to assume full regulatory authority over the administration and enforcement of regulation of surface coal mining on Indian lands. And third, following enactment of Indian lands legislation by Congress, a permanent regulatory program for the regulation of surface coal mining on Indian lands was to be developed by OSM that provided an opportunity for the Indian tribes to administer the program in appropriate circumstances. The commenters recognized, however, that section 710 provided for certain provisions of the Act to be applicable to coal mining operations on Indian lands pending adoption of a final regulatory program. In the alternative, they urged OSM to limit the scope and effect of the regulations to those provisions of the Act cited in sections 710 (c) and (d) therein.

OSM disagrees with the commenters' assertions that OSM lacks the authority to promulgate regulations governing surface coal mining and reclamation operations on Indian lands. Sections 710 (c) and (d) clearly require the Secretary to regulate mining on Indian lands. The rules adopted today implement the sections of the Act identified in section 710(d) or which are needed by necessary implication. They also cover sections of the Act pertaining to all surface coal mining operations, such as section 522(e). Section 102(a) of the Act states that "it is the purpose of this Act to establish a *nationwide* program to protect society and the environment from the adverse effects of surface coal mining operations (emphasis supplied)." Section 201(c)(2) provides that "the Secretary, acting through [OSM], shall publish and promulgate such rules and regulations as may be necessary to carry out the purposes and provisions of this Act." Therefore, the Act provides OSM with ample authority to promulgate these rules. This action is consistent with the opinions of the District Court for the District of Columbia, *In Re Surface Mining Regulation Litigation*, 456 F. Supp. 1302, 1324 (1978) and of the Court of Appeals for the District of Columbia, *In Re Surface Mining Regulation Litigation*, Civ. No. 78–2109, *et seq.*, 32 (D.C. Cir. 1980).

One commenter objected to the promulgation of the regulations in final form until after they are redrafted and republished in the **Federal Register** as proposed rules.

OSM rejects the commenter's suggestion. The rules adopted today are well within the scope of the proposal on which OSM has provided the public ample opportunity to comment.

One commenter contended that the preamble to the proposed rule inadequately explained the basis and purpose for many aspects of the proposal.

OSM does not agree, but has nevertheless amplified these matters in the preamble published today both in general and in response to specific comments.

One commenter urged OSM to make it clear in the preamble what regulations, as revised, are part of the program and to include the full text of the relevant regulations.

OSM rejects the comment. The use of cross-referencing offers considerable advantages in convenience and cost. It also results in administrative simplicity in that there is one basic set of regulations for all Indian lands and Federal program States. The permanent program rules, besides being directly applicable on Indian lands and in Federal program States, provide the measure for State program approval. Thus, all regulatory programs are ultimately based on OSM's permanent program rules. If those rules are changed, then it automatically effects a change in programs using cross-referencing. The public may comment once, rather than reiterating comments each time a program is revised which embodies the changed requirements.

Numerous commenters contended that the definition of the term "Indian lands" is inadequately explained in these regulations. Therefore, they asserted, the applicability of the rules is unclear.

It is not the intent of these regulations to amend the definition of Indian lands in the Act nor to resolve the various disputes between and among tribes and States. Rather, OSM is responsible for enforcing the law as it exists. Congress provided a definition of "Indian lands" in section 701(9) of the Act, which definition appears verbatim in 30 CFR 700.5. The Federal program promulgated here today applies to all "Indian lands" as that term is defined in the Act. Thus, OSM will continue to regulate as Indian lands all lands within the exterior boundaries of Indian reservations, allotted lands, and all lands where either the surface or minerals are held in trust for or supervised by an Indian tribe or individual Indians.

One commenter recommended that OSM replace 25 CFR Part 216, Subpart B, with a new 30 CFR Part 750 administered by OSM. The commenter also asserted that 30 CFR Part 750 should replace as well 25 CFR Part 216, Subpart A, which concerns coal exploration, surface coal mining permits, and mining plans on Indian lands. The commenter contended that centralizing all such responsibilities in OSM would streamline the regulations and simplify the process. In addition, the commenter suggested that 25 CFR Part 216, Subpart A, should be made applicable to severed mineral estates.

Under the rule adopted today, after OSM makes an initial administrative decision approving or disapproving a permit application for a surface coal mining operation as required by Part 750, then 25 CFR Part 216, Subpart B will

cease to be applicable to that operation. The October 1983 notice did not propose to amend 25 CFR Part 216, Subpart A. That Subpart, which contains procedures for approval of exploration and mining plans, does not implement the Act or specify OSM's functions. It remains unchanged by this rulemaking.

One commenter stated that the tribes are independent and that they are distinguishable from States. In addition, the commenter contended that the regulations are a direct infringement on the tribes' rights to be recognized as legal entities.

OSM recognizes the difference between Indian tribes and States and the special relationship between the U.S. Government and the Indian tribes. All of this is evidenced by the inclusion of section 710 in the Act and OSM's promulgation of the Federal program for Indian lands to fulfill that congressional mandate. These rules do not diminish the tribes' rights to be recognized as legal entities. The rules merely implement the requirements of the Act that OSM regulate surface coal mining operations on Indian lands. Moreover, OSM submitted legislation to Congress on February 17, 1984, as required by sections 710(a) and 710(b) of the Act. When and if the legislation is enacted, it would give the tribes the opportunity to become the regulatory authorities on Indian lands.

Several commenters requested that OSM clarify the somewhat confused role of the States in the regulation of coal mining on Indian lands. A commenter contended that the preamble to the proposed rules is inconsistent in stating that the proposed regulations would not grant, endorse, or revoke any State or tribal jurisdiction (48 FR 49175) and then proposing to make § 843.14(c) inapplicable to Indian lands (48 FR 49178) because no State regulatory authority would have jurisdiction over Indian lands. The commenters argued that OSM should assume exclusive jurisdiction within reservation boundaries and that jurisdiction should remain with the States outside reservation boundaries. The commenters believed that adoption of this suggestion would avoid jurisdictional conflicts and duality of regulation.

The issue of jurisdiction and the role of the States is not easily resolved. Section 710(h) expressly provides that the Act does not change the jurisdictional status of Indian Lands. The Act makes no provision for tribes to become regulatory authorities. The most reasonable inference, then, is that the Secretary (through OSM) is charged with regulating surface coal mining operations on all Indian lands. The definition of Indian lands in § 701(9) of the Act provides jurisdiction to OSM to regulate surface coal mining operations on lands outside the reservation that are held in trust for or supervised by an Indian Tribe. Accordingly, OSM must regulate these off-reservation lands and may not be constrained by any State from doing so.

Several commenters argued that the proposed Indian lands regulations are out of keeping with the Congressional intent of § 710 of the Act. They alleged that the Congressional purpose is to allow tribes to assume full regulatory authority over surface mining. Commenters maintained that OSM failed to satisfy § 710 by failing to submit the required reports and recommendations to Congress regarding development and implementation of legislation which would allow tribes to obtain primacy. One commenter asserted that the proposed rules appear to preempt the role of Congress under § 710 and that the Federal program for Indian lands is contrary to prevailing Federal policy decisions of the Supreme Court upholding the sovereign powers of Indian Tribes.

The promulgation of a Federal regulatory program for surface coal mining and reclamation operations on Indian lands is consistent with Congressional intent of § 710 of the Act. Promulgation of these rules has no bearing on the Indian lands legislative report presented to Congress. The Congress declined, when passing the Act, to give primacy to Indian tribes. Instead, the Secretary was charged with the responsibility to promulgate and administer the regulatory program on Indian lands. Congress knew that a period of time would elapse between the passage of the Act and the enactment of any subsequent legislation providing additional authority to Indian tribes. During this period, OSM is the regulatory authority. Promulgation of the Federal program for Indian lands will neither delay nor impede tribes from obtaining primacy; it will ensure that all mining operations on Indian lands are conducted in accordance with permanent program standards until tribes are given the authority to seek and obtain primacy.

B. Specific Regulatory Changes and Comments

25 CFR Part 216, Subpart B

In the October notice, OSM proposed to delete Subpart B of 25 CFR Part 216, the interim Indian lands program, in its entirety. Upon review, OSM has decided not to do so. Rather, OSM has amended the applicability provision of Subpart B so that the performance standards contained therein remain applicable to each surface coal mining operation on Indian lands until OSM issues or denies the permit in accordance with the requirements of 30 CFR Part 750. Under the proposal, the performance standards of Part 750 would have been applicable to all operations on Indian lands as soon as the program became effective. By requiring the performance standards of Part 216, Subpart B to govern until OSM issues or denies a permit as required by 30 CFR Part 750, OSM intends to minimize abrupt dislocations associated with the immediate implementation of a new regulatory program. Of course, continued authority to operate under the Federal program for Indian lands requires a permit application to be filed with OSM within two months.

Although the performance standards of 25 CFR Part 216, Subpart B will remain in place, the inspection, enforcement, and civil penalty provisions in §§ 216.112, 216.113, and 216.114 are removed as proposed. They are superseded by the provisions of 30 CFR Parts 842, 843, and 845. Because existing operations will continue to comply with the Part 216, Subpart B performance standards rather than with those in 30 CFR Part 816, or 817, until a permit decision is made, use of the permanent program inspection and enforcement regulations will cause no undue hardship on non-complying operators. As is the case for other cross-referenced rules, having one set of uniform rules in place makes administration of the Act simpler and more efficient.

Section 700.1 Scope. OSM amends the "Scope" section of the introductory subchapter in 30 CFR Chapter VII to show that the Federal program for Indian lands is included in Subchapter E, and that the Federal program for Indian lands cross-references other parts of the permanent regulatory program.

Section 700.1(e) One commenter requested that § 700.1(e) be revised to read "Subchapter E of this chapter contains regulations that apply to surface coal mining and reclamation operations conducted on Indian lands." The commenter reasoned that this suggested change would avoid the wholesale incorporation of existing regulations and would limit the scope of the proposed regulations to those provisions of the Act specifically set forth in sections 710 (c) and (d).

OSM has accepted the commenter's suggested language in the interest of simplifying the regulations. The change

does not, however, lessen the incorporation of permanent program regulations into the Federal program for Indian lands, since Part 750 makes most of those regulations applicable to Indian lands.

Section 700.11 Applicability. Section 700.11 describes the applicability of the permanent regulatory program. OMS, as proposed, has amended § 700.11 to delete paragraph (a)(5) thereby making 30 CFR Chapter VII applicable to surface coal mining operations on Indian lands. OSM received no comments on the proposed deletion of § 700.11(a)(5).

Section 701.1 Scope. Part 701 of the permanent regulatory program provides introductory material for the permanent regulatory program rules. OSM amends § 701.1 to redesignate paragraphs (b)(3) through (b)(8) as paragraphs (b)(4) through (b)(9) and to add a new paragraph (b)(3) showing Subchapter E, the Federal program for Indian lands, as the program applicable to such lands. OSM received no comments on the proposed adoption of paragraph (b)(3).

Section 701.3 Authority. Section 701.3 describes the authority of the Secretary to promulgate regulations establishing the permanent regulatory program. OSM amends it to include the Secretary's responsibilities on Indian lands.

A commenter suggested that OSM has authority only to impose permanent environmental protection standards (performance standards) upon operations on Indian lands.

OSM disagrees. The clear intent of § 710(d) of the Act is to impose most of the programmatic aspects of a permanent regulatory program upon surface coal mining and reclamation operations on Indian lands. These aspects include permit application requirements, reclamation plan requirements, performance bonds, permit approval or denial, environmental protection performance standards, surface effects of underground coal mining operations, inspections and monitoring, and release of performance bonds or deposits. Until such time as the Congress enacts legislation allowing the most reasonable and efficient means for Tribes to assume the role of regulation authority, implementation of these regulatory aspects on Indian lands is through the establishment of a comprehensive Federal regulatory program.

Section 701.4 Responsibility. Existing § 701.4 outlines the responsibilities of the Secretary and OSM. OSM has adopted a new paragraph (h) which states that Subchapter E contains the Secretary's, the Director's, and other Federal agencies' responsibilities on Indian lands.

Two commenters pointed out that proposed § 701.4(h) failed to ascribe any responsibility to the affected Indian tribes in the administration of the Federal program for Indian lands.

A discussion of the role of affected tribes is included in the response to comments for § 750.6, below. Specific responsiblities of the Bureau of Indian Affairs (BIA) and other Federal authorities are enumerated in § 750.6.

Section 701.11 Applicability. OSM amends § 701.11 by adding a new paragraph (c). Proposed paragraph (c) paralleled the requirements for lands within a State and for Federal lands in § 701.11(a) and (b). OSM has made two changes from the proposal in the final rule by changing the proposed first word "each" to "any," and by deleting the reference to Part 750 in § 701.11(c) (2).

As mandated by § 701.11 and 750.11, all persons expecting to conduct surface coal mining and reclamation operations on Indian lands eight months after the effective date of Subchapter E (today) are required to apply within two months of the effective date for a permit pursuant to the requirements of the Federal program for Indian lands. OSM will then make the necessary findings to determine whether the permit application is in compliance with the requirements of the Federal program for Indian lands and issue or deny a permit based upon those findings.

A commenter requested that § 701.11 expressly state that operators must comply with applicable statutory provisions, lease terms, etc., even during the eight-month period granted for obtaining a permit.

Taken in conjunction with the requirements of 25 CFR Part 216, Subpart B, which remains applicable until OSM makes an initial administrative decision on a permit application, § 701.11(c) (2) defines the terms and conditions under which existing operations can continue to mine during the period between program implementation and issuance or denial of the permit. As stated in this section, those operations authorized to continue during and beyond the eight month period must comply with all terms and conditions of the existing authorization to mine, the requirements of the Act, 25 CFR Part 216, and the requirements of all applicable mineral lease agreements, leases, or licenses. Because 25 CFR Part 216, Subpart B will apply until a permit decision is made, the proposed reference to Part 750 is unnecessary.

A commenter suggested that OSM not adopt § 701.11(c) because section 710 of the Act does not specifically authorize the Secretary to issue permits pursuant to a Federal program for Indian lands. The commenter suggested that Indian tribes may not recognize the validity of a permitting program and that the scope of the proposed regulations should be limited to the sections of the Act specified in section 710.

OSM has authority to require permits on Indian lands. Although section 710(d) of the Act does not list section 506 (permits) of the Act as an applicable provision on Indian lands, the authority to require permits is necessarily inferred from the explicit citation in section 710(d) of the Act of sections 507 (application requirements), 508 (reclamation plan requirements) and 510 (permit approval or denial). Sections 507 and 508 of the Act contain all the basic requirements for permit applications and reclamation plans. More specifically, section 510(a) of the Act requires that "upon the basis of a complete mining application and reclamation plan * * * pursuant to an approved State program or Federal program under the provisions of this Act * * * the regulatory authority shall grant, require modification of, or deny the application for a permit in a reasonable time set by the regulatory authority and notify the applicant in writing." The most reasonable and logical means to implement the provisions of sections 507, 508, and 510 of the Act for surface coal mining and reclamation operations on Indian lands is through the permitting process as set forth in a Federal program for Indian lands.

One commenter stated that the proposed rules do not recognize that most operations on Indian lands are already subject to the requirements of section 710(d) of the Act and that requiring permit applications for those operations would be only a paperwork exercise. The commenter suggested language to modify § 701.11(c) which would eliminate the permit application requirement. The commenter maintained that the permitting effort would be meaningless and impractical because most operations on Indian lands hold authorizations requiring compliance with permanent program requirements. The commenter stated that the existing authorizations already address all of the provisions of sections 710 (c) and (d) of the Act and "re-permitting" would be costly and excessive to operators. The commenter suggested that OSM incorporate a mechanism whereby an operator could simply reference his existing approval.

OSM disagrees with the assertion that most existing operations on Indian lands

currrently hold authorizations or approvals issued under permanent regulatory program requirements. Effectively, what the commenter is asserting is that operators are satisfying the performance standards of sections 515 and 516. Many surface coal mining and reclamation operations on Indian lands may well be complying with most aspects of the proposed Federal program for Indian lands. However, section 710(d) of the Act also references the requirements of sections 507, 508, 509 and 510 of the Act. Permitting of existing operations is far from meaningless. It is necessary to ensure that operators have undertaken proper planning efforts and will continue to comply with applicable performance standards. OSM's actions in reviewing and scrutinizing permit applications and making permit findings provide the extra level of environmental protection that the Act requires. Thus, OSM disagrees with the commenter's suggestion that the re-application process is merely a paperwork exercise for those operations now in compliance with most of the permanent regulatory program requirements.

Although a formal application is required for each existing operation OSM will determine the type and extent of application necessary on a case-by-case basis. For example, for those permit applications which are filed with, and are being reviewed by, OSM, an application under the permanent program may take the form of a letter from the operator requesting that the application already on file be reviewed for compliance with the Federal program for Indian lands. In those instances in which the application already on file is fairly complete in meeting permanent program requirements, OSM anticipates only minor resubmissions or modifications of the application. On the other hand, if the application on file has not been prepared on accordance with the permanent regulatory program requirements, and if it has not been reviewed by OSM pursuant to these requirements, then OSM anticipates requiring a complete resubmission of the application for a permit under the Federal program for Indian lands.

Two commenters suggested that the language in § 701.11(c) be changed from "shall have" to "shall be required to obtain."

OSM disagrees with the commenters' suggestion. Section 701.11(c) retains the proposed language. It tracks the other paragraphs of § 701.11 and requires that authorization to mine be dependent upon a permit having been issued.

Another commenter suggested that the language in § 701.11(c) be changed from "on Indian lands on or after eight months" to "on Indian lands on and after eight months."

OSM rejects the proposed change. The requirement to have a permit applies to all surface coal mining and reclamation operations conducted on or after eight months from this date. It is irrelevant when the operation begins or whether it is conducted on a date eight months in the future.

Two commenters requested that OSM change § 701.11(c) (1) to state that all permit applications must have prior approval by the affected Indian tribes before they are approved by the Director of OSM.

OSM disagrees with the proposed change. The Act makes no provision for approval by an affected Indian tribe. However, § 750.6(a)(2) provides for consultation with BIA during the permit application review process. BIA, in turn, is required to consult with the affected Tribes by § 750.6(d)(1).

A commenter suggested deleting the requirement of § 701.11(c)(1) to submit an application within two months of the effective date of the Federal program for Indian lands.

OSM disagrees with the suggested deletion. This requirement applies only to those operators who wish to continue to conduct existing surface coal mining operations beyond eight months from the effective date of this program. It is important that such operations quickly come within the purview of the permanent program. The timely filing of applications will allow OSM to examine the operators' plans and act on applications in a manner ensuring maximum protection to the environment. No unreasonable burden is imposed upon operators by this requirement which is similar to a requirement imposed at the outset of Federal and State programs.

Section 710.11 Applicability. In the final rules adopted today, OSM has made a conforming change in 30 CFR 710.11(b), the applicability section of the Initial Program Regulations. The change reflects OSM's decision to retain 25 CFR Part 216, Subpart B, and allow the provisions contained therein to remain applicable to surface coal mining operations conducted on Indian lands until OSM makes an initial administrative decision on a permit application pursuant to Part 750.

Part 750—Requirements for Surface Coal Mining and Reclamation Operations on Indian Lands

Part 750 contains the substantive requirements for surface coal mining and reclamation operations on Indian lands.

Section 750.1 Scope. Section 750.1 provides a "Scope" section for the Indian lands subchapter.

Section 750.5 Definitions. Section 750.5 includes several definitions which are applicable only to operations on Indian lands. The new definitions are applicable when used in Subchapter E or for regulating mining on Indian lands when used in a part that has been cross-referenced in Subchapter E.

A definition for the term "local governmental agencies" has been added to show that references to local government agencies include tribal governments on Indian lands.

A commenter questioned whether the term "Indian mineral owner," as defined in § 750.5, included Alaskan native—Aleuts, Indians, and Eskimos—regional and village corporations. The commenter pointed out that BIA has no trust responsibilities over the regional and village corporation lands, and questioned whether the State or OSM would regulate coal mining activities thereon if the lands fall outside the scope of these rules.

The only lands in Alaska which are governed by the Federal program for Indian lands are those lands within Indian reservations, such as the Metlakatla Reservation, and those lands held in trust for or supervised by an Indian tribe. Lands patented to a village corporation pursuant to the Alaska Native Claims Settlement Act, Pub. L. 92–203, 43 U.S.C. 1601 (ANCSA), in which the ANCSA corporation conveyed the land to a corporation formed under the Indian Reorganization Act, are outside the definition of Indian lands. Surface coal mining and reclamation operations on ANCSA village and regional corporation lands are therefore subject to regulation by the State of Alaska.

OSM has amended the definition of Indian mineral owner at § 750.5 to indicate that lands patented to a village or regional corporation pursuant to the ANCSA are not "Indian lands" within the meaning of section 701(9) of the Act.

A commenter suggested that the rules do not recognize the role of Indian tribal governments. The commenter believed that the phrase "local government agencies with jurisdiction over an area or an interest in the area of proposed operations" inadequately describes the role of tribal governments. The commenter suggested amending the definitions by adding that "local government agencies" means Indian tribal governments, in addition to any county, city or township government.

OSM agrees with the commenter's suggestion that for Indian lands the term

"local government agencies" should be expanded to include Indian tribal governments. OSM has added the suggested phrasing in § 750.5.

Section 750.6 Responsibilities. The section sets out the responsibilities of OSM, BIA, the Bureau of Land Management (BLM), and the Minerals Management Service (MMS) regarding coal mining activities on Indian lands. The intent of the section is to outline coordination obligations for agencies having specific responsibilities for coal mining and reclamation activities on Indian lands. It does not establish, nor is it intended to establish the roles of agencies other than OSM. It merely enumerates the responsibilities in one place for the readers' convenience.

Several corrections and clarifications were made in § 750.6 to ensure consistency in agency responsibility. The section clarifies several issues: (1) The responsibilities of BLM for coal exploration on Indian lands; (2) the role of BIA for consulting with the affected Indian tribes in the permitting process; (3) the role of BLM in monitoring and administering contract, lease, or mineral agreements, and (4) the role of OSM and BIA with respect to bonding responsibilities.

General Comments Concerning § 750.6. A commenter contended that the description of the roles of BIA, OSM, and BLM failed to recognize the tribes' role as lessors. The commenter also stated that Secretarial approval and tribal consent are required before any lease on Indian Trust lands can be negotiated.

The Commenter's concern over the rule is unfounded. The section describes a procedural arrangement by which the BIA, OSM, and BLM, coordinate and execute their respective functions and responsibilities for coal operations on Indian lands. The section does not delineate in detail the relationship of the tribes to the BIA, BLM, and OSM. It recognizes the lead role of the BIA in the Federal-Indian trust relationship and in securing consultation with the tribes. It neither impedes nor interferes with the tribes' role as lessors. Nothing in the rule adopted today vitiates the role of the tribes as lessors or alters other statutory and regulatory prerogatives of the Secretary with respect to Indian lands.

Several commenters believed that proposed § 750.6 excluded tribal involvement in the decisionmaking process for the regulation of surface coal mining operations on Indian lands. The commenters argued that the proposed regulations reflect a significant retreat from current OSM practices with respect to tribal involvement. One commenter requested that OSM discuss the cooperative role of tribes. Other commenters requested that explicit provisions be made for a tribal right to participate in the regulatory process. Commenters suggested that OSM consult with and defer to the affected tribes prior to approval of any permit. Other commenters stated that the Secretary, as part of his trust responsibilities to the tribes, must include them in his decisionmaking regarding the mining of coal on Indian lands.

One commenter recommended providing tribes the same level of participation as allowed the States under a permanent Federal program. Commenters asserted that if OSM merely consulted with BIA on issues involving tribal resources, then OSM would not be giving tribes the special consideration Congress intended.

OSM did not intend to diminish the tribes' participation and will continue to encourage tribal involvement regarding surface coal mining and reclamation operations on Indian lands. During the permit application review process, OSM ensures that the affected tribes receive a complete copy of the application and all revisions and amendments thereto. OSM encourages and actively seeks comments from the tribes during this process. OSM has also fostered this cooperative role through implementation of tribal-Federal cooperative agreements funded by OSM on an annual basis. Under these agreements OSM has: (1) Solicited input from designated tribal officials and staff concerning all phases of permit application review for operations on Indian lands; (2) assisted tribes in the establishment of tribal commissions or agencies with responsibilities for providing meaningful participation in surface coal mining regulatory activities; (3) provided cooperative funding for staffing of these entities; (4) provided technical training to tribal staff to assist in their understanding of surface coal mining regulatory issues and processes; and (5) provided tribal representatives with an opportunity to participate in inspection activities on all existing surface coal mines on Indian lands.

Further, OSM, with full approval and participation from the tribes, has developed and is implementing detailed technical training programs which will enhance tribal staff development and expertise in the permit application review process. OSM supports the efforts of tribal governments to develop tribal codes and regulations leading toward eventual assumption of regulatory authority by tribes for surface coal mining activities on Indian lands if and when authorized by Congress. OSM field offices invite tribal participation in inspection of each existing mine on Indian lands. OSM regularly encourages tribal input concerning technical issues and policy issues for surface coal mining regulatory activities on Indian lands.

OSM also recognizes the lead role of the BIA in the Federal-Indian trust relationship and in securing formal consultation with the tribes. OSM makes no attempt to change those policies. Under the Surface Mining Act, however, OSM is the sole regulatory authority on Indian lands and may not delegate decisionmaking authority to the tribes.

One commenter asserted that § 750.6 provides for too many Federal agencies to become involved in the permitting process and recommends that OSM assume all of the functions of MMS and BLM; provide for tribal responsibility for collecting and accounting for royalties and other income from mineral agreements; and minimize BIA involvement by limiting BIA's responsibilities. Another commenter suggested revising § 750.6 to read in its entirety, "OSM shall be the regulatory authority on Indian lands" because the Act contains no authority for division of these responsibilities among agencies.

OSM disagrees with the commenter's suggestions to reduce or eliminate the responsibilities of other Federal agencies. The involvement of other Federal agencies as specified in § 750.6 is necessary to ensure that the responsibilities of these agencies are carried out on Indian lands as mandated by the Act and other applicable laws. With respect to the commenters' other suggestions, neither the Act nor these regulations provide any authority for tribes to assume responsibilities, such as royalty collection, which are delegated to Federal agencies.

One commenter objected that proposed § 750.6 failed to set limits which govern the amount of time reviewing agencies can take to review permit applications and mining plans. The commenter believed that without the imposition of time limits reviewing agencies could substantially delay the development of coal resources on Indian lands.

OSM rejects the commenter's suggestion to specify time limitations in § 750.6 for reviewing permit applications. The time limits established in Subchapter G of 30 CFR Chapter VII are applicable on Indian lands and are sufficient. OSM processes applications as expeditiously as possible and generally notifies applicants of the typical review time frames far enough in

advance to avoid unnecessary delays in the permit application review process.

Section 750.6(a)(1). Section 750.6(a)(1) states that OSM shall be the regulatory authority on Indian lands. As discussed above, a number of commenters inferred that OSM's assumption of the role of regulatory authority operated to diminish the rights of tribal governments. OSM disagrees. OSM neither intends nor believes that these rules diminish the rights of tribal governments.

Section 750.6(a)(2). Proposed § 750.6(a)(2) provided that after consulting with BIA, OSM would approve, conditionally approve, or disapprove permit applications for surface coal mining and reclamation operations on Indian lands or revisions or renewals thereto, and applications for the transfer, sale or assignment of such permit rights. Final § 750.6(a)(2) is adopted essentially as proposed, with the change described below.

A commenter suggested the inclusion of the BLM in the consultation process described in § 750.6(a)(2) for the review, approval, or disapproval of permit applications because of BLM's role in coal operations on Indian lands and familiarity with the operator and the land involved. The commenter pointed out that BLM has the responsibility for exploration plans and for approving or disapproving mining plans under 25 CFR 216.7.

OSM agrees with the commenter, and has changed § 750.6(a)(2) to read, "After consultation with the Bureau of Indian Affairs, and, as applicable, the Bureau of Land Management * * *." To the extent practicable, OSM expects to take into account the recommendations of the other agencies within the Department.

Section 750.6(a)(3). Proposed § 750.6(a)(3) is adopted as proposed. It provides that OSM shall conduct inspection and enforcement activities with respect to surface coal mining and reclamation operations on Indian lands.

One commenter asserted that the proposed regulations wrongly assume that Federal inspection of Indian lands is lawful under all circumstances, and cited two cases, *Donovan* v. *Navajo Forest Products Industries,* 692 F.2d 709 (10th Cir. 1982) and *DeCoteau* v. *District County Court,* 420 U.S. 425, n.2 (1975), to support the objection.

OSM disagrees with the objection for several reasons. Section 517(b)(3) of the Act provides that authorized representatives of the regulatory authority, without advance notice and upon presentation of appropriate credentials:

(A) shall have the right of entry to, upon or through any surface mining and reclamation operations or any premises in which records required to be maintained under paragraph (1) of this subsection are located; and

(B) may at reasonable times, and without delay, have access to and copy any records, inspect any monitoring equipment or method of operation required under this Act.

The Act, therefore, expressly authorizes warrantless entries. Also, the court in the *In Re Surface Mining Regulation Litigation, supra,* held that the warrantless search provisions of the Act and the regulations are reasonable, as limited by the Secretary. More recently, the U.S. Supreme Court reaffirmed the right of government agents to enter upon open fields for the purpose of carrying out government business and stated that the government's intrusion upon open fields is not an "unreasonable" search proscribed by the Fourth Amendment. *Oliver* v. *United States,* No. 82–15, Slip Op. (April 17, 1984).

Section 750.6(a)(4). Proposed § 750.6(a)(4) required that OSM consult with the BIA with respect to special requirements relating to the protection of non-coal resources of the area affected by surface coal mining and reclamation operations, and assure operator compliance with such special requirements. OSM, in response to numerous comments criticizing the apparent lack of tribal involvement in the regulation of surface coal mining activities, has added language to this section to provide that OSM will consult also with the affected tribes.

Section 750.6(a)(5). Final § 750.6(a)(5) provides that OSM shall consult with the BLM concerning requirements relating to the development, production and recovery of mineral resources on Indian Lands. It is adopted unchanged from the proposal.

Section 750.6(a)(6). Final § 750.6(a)(6), which is adopted as proposed, provides that OSM shall approve environmental protection performance bonds and liability insurance required for surface coal mining and reclamation operations on Indian lands, but not the production royalty bond. The provision is intended to implement OSM's statutory responsibility under section 509 of the Act. This section has no effect on the responsibilities of other agencies in the Interior Department under 25 CFR 216.8, which concerns the filing of performance bonds upon approval of an exploration or mining plan in accordance with the provisions of 25 CFR Part 216 Subpart A. However, if the performance bond filed with OSM adequately covers the costs of reclamation, the amount of the bond required under 25 CFR 216.8(b) may be reduced appropriately.

Section 750.6(a)(7). Final § 750.6(a)(7) provides that OSM shall ensure compliance with the requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, with respect to permitting actions for surface coal mining and reclamation operations on Indian lands. It is adopted unchanged from the proposal.

Section 750.6(b). Final § 750.6(b) enumerates BLM's responsibilities. Under § 750.6(b)(1) BLM is responsible for receiving, reviewing and conditionally approving, approving, or disapproving exploration plans and mining plans as provided in 25 CFR Chapter I, or specific Indian mineral agreements. Final § 750.6(b)(2) is identical to the proposed section. It establishes that BLM is responsible for administering and conducting inspection and enforcement for coal exploration operations on Indian lands.

Surface coal mining operations on Indian lands may be subject to one of two types of mining plan approval requirements. The rule at 25 CFR 216.7 requires operators to obtain mining plan approvals if their leases for mining Indian coal were issued after January 18, 1969. Leases issued prior to that date may expressly require operators to comply with provisions of 30 CFR Part 211 "now or hereafter in force," or comparable provisions. Because 30 CFR Part 211, which has been redesignated as 43 CFR Part 3480, requires operators to obtain mining plan approvals prior to conducting operations, the requirements of 43 CFR Part 3480 may be applicable to some operators under certain mineral agreements.

BLM has primary responsibility under 25 CFR Part 216, Subpart A for regulating coal exploration on Indian lands. BLM is responsible for receiving, reviewing and approving or disapproving coal exploration plans; administering and conducting inspection and enforcement with regard to requirements for coal exploration on Indian lands; and administering and conducting inspection and enforcement of minerals agreements, contracts, or lease terms and conditions. These responsibilities are recognized in 30 CFR 750.6(b)(1) and 750.6(b)(2).

The content of proposed § 750.6(b)(3) has been adopted in two sections, §§ 750.6(b)(3) and (b)(4). Section 750.6(b)(3) provides that BLM is responsible for administering mining contract, lease or mineral agreement terms and conditions, as provided for in 25 CFR Chapter I or in specific Indian mineral agreements; § 750.6(b)(4) states

that BLM is responsible for administering and conducting inspections and enforcement of terms and conditions of contracts, leases, or mineral agreements for coal mining operations, including production verification and inspection of operations for that purpose. In making these changes, OSM has incorporated the suggestions of a commenter who stated that the proposed phrase "if allowed" produced confusion about BLM's enforcement responsibilities. To achieve greater clarity, OSM adopted the commenter's suggested language.

Section 750.6(c). Final § 750.6(c) is identical to the language contained in the proposed rulemaking. It provides that MMS is responsible for collecting and accounting for royalties and other income on Indian mineral agreements except for annual rentals.

Two commenters requested that copies of all payments and other records be sent to the tribes at the same time they are submitted to the MMS under § 750.6(c). Interested individuals may contact their respective district offices of MMS to obtain copies of royalty payments and other records requested. OSM neither collects nor maintains this information.

Section 750.6(d). Section 750.6(d) outlines the principal responsibilities of BIA regarding the regulation of surface coal mining operations on Indian lands. Final §§ 750.6(d)(1), 750.6(d)(2), and 750.6(d)(3) of the final rules set forth BIA's responsibility as the lead agency within the Interior Department to consult with the tribes.

Final § 750.6(d)(1) provides that BIA is responsible for consulting directly with and providing representation for Indian mineral owners and other Indian land owners in matters relating to surface coal mining and reclamation operations on Indian lands.

Final § 750.6(d)(2) provides that after consultation with the affected tribe, BIA is responsible for reviewing and making recommendations to OSM concerning permit applications, renewals, revisions or transfers of permits, sales or assignments of permits, permit rights or performance bonds.

Final § 750.6(d)(3) provides that after consultation with the affected tribe, BIA is responsible for reviewing mining plans and making recommendations to the BLM pursuant to 25 CFR 216.7.

OSM has added language to both (d)(2) and (d)(3) clarifying that OSM expects recommendations from BIA only after BIA has consulted with the affected tribes. The language is intended to ensure that affected tribes have an opportunity to participate in the process.

A commenter asserted that the proposed rules relegated BIA to an advisory role with no decisionmaking authority. However, the Act does not give BIA decisionmaking authority with respect to surface coal mining operations on Indian lands. BIA remains responsible for the Federal-Indian Trust obligations and for representing the tribes after consulting with them. In addition, tribes also continue to have the opportunity to consult with any agency on an informal basis.

A commenter stated that the proposed role of BIA of representing the tribes in matters relating to surface coal mining and reclamation is too vague and must be clarified to allow for direct consultation with tribal governments.

OSM agrees that the role of BIA can be further clarified and accordingly has changed § 750.6(d)(1) from the proposed phrase "assisting in the representation of" to the final language "consulting directly with and providing representation of."

A commenter questioned whether BIA has adequate technical staff to make the proper evaluations needed under § 750.6(d). The commenter suggested that some tribes might be better staffed to make these evaluations and recommendations to OSM. Two commenters recommended the delegation of the responsibilities outlined under § 750.6(d) to the tribes under cooperative agreements.

The Secretary lacks the authority to transfer the responsibilities listed under § 750.6(d) to the tribes at this time. The Federal-Indian Trust responsibilities for land use decisions and other matters relating to surface coal mining and reclamation operations on Indian lands remain with BIA. OSM agrees that tribal staffs are gaining expertise that will better enable them to participate in the evaluations required by § 750.6(d). All recommendations and comments of the affected tribes will be considered during review of permit applications.

Section 750.10 Information collection. OSM received no comments on this section.

Section 750.11 Permits. Section 750.11 sets out the permit requirements for conducting surface coal mining operations on Indian lands.

Section 750.11(a) provides that no person may conduct surface coal mining operations on Indian lands after eight months following the effective date of the Federal program for Indian lands in Subchapter E unless that person has first obtained a permit under Part 750. The permitting requirements implement a permitting requirement on Indian lands comparable to those implemented on Federal lands and on lands within a State.

Under final § 750.11(b), all persons conducting surface coal mining and reclamation operations on Indian lands are required to comply with terms of the permit, the requirements of Subchapter E, and the Act.

One commenter stated that the inclusion of mineral agreements, leases and licenses in proposed § 750.11(b) should not be covered in these regulations since these are covered by other acts and regulations, and that therefore OSM has no justification for including them here.

OSM accepts the commenter's suggestion and has not adopted the terms "mineral agreements, leases, and licenses" in final § 750.11(b). OSM does not intend to assume any enforcement responsibilities for requirements of mining contracts, leases, or mineral agreements that are authorized and enforced exclusively under other statutes.

Final § 750.11(c) authorizes existing operations to continue to operate beyond eight months from this date if (1) a permit application is filed with OSM within two months; (2) OSM has not yet rendered an initial administrative decision approving or disapproving the application; and (3) the operations are conducted in accordance with applicable standards.

One commenter suggested adding a new section to § 750.11 which would provide for cooperative review of applications for proposed operations that contain both Indian lands and non-Indian lands. The commenter maintained that the new section is needed to ensure that any resulting dual permit reviews are as similar and concurrent as possible.

In response to the comment, OSM has included a new paragraph (d) in the final rules which provides for a cooperative review of permit applications whenever proposed surface coal mining operations will encompass both Indian lands and non-Indian lands. If the non-Indian lands are subject to the jurisdiction of a State regulatory authority, OSM expects that this joint effort with the State will substantially reduce potential dual permitting burdens on applicants. In every case OSM will make an independent decision whether to issue a permit for the Indian lands.

A commenter stated that the proposed regulations give no recognition or validity to permits for operations on Indian lands previously issued by OSM under the Act. The commenter believed that OSM should recognize valid permits and require no further

permitting for the duration of the permit's term.

All operations on Indian lands will have to obtain a permit pursuant to § 750.11. Although some existing surface coal mining and reclamation operations on Indian lands were reviewed under standards similar to those in OSM's permanent regulatory program, it is not clear that any were approved using precisely those standards. OSM will evaluate each application on an individual basis. At a minimum, an operator currently mining coal will have to submit an application for this evaluation. OSM will then determine whether the existing approval was based upon standards equivalent to those of the Federal Program for Indian lands and determine the extent to which additional materials and proceedings are necessary.

Two commenters suggested that the second "after" be deleted from proposed § 750.11(a) as unnecessary. OSM concurs that the proposed language may have been confusing and has changed § 750.11(a) from "after eight months after" to "after eight months following."

Section 750.12 Permit Applications. Section 750.12 specifies the requirements for applications for permits, permit revisions, and permit renewals for surface coal mining operations on Indian lands.

One commenter suggested the deletion of proposed § 750.12 in its entirety because the Secretary lacks authority to issue regulations beyond the scope of section 710 of the Act; the permitting requirements would expose operators on Indian lands to duplicative permitting and mining plan approval requirements which could render operations on Indian lands non-competitive; and the incorporation by reference of regulations being developed or subject to litigation without analysis or discussion for Indian lands makes meaningful comment impossible.

As discussed earlier, OSM has ample authority under the Act to promulgate these rules. Although there may be some overlap, the permitting requirement and mining plan approval requirements have separate statutory bases which must be satisfied. Hopefully, duplicative submissions can be minimized. If a permit applicant addresses all the requirements of 30 CFR Chapter VII, Subchapter G, many of the mining plan approval requirements of 25 CFR 216.7 can also be met using the same information. The mining plan requires approval from the BLM which will determine the sufficiency of the information provided.

The public has had an opportunity to provide comments on all regulations applicable to surface coal mining and reclamation operations on Indian lands. All of the rules cross-referenced were adopted in final form prior to the publication of the proposed Indian Lands Program. The bases and purposes for the regulations which are incorporated by reference in the Federal program on Indian lands are set forth by OSM in preambles to those regulations. Although such regulations may at any time be subject to change, the public will be given the opportunity to comment on the effects of future changes.

Section 750.12(a). Under § 750.12(a), each application must be accompanied by a fee. OSM is currently drafting a proposed rule on permit fees that will apply to Indian lands and to all other areas where OSM is the regulatory authority, including Federal Program States and Federal lands. Until the other rule is proposed and adopted, § 750.12(a) will provide the authority for the collection of permit fees.

Two commenters questioned how the permit application fee is to be calculated. The commenters asserted that it is difficult to comment constructively on the proposed rule unless the calculation factors are known. Another commenter stated that placing a fee on coal mine operators on Indian lands would lessen his competitive position since similar fees are not presently being required for State and for Federal applications. The commenter recommended the permit fee rule not be adopted unless similar provisions are included for State programs, Federal lands, and Federal programs for States.

As noted above, permit fee regulations are currently under development by OSM. The regulations for permit fees, when proposed, will apply to Indian lands, and to all other lands for which OSM is the regulatory authority. An opportunity for comment on the proposed rules will be provided. OSM does not intend to collect permit fees for Indian lands until OSM promulgates the new rules. The issue of whether fees should be collected for permit application review performed prior to the promulgation of the permit fee rule will be addressed in that rulemaking. Final § 750.12(a) differs from the proposal in order to recognize that OSM's proposed permit fee rule may include either amounts or methods of calculating permit fees.

One commenter recommended that the permit fee also cover costs of tribal involvement in the permit review process, including funds for tribes to conduct their own cultural resource and socio-economic impact investigations.

The question raised by the commenter is more appropriately addressed in the pending permit fees regulation. That rule will identify and solicit comments on which costs should be recovered through the permit fee.

Two commenters argued that the fee requirements in proposed § 750.12(a) go beyond the authorization of section 507(a) of the Act. The commenters stated that fees for revisions and renewals of permit applications are unauthorized.

OSM disagrees. The intent of section 507(a) of the Act is to collect a fee for processing applications. Revisions and renewal are types of applications imposing processing costs. The authority for collecting such fees will be further addressed when OSM promulgates rules for the collection of permit fees.

Section 750.12(b). Under § 750.12(b), unless OSM specifies otherwise, no less than seven copies of the application are required. The final rule differs from the proposal in clarifying that the application is to be filed with OSM; the proposal said only "with the regulatory authority." Operators who seek authorization to conduct operations on Indian lands should contact OSM in advance to determine the number of copies to file.

Two commenters requested that tribes be specified as recipients of copies of the permit application under § 750.12(b). One commenter requested that the tribes receive three copies of the application.

OSM, as the regulatory authority, is responsible for the receipt and distribution of all copies of the application and will provide the affected tribes, BIA, and other agencies with responsibilities for Indian lands with copies of the application. OSM has modified § 750.12(b) to show this.

Section 750.12(c). Section 750.12(c)(1) makes most of the substantive permitting requirements of 30 CFR Chapter VII, Subchapter G applicable on Indian lands.

Section 750.12(c)(2) identifies provisions of the permit processing rules that are inapplicable on Indian lands. The final rule uses section numbers redesignated as a result of the revision to the permitting rules (48 FR 44344, September 28, 1983). The specific permitting provisions of Subchapter G that are inapplicable on Indian lands include Part 772 and §§ 773.11, 773.15(c)(3), 777.17, 778.16 (a) and (b), 785.11, and 785.12.

Part 772 pertains to coal exploration, which OSM does not regulate on Indian lands. Section 773.11 contains the general requirement to obtain a permit

for lands within a State. Its counterpart in the Indian lands program is § 750.11.

The rules do not require OSM to make the permit finding of § 773.15(c)(3) or the permit application to contain information supporting the finding (as required by §§ 778.16 (a) and (b)) that the area is not within an area designated, or under study or petition for designation as unsuitable for surface mining. These are inapplicable to Indian lands because the Act contains no provisions for either unsuitability petitions or planning processes for unsuitability on Indian lands.

Section 777.17, pertaining to permit fees is unnecessary in view of § 750.12(a). Likewise, §§ 785.11 and 785.12 relate to special situations in Pennsylvania and Wyoming that are not relevant to mining on Indian lands.

Section 750.12(c)(3) implements two special permit processing provisions applicable on Indian lands. First, when permits on Indian lands are proposed to be transferred, sold or assigned, § 511(b) of the Act requires the regulatory authority to approve the sale or assignment of permit rights.

The second special provision specifies the procedures to be followed for revisions of permits and provide guidance for the determination of whether a proposed permit revision is significant. Final § 750.12(c)(3)(ii)(A) requires applications for revisions to contain the same information on the proposed revised operation as if it had been proposed as part of the initial, already permitted operation. Because revisions differ widely, it is not possible to specify precisely the information needed for each permit, and there is no need to limit the required information to that in the operation and reclamation plan.

Among the factors OSM will examine in determining the significance of a revision are: (1) Changes in production or recoverability of the coal; (2) environmental effects; (3) public interest in the operation or change; and (4) possible adverse impacts upon fish or wildlife, endangered species, bald or golden eagles or cultural resources. Minor editorial changes have been made from the proposal in final § 750.12(c)(3)(ii)(B).

A commenter suggested adding previous §§ 770.12 and 776.12 to proposed § 750.12(c)(1). Previous § 770.12 is incorporated as revised in § 773.12. However, previous § 776.12 (now § 772.12), setting forth approval requirements for coal exploration removing more than 250 tons, is inapplicable on Indian lands. Coal exploration on Indian lands is BLM's responsibility.

One commenter asked if the proposed § 750.12(c)(1) is in conflict with 25 CFR 216.6. OSM finds no conflict because 25 CFR 216.6 sets forth requirements for approval of exploration plans, a responsibility that is retained by the BLM.

Section 750.12(d). Section 750.12(d) requires additional information in permit applications for mining on Indian lands to allow the Department to fulfill statutory obligations under other Federal laws. The requirements are comparable to those required for mining plans or permit applications for Federal lands. See the discussion of "permit application packages" in the **Federal Register** preamble to the Federal lands rules, 48 FR 6912 (February 16, 1983). OSM includes information required for compliance with the American Indian Religious Freedom Act in subparagraph (v).

One commenter asserted that proposed § 750.12 relates to operator compliance with Federal and State laws, specifically air quality regulations and other environmental regulations, but fails to recognize tribal regulations. The commenter is concerned that this could preclude or even eliminate current and proposed programs designed to establish tribal environmental regulatory programs.

The purpose of § 750.12(d) is to ensure that the permit application package contains enough information for OSM to determine that the proposed operation will be in compliance with applicable Federal law. It is not intended to preclude the separate applicability of authorized tribal rules.

A provision has been included as § 750.18(e) to make explicit that 30 CFR Chapter VII does not replace or supersede any remedy of the Indian mineral owner or other Indian owner that is set forth in the contract or otherwise available at law. This provision emphasizes that the Federal Program for Indian lands is not intended to interfere with existing rights of Indians. It is carried over from previous 25 CFR 210.113(h).

A commenter requested that a clause be inserted in § 750.12(c)(3)(i) to give tribes the first right of refusal to purchase the operator's interest in case of assignment. OSM disagrees. The regulations in 30 CFR Part 750 are not a means for assigning rights of a permit to a tribe; the Act fails to provide such authority.

One commenter believed that 30 CFR Chapter VII Subchapters G, K, L and M do not provide to tribal governments substantive roles which are equal to that afforded to State and local governments. The commenter identified fifty-eight provisions in the rules in which tribal governments may be accorded a role, and incorporating the terms "tribe, tribal, or tribal government," whenever appropriate.

The commenter pointed out that tribal environmental codes are already governed by 25 CFR Part 216 and should be preserved.

In response to the commenter's suggestion, OSM has added a provision under the special requirements for permits at § 750.12(c)(3)(iii) to require notification of and consultation with tribal governments to the same extent as State and local governments. This provision reflects the role of tribal governments in the permit application process.

A commenter suggested that OSM solicit the affected tribes' input when reviewing revisions of mining and reclamation plans under § 750.12(c)(3)(ii)(B). Tribes will be notified and given the opportunity to comment on significant permit revisions. Under § 750.12(c)(3)(iii), tribes will be notified and given the opportunity to consult with OSM in the same manner and to the same extent as State and local governments.

The U.S. Fish and Wildlife Service (FWS) requested assurance that it could review and provide input into permit application review on Indian lands. The commenter also suggested that OSM and BLM jointly develop permit conditions to ensure protection of fish and wildlife values.

The U.S. Fish and Wildlife Service will have adequate opportunity to provide input into permit application review and ensure protection under the cross-referenced regulations, such as 30 CFR 773.12, 773.13 and 816.97. If needed and requested by the U.S. Fish and Wildlife Service, special conditions for protection of fish and wildlife values can be added under the existing regulations.

The FWS also expressed concern that by superseding 25 CFR 216.104(3), 216.108, and 216.110, the proposed rules weaken fish and wildlife protection measures. The commenter recommended the inclusion of a clear and more positive rule which would ensure that fish and wildlife protection measures are incorporated in the Federal Program.

All fish and wildlife protection requirements of the permanent regulatory program are now applicable to Indian lands by cross-referencing. Requirements such as §§ 773.12, 773.13, 773.15(c)(10), and 816.97 have been incorporated for Indian lands and

provide the necessary level of protection for fish and wildlife values.

A commenter questioned the status of those portions of the regulations that are neither listed under § 750.12(c)(1) as applicable to Indian lands nor listed under § 750.12(c)(2) as inapplicable, such as § 770.1.

The intent of OSM in § 750.12(c)(1) is to list those requirements of Subchapter G that specifically apply to Indian lands and in paragraph (c)(2) to list those specific requirements that do not apply. Section 770.1 was removed from Subchapter G in the course of OSM's recent revision of the permanent program rules. Every remaining requirement of Subchapter G is encompassed by § 750.12 (c)(1) or (c)(2).

Two commenters recommended that § 778.15(b) be made applicable to Indian lands. OSM agrees with the commenter. Section 778.15(b) and the corresponding permit finding, § 773.15(c)(4), are made applicable to surface coal mining conducted on Indian lands because the mineral and surface estates on Indian lands may be held by different owners.

One commenter suggested adding a new paragraph to § 750.12(c) which would give an operator the option of processing his permit application under the rules referenced in paragraphs (c)(1) and (c)(3), or under equivalent rules applicable to adjacent lands.

OSM disagrees with the suggestion to allow an operator the option of selecting which regulatory program should apply to the review of the application. Although OSM generally agrees that equivalent standards should apply to similar environmental conditions within a geographic area, this may not be possible where different regulatory programs apply.

One commenter questioned the proposed listing of previous §771.11 (since redesignated as § 773.11) as inapplicable to Indian lands since this section provided for the continuation of mining operations under an existing lease until such time as OSM approves the new application.

The continuation of operations under existing approvals for Indian lands is addressed by the requirements of § 750.11. Thus, OSM includes redesignated § 773.11 (successor to § 771.11) as inapplicable on Indian lands. Existing operations with approvals will be allowed to continue operating if the requirements of § 750.11(c) are met.

A commenter sought a provision to keep permitting information under § 750.12(c)(2) confidential and not of public record. Under § 773.13(d)(3), which is cross-referenced, OSM provides procedures to ensure confidentiality of information as authorized by the Act. OSM expects to implement the confidentiality provisions of § 773.13 on a case-by-case basis.

A commenter was concerned that the proposed rules at § 750.12 do not include the same unsuitability criteria as exist under BLM's planning process for Federal lands. The commenter stated that, since there is a need to protect critical resources on Indian lands, the same protection should be provided for fish and wildlife resources on Indian lands as is provided on Federal lands.

The unsuitability criteria for leasing of Federal coal do not apply to Indian lands. OSM lacks the authority to extend these requirements to the permitting process for surface coal mining and reclamation operations on Indian lands. However, as mentioned previously, protection of the critical fish and wildlife resource values are ensured through cross-referencing of the applicable regulations to Indian lands. Also, before issuing a permit, OSM must find that reclamation can be accomplished, including the requirements of 30 CFR 816.97.

Several commenters objected to the exclusion of the American Indian Religious Freedom Act and other Federal laws protecting cultural resources on Indian lands. The commenters believed that OSM should determine whether sites of religious value would be adversely affected by the granting of a permit application. The commenter believes that § 780.31 is inadequate to ensure protection of cultural resources on Indian lands. One commenter suggested that a proposed operation must show compliance with all Federal laws, including compliance with 25 CFR Part 216, and tribal laws regarding resource protection.

OSM agrees with the commenters' contentions that cultural resources on Indian lands are protected under the American Indian Religious Freedom Act and other Federal laws. OSM has added as § 750.12(d)(2)(v) a requirement for documentation of compliance with such laws as part of the permit application package. Proposed §§ 750.12(d)(2) (v)–(viii) have been redesignated §§ 750.12(d)(2) (vi)–(ix) in the rule promulgated here today.

The FWS requested that proposed § 750.12(d)(2)(viii) require documentation of appropriate studies and progress of informal and formal consultation with the U.S. Fish and Wildlife Service. The requirement for coordination with the Endangered Species Act of 1973 is included by incorporation of §§ 773.12 and 816.97 (see above discussion). However, OSM added language to § 750.12(d)(2)(ix) to require special studies if needed.

Finally the FWS stated that it is unclear whether a programmatic section 7 consultation under the Endangered Species Act will be initiated by OSM for the Indian lands program and whether the draft environmental assessment of these proposed rules addresses the endangered species issue.

Consultation under the Endangered Species Act will be initiated by OSM for each permit application on Indian lands, as required. These rules provide the same level of protection to threatened or endangered species as OSM's permanent program rules. Because the promulgation of these rules is in compliance with the Endangered Species Act, no formal consultation is necessary. Regarding the NEPA issue, an evaluation of coordination under the Endangered Species Act was included in the final environmental impact statement OSM–EIS–1 (OSM, 1979) and in the Final Environmental Impact Statement, OSM–EIS–1: Supplement (OSM, 1983) published in January 1983 for revision of the permanent program rules.

A commenter pointed out that States do not have jurisdiction to enforce compliance with the Clean Air Act on Indian lands as implied under proposed § 750.12(d)(2)(v). OSM agrees with the comment and final § 750.12(d)(2)(vi) (proposed § 750.12(d)(2)(v)) does not require data showing compliance with State laws.

Two commenters stated that the informational requirements of § 750.12(d)(2) should be eliminated as unnecessary, as unauthorized by the statute, and as appearing to go beyond the requirements of other permanent program applications. The commenters stated that OSM has failed to set forth authority for these requirements in the preamble, that it will be extremely difficult to gather this information within two months of the effective date of these rules, and finally that the accumulation of this information is a responsibility of OSM.

The authority and basis for OSM to require the information listed under § 750.12(d)(2) for operations on Indian lands is comparable to the requirements for mining on Federal lands. This discussion is provided in the **Federal Register** preamble to the Federal lands rules, 48 FR 6912 (February 16, 1983).

OSM recognizes the potential difficulty in providing all of the necessary information in two months' time. Submission of an application within two months will be sufficient to qualify an applicant to continue mining

until OSM makes a decision on the application. The application will have to be augmented if necessary to completely fulfill the regulatory requirements. If an applicant has made a good faith effort to provide all of the permit application information necessary for an existing operation, OSM will exercise reason in determining whether an operator may continue to operate under § 750.11(c).

One commenter suggested the modification of § 750.12(d)(1) to reflect that 30 CFR Part 211 has been redesignated as 43 CFR Part 3480, effective September 16, 1983. OSM agrees and makes the redesignation at § 750.12(d)(1).

Two commenters stated that Native American grave sites should be accorded as much protection as cemeteries under the regulations for unsuitability.

Section 522(e) of the Act is specific with regard to protection of cemeteries. Under OSM's revised definition in 30 CFR 761.5, 48 FR 41348 (September 14, 1983), a cemetery includes any land where human bodies are interred, except private family burial grounds. Whether Native American grave sites qualify depends upon specific facts. However, through the consultation process which includes OSM, BIA, and the tribes, and during development of the cultural resources protection plan required by § 750.12(d)(2)(iv), Native American grave sites not qualifying under the definition of a cemetery may be identified and afforded protection as recommended by the tribe and BIA. Also, under the requirements of § 773.15(c)(11), OSM must make a finding that proposed operations will not adversely affect a private family burial ground.

One commenter suggested that provisions be made to include the interim unsuitability criteria developed between the Navajo and BIA for proposed coal, gas, and oil leases on the Navajo area. OSM does not consider the suggested criteria to be applicable to these rules; as discussed above, they are more appropriate to the leasing process.

A commenter stated that the proposed incorporation of previous Part 786, adopted in final form in Part 773, reinforces the appearance that tribes have been entirely excluded by the regulations from any responsible role in the permitting process. The commenter further argued that tribes have extensive jurisdiction to regulate the activities of non-Indians, with only certain exceptions. The commenter reasoned that there is no legal impediment to tribal participation in the permitting and regulatory program under the Act and stated his inability to understand omission of such participation.

OSM disagrees. The tribes have not been excluded from the permitting process. To the contrary, their extensive role is described above. However, until such time as Congress enacts legislation to allow tribes to assume the role of a regulatory authority, and regardless of the extensive jurisdiction of the tribes to regulate other activities of non-Indians, tribes lack authority under the Surface Mining Act to regulate surface coal mining and reclamation operations on Indian lands. The Secretary concludes that these rules give tribes as much voice in the permitting process as is possible under the Act.

A commenter requested that previous Part 786 (redesignated as Part 773 and cross-referenced in § 750.12(c)) include native language requirements for notices, conferences, and hearings, and for copies of permit applications to be made available at places on Indian lands designated by the tribe.

OSM has not accepted this request. No requirement exists in the Act for posting notices in the native language. However, OSM will work with BIA to assure tribal involvement. Under § 773.13, a copy of the complete permit application is made available for public inspection. This location usually is the nearest county seat or other governmental office that is open to the public within the vicinity of the mine. OSM will consult with the tribe to determine where the application is to be filed. In addition, copies of the application are provided to the tribe and local BIA offices.

A commenter requested that under previous Part 786 permit approval should be conditioned on whether all lease terms and tribal laws have been met and should give due consideration to tribal recommendations. The BIA is responsible for reviewing the application and providing BLM with recommendations on approval or disapproval of the mining plan, which will include a review to determine if lease terms and tribal laws have been met. BIA recommendations are also given to OSM on the permit application. In addition, OSM will give full consideration to tribal recommendations during the review process.

A commenter requested that previous § 786.25 specify that nothing in the regulations may be construed as enlarging any rights or diminishing any duties established under tribal leases or tribal laws, and that previous § 786.25(c) provide for permit suspension for violation of lease terms or tribal laws.

The Indian Lands Program does not diminish any tribal rights. In addition, § 773.17, requires the permittee to comply with the terms and conditions of the approved permit. Tribes and the BIA have the opportunity to recommend inclusion in the permit of any lease terms and conditions which are not inconsistent with the Act. Violations of any permit conditions are subject to Federal enforcement under Part 843. In addition, the BIA is primarily responsible for the monitoring of lease terms.

A commenter requested that a right of entry for authorized tribal representatives should be specified in previous § 786.27. Right of entry under § 773.17 is allowed for the "authorized representative of the Secretary" on Indian lands. However, under § 773.18(d)(2) the authorized representative may be accompanied by private persons in accordance with Part 842. Representation for tribes during inspections is also provided for under § 750.18(d).

A commenter requested that previous Part 787 should specify that the tribe may participate as a party in administrative review proceedings (for review of permit decisions) through intervention as a matter of right.

Part 775 is the successor to Part 787, and is cross-referenced in § 750.12(c)(1). In accordance with § 775.11, any person with an interest which is or may be adversely affected by a decision on a permit may request an administrative hearing. The tribe clearly has such an interest and would therefore have the right to (1) request an administrative review hearing, (2) be notified and given the opportunity to be heard at administrative hearings, and (3) appeal for judicial review of the decision under § 775.13.

A commenter requested that formal tribal consultation be provided for during the review process of outstanding permits, permit renewals, and transfer, assignment or sale of permit rights under previous § 788. The commenter added that permit revisions should include formal tribal consultation as well as greater protection of cultural resource values. Tribes may be involved to the extent authorized by the Act. OSM previously discussed the role of tribal involvement in the permit review process at § 750.6 of the preamble, above.

A commenter recommended that it be the right of the tribal government to enter into contractual agreements which remove the Department of the Interior from the direct administration of programs on the reservations and that language be included to preserve and allow for tribal governments to request

and receive such contracts under the legal authority of Pub. L. 93–638, specifically § 102. The commenter stated that inclusion of these rights is mandatory, and the ability to exercise the right must be explicit.

Neither the Act nor these rules authorize tribes to regulate surface coal mining operations on Indian lands. For the present, that is OSM's responsibility. Such authority may result if Congress amends the Act. On the other hand, these rules do not affect or diminish rights of tribes under other laws.

Section 750.13 Small Operator Assistance. This section implements the small operator assistance program contained in 30 CFR Part 795 as applicable on Indian lands. *See* 48 FR 2266 (January 18, 1983). OSM received no comments on this section.

Section 750.14 Lands designated unsuitable for mining by Act of Congress. Because section 522(e) of the Act generally prohibits mining in specified areas designated by Congress, those prohibitions are applicable on Indian lands. Thus, § 750.14 makes 30 CFR Part 761, which implements section 522(e) of the Act, applicable on Indian lands. In addition, the Secretary in the exercise of his discretionary powers, may decline to approve minerals agreements in areas which are unsuitable for mining.

One commenter recommended that OSM reconsider its interpretation of the Act regarding the applicability of section 522 on Indian lands. The commenter reasoned that Congress intended that, unless specifically prohibited, all provisions of the Act are to apply to all lands underlain by coal.

OSM disagrees with the commenter's interpretation of the intent of Congress regarding the application of section 522 of the Act to Indian lands. The Act contains no provisions for either unsuitability petitions or planning processes for unsuitability on Indian lands. Tribal governments, in cooperation with the Department, can decline to lease lands which they determine are unsuitable for mining.

One commenter stated that tribes should be allowed to establish their own processes and develop their own criteria for making unsuitability designations. The tribe could then make decisions on the classes of individuals, i.e. members, non-members, or resident-members, who can file petitions of unsuitability.

OSM has rejected this comment. As previously discussed, the Act does not provide such authority.

Another commenter suggested that proposed § 750.14 not be adopted because the Secretary lacks authority to promulgate regulations under section 522 of the Act on Indian lands. OSM disagrees because section 522(e) applies to all surface coal mining operations.

Section 750.15 Coal exploration. Section 710 of the Act excludes compliance with section 512 of the Act, concerning coal exploration operations. Accordingly, OSM provides in § 750.15 that coal exploration on Indian lands is governed by 25 CFR Part 216 or 43 CFR Part 3480, whichever is applicable.

A commenter suggested that, to be consistent, the cross-reference in § 750.15 should include a reference to 43 CFR Part 3480, where applicable. OSM concurs and incorporates the suggested change in § 750.15.

A commenter suggested that all data relating to exploration such as plans, drill logs, geophysical and geological interpretation of data, etc., should also be filed with the tribe under § 750.15.

OSM has not accepted this comment. No requirement to transfer the listed information is authorized by the Act.

Section 750.16 Performance Standards. OSM cross-references for Indian lands the applicable permanent program performance standards in 30 CFR Chapter VII, Subchapter K. The final rule cross-references nearly all of the performance standards of the permanent program, which includes Parts 816, 817, 819, 822, 823, 824, 827 and 828. These provisions apply to all new operations and to existing operations after OSM makes an initial administrative decision on a permit application. Prior to that decision, the performance standards in 25 CFR Part 216, Subpart B continue to apply. The proposed cross-reference to Part 826 has not been adopted because that part has been removed from the permanent program rules.

A commenter suggested that the words "or the equivalent rules applicable to adjacent lands under an approved program or a Federal-State cooperative agreement" be added to the end of proposed § 750.16. The commenter stated that regulations are to take into account the "diversity in terrain, climate, biology, chemical and other physical conditions * * *," within a regional area as well as to implement national standards. The commenter argued that approved program standards should be allowed to apply to Indian lands in the same area.

The comment implied that approved State programs could be applied to operations on Indian lands. OSM cannot apply State program standards to Indian lands. However, OSM will consider local environmental factors within a given geographical area in its permitting decisions. OSM does not anticipate the application of technical standards to operations on Indian lands significantly different from those applied on non-Indian lands in similar areas.

One commenter contended that rules implementing section 515(b)(1) of the Act should be deleted because maximum economic recovery is a requirement of the Federal Coal Leasing Amendments Act of 1976 (90 Stat. 1085), not the Surface Mining Control and Reclamation Act, and has no bearing on Indian lands.

OSM disagrees with the position of the commenter. Section 710(d) of the Act expressly incorporates the requirements of section 515, including section 515(b)(1) which pertains to the maximum recovery of the solid fuel resource in a manner that minimizes reaffecting the land.

Section 750.17 Bonding. OSM cross-references all of the permanent program bonding regulations, contained in 30 CFR Chapter VII, Subchapter J, to make them applicable on Indian lands. The bonding regulations set out requirements for the types, duration and amounts of bonds, conditions of bonds, and procedures and criteria for bond forfeiture or release. OSM, as the regulatory authority, will issue, adjust and release bonds.

Section 750.18 Inspection and enforcement. Under § 750.18(a), inspection and enforcement must be conducted in accordance with 30 CFR Parts 842, 843 and 845, which comprise the requirements for inspection and enforcement under the permanent regulatory program. In addition, a reference to 43 CFR Part 4 is included to clarify that administrative reviews and appeals are governed by the rules of the Department's Office of Hearings and Appeals.

Final § 750.18(b) requires OSM to furnish copies of notices and orders to mineral or surface owners on whose land a surface coal mining operation is conducted. It also allows OSM to furnish copies to others with an interest in the operation or the permit area. The final rule does not require OSM to furnish notices regarding exploration on Indian lands, as was proposed, because the regulation of exploration activities on Indian lands is a BLM responsibility.

Four commenters pointed out that tribal participation and consultation is necessary with respect to inspections as specified in 25 CFR 216.112(e)(1); proposed § 750.18(b) stated that tribal representatives would be invited to accompany Federal inspectors "if time and circumstances permit."

OSM concurs with the comments. Under previous 25 CFR 216.112(e)(1) the effected tribes had to be notified and

involved in the inspection and enforcement operations of surface coal mining operations on Indian lands. OSM incorporates language similar to that contained in previous 25 CFR 216.112(e) into the final rule. Thus, final § 750.18(d) requires that tribal representatives be invited to participate in all inspections on Indian lands.

One commenter contended that 25 CFR 216.112(e)(1) and 216.114(k) are not necessarily Indian rights protection provisions as was stated in the proposal, and should not be included in a final rule. OSM disagrees with the commenter's position and, as proposed, has incorporated the provisions in Part 750.

BLM recommended that the following phrasing be added to § 750.18(c): "and pursuant to 25 CFR 216.7 and 43 CFR 3480, where applicable, to any mineral owner or surface owner, or to any person having an interest in the coal mining operation." OSM has accepted the recommendation and modified § 750.18(c) accordingly in the final rule.

One commenter expressed concern about whether Part 843 clearly refers to 43 CFR Part 4. To resolve this concern and as noted above, the final rule includes a reference to 43 CFR Part 4.

Section 750.19 Blaster Certification. OSM has amended final § 750.19 to recognize that blasters certified in accordance with a Federally-administered blaster certification program may conduct blasting on Indian lands. OSM expects to promulgate such a program soon. During the interim, the standards found in 30 CFR 816.61(c) and 817.61(c) are applicable.

One commenter recommends that because of differences among the cultural, religious, socio-economic, and environmental interests that must be protected, a separate Indian lands blaster certification program should be included in this section.

OSM disagrees. OSM is now in the process of promulgating rules which will establish an OSM-administered blaster certification program for Federal Programs, including Indian lands. OSM believes that that program will be adequate to ensure the protection of the interests cited by the commenter.

Section 750.20 Adoption of Indian coal lease terms. Section 750.20 requires the Secretary to incorporate certain terms and conditions in leases of coal on Indian lands. Section 710(d) of the Act requires the Secretary to incorporate into all existing and new leases the requirements cited in that section as applicable to mining on Indian lands. Final § 750.20(a) requires that all new leases and lease renewals incorporate the cited provisions.

Section 750.20(b) requires the Secretary to include and enforce terms requested by the tribes into leases issued after August 3, 1977. This provision is required by section 710(e) of the Oct. Coal-owning tribes are required to make any such request in writing to OSM. Final § 750.20(b) differs slightly in phrasing from the proposal; no change in substance is intended.

Two commenters suggested the deletion of proposed § 750.20 in its entirety. The commenters reasoned that since the proposed regulation purports to unilaterally amend negotiated contracts having more than one party the regulation is not legally defensible. The commenters stated that (1) Congress charged the Secretary to incorporate certain requirements of the Act into exisiting and new leases and (2) Congress could only have intended that the specified provisions be incorporated into leases in a legally permissible manner (e.g., as part of a negotiated lease amendment, or upon lease renewal, or as a part of a lease amendment or upon lease renewal or as a part of a lease requirement) and not by administrative fiat. The commenters urged OSM to restrict its rulemaking to section 710 (c) and (d) and argued that it is inappropriate for OSM to incorporate terms and conditions other than those specified.

OSM disagrees. Congress passed the Act to protect valuable natural resources. OSM is obliged to comply with the Congressional mandate to incorporate the requirements of section 710(d) into new and existing Indian coal leases.

Two commenters asked how the Secretary proposes to incorporate the requirements of section 710(d) into new and existing Indian coal leases. Sections 750.20 (a) and (b) are the means for incorporating applicable requirements of Indian coal lease terms. Additionally, the rules impose the same requirements through the permit issued to each operator.

One commenter contended that § 750.20(b) should specify that the lease terms and conditions which must be requested by tribes are in addition to those guaranteed by law and covered by subsection (a). OSM agrees that the wording in proposed § 750.20(b) needed clarification and has amended the language to include the word "also."

Part 755—Tribal-Federal Intergovernmental Agreements

Part 755 provides for the development, approval, and administration of Tribal-Federal Intergovernmental Agreements. This part provides for cooperative agreements between OSM and Indian tribes under which OSM can provide technical and financial assistance to allow for the training of Indian tribes and/or tribal members. This training would be in anticipation of tribal participation as a regulatory authority. Authority for cooperative agreements is found in the Surface Mining Act. The final rule is amended to clarify that funding provisions are provided for all items listed under § 755.12.

Two commenters raised questions about what types of activities would be funded pursuant to § 755.12. OSM provides support to fund tribal employee training; to work with OSM in the review of permit applications and to recommend appropriate action on permits, permit applications, inspection and enforcement, bond release or forfeiture; and to attend and testify at hearings.

Several commenters contended that the proposed provisions for Tribal-Federal Intergovernmental Agreements provided funding only to attend and testify at Federal hearings.

OSM did not intend to create the impression that funding for Tribal-Federal Intergovernmental Agreements is limited only to attending and testifying at Federal hearings. OSM has revised § 755.12 to show that funding may cover other functions under the Agreement. Of course, specific funding for any agreement is subject to availability of appropriations.

Two commenters contended that Part 755 allows tribes to request a cooperative agreement under which the tribe may only "work with" OSM on regulatory functions, which is not enough. The commenters stated that a commitment should be made to enter into cooperative agreements with tribes which will ensure meaningful and formal tribal participation in the regulatory process.

OSM rejects the commenters' statement that tribes will not have an opportunity to have meaningful involvement in the regulatory process. OSM designed the Tribal-Federal Intergovernmental Agreements to allow the maximum tribal participation possible until such time as Congress enacts legislation to allow tribes to assume primacy over the regulation of surface mining on Indian lands. Three coal-producing tribes (Crow, Hopi, and Navajo) have cooperative agreements which afford each tribe the opportunity to have a training program for tribal employees. OSM expects future agreements under Part 755 to function similarly to these existing agreements.

Four commenters contended that section 755, Tribal-Federal

Intergovernmental Agreements, lacks a statutory basis under the Act.

Section 710(c) of the Act shows the intent of Congress that Indian tribes be able to become regulatory authorities as soon as legislation is enacted by Congress. Thus, a tribal program to train Indian employees to assume the role of regulatory authorities at some time in the future is within the Secretary's authority. It should be emphasized that agreements under Part 755 cannot and will not transfer OSM's nondelegable responsibilities to the tribes.

One commenter recommended that the tribes have concurrence authority on all agreements and that tribal authorities should have a direct and supportive activity in all monitoring, inspecting and enforcement of laws, codes, and regulations on Indian lands.

OSM declines to accept the commenter's recommendation. Tribal-Federal Intergovernmental Agreements are not intended to authorize primacy for Indian tribes. They instead only provide training for tribal employees until Congress enacts legislation giving the tribe authority to seek primacy. OSM has no authority at this time to implement the commenter's suggestion.

III. Procedural Matters

Executive Order 12291 and the Regulatory Flexibility Act

The Department of the Interior (DOI) concludes that this rule is not a major rule requiring a regulatory impact analysis under Executive Order 12291. Also, DOI certifies that this rule will not have a significant economic effect on a substantial number of small entities and, therefore, does not require a regulatory flexibility analysis under Pub. L. 96–354.

The reasons underlying these determinations are as follows: The Indian Lands Program will not result in 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 foreign markets; nor will it increase costs of prices for consumers, individual industries, Federal, State, tribal or local governmental agencies or geographic regions. There will be no significant demographic effects, direct costs, indirect costs, nonquantifiable costs, competitive effects, enforcement costs, or aggregate effects on small entities.

National Environmental Policy Act

OSM has prepared an environmental assessment (EA) on these rules and has made a finding that they will not significantly affect the quality of the human environment. The EA and finding of no significant impact are available in OSM's Administrative Record in Room 5124, 1100 L Street, NW., Washington, D.C.

Paperwork Reduction Act of 1980

Section 750.10 codifies OSM's conclusion that the information collection requirements contained in Part 750 and the remainder of these rules do not require approval of the Office of Management and Budget under 44 U.S.C. 3507 because there are expected to be less than ten respondents annually.

Effective Date

The final rule is effective September 28, 1984. Under 5 U.S.C. 553(d), a rule may not be made effective less than 30 days after publication unless, among other things, good cause exists and is published with the rule. Good cause exists to make the final rule immediately effective because OSM needs to begin the processing of permit applications for new and existing operations, including those which seek to enter new areas on Indian lands in the near future. Because (1) 25 CFR Part 216, Subpart B will continue to apply to existing operations until they receive a new permit and (2) existing operations will be able to continue to operate for eight months and beyond that time if a permit application is filed within two months, no person will be adversely affected by the immediate applicability of 30 CFR Parts 750 and 755.

List of Subjects

25 CFR Part 216

Environmental protection, Indian lands, Mineral resources, Mines.

30 CFR Part 700

Administrative practices and procedure, Coal mining, Surface mining, Underground mining, Reporting and recordkeeping requirements.

30 CFR Part 701

Coal mining, Law enforcement, Surface mining, Underground mining.

30 CFR Part 710

Coal mining, Law enforcement, Public health, Safety, Surface mining, Underground mining.

30 CFR Part 750

Indian land mineral resources, Surface mining, Underground mining, Coal mining Reporting and recordkeeping requirements.

30 CFR Part 755

Intergovernmental relations reporting and recordkeeping requirements, Indian lands mineral resources.

Drafting Information

These regulations were drafted by Beverly M. M. Charles, Office of the Solicitor; Willis Gainer, Western Technical Center, Office of Surface Mining, Denver, Colorado; and Murray Newton, Branch of Regulatory Programs, Office of Surface Mining.

For the reasons stated, 25 CFR Part 216 and 30 CFR Parts 700, 701, 710, 750, and 755 are amended as set out herein.

Dated: August 8, 1984.

J. Steven Griles,

Assistant Secretary, Land and Minerals Management

Dated: August 30, 1984.

Ken Smith,

Assistant Secretary, Indian Affairs.

25 CFR Part 216—SURFACE EXPLORATION, MINING, AND RECLAMATION OF LANDS

1. The authority for 25 CFR Part 216 reads as follows:

Authority: 34 Stat. 539, 35 Stat. 312; 25 U.S.C. 355 NT; 35 Stat 781; 25 U.S.C. 396; Sec. 1, 49 Stat. 1250; 25 U.S.C. 473a; 49 Stat. 1967, 25 U.S.C. 501, 502; 52 Stat. 347, 25 U.S.C. 396a–f; 5 U.S.C. 301.

2. Section 216.100 is amended by revising paragraph (a) to read as follows:

§ 216.100 Applicability.

(a) The performance standards in this subpart shall apply to each coal mining operation on Indian lands on or after December 16, 1977, and shall remain applicable to each operation until OSM issues or denies a permit in accordance with 30 CFR Part 750.

* * * * *

§§ 216.112–216.114 [Removed]

3. Sections 216.112, 216.113 and 216.114 are removed.

PART 700—GENERAL

4. The authority for 30 CFR Part 700 reads as follows:

Authority: Secs. 102, 201, 304, 405, 407, 412, 501, 510, 512, 515, 516, 517, 520, 523, 527, 528, 529, 701, 708, 719 Pub. L. 95–87, 91 Stat. 448, 449, 454, 459, 462, 466, 467, 480, 483, 486, 495, 498, 503, 510, 513, 514, 515, 516, 521, 526 (30 U.S.C. 1202, 1211, 1224, 1235, 1237, 1242, 1251, 1260, 1262, 1265, 1266, 1267, 1270, 1273, 1277, 1278, 1279, 1291, 1298, 1309), unless otherwise noted.

5. 30 CFR 700.1 is amended by redesignating existing paragraphs (e)–

(m) as paragraphs (f)–(n) and adding a new paragraph (e) as follows:

§ 700.1 Scope.

* * * * *

(e) Subchapter E of this chapter contains regulations that apply to surface coal mining and reclamation operations conducted on Indian lands.

* * * * *

§ 700.11 [Amended]

6. 30 CFR 700.11 is amended by removing paragraph (a)(5) and redesignating paragraph (a)(6) as paragraph (a)(5).

PART 701—PERMANENT REGULATORY PROGRAM

7. The authority for 30 CFR Part 701 reads as follows:

Authority: Secs. 102, 201, 501–529, 701, 702, 705, 708, 711, 713, 714, 715, 716, 717, 719, Pub. L. 95–87, 91 Stat. 448, 449, 467–515, 516, 519, 520, 521, 523, 524, 525, and 526 (30 U.S.C. 1202, 1211, 1251–1279, 1291, 1292, 1295, 1298, 1301, 1303, 1304, 1305, 1306, 1307, and 1309), unless otherwise noted.

8. Section 701.1 is amended by redesignating paragraphs (b)(3) through (b)(8) as (b)(4) through (b)(9) and by adding a new paragraph (b)(3) as follows:

§ 701.1 Scope.

* * * * *

(b) * * *

(3) Subchapter E on surface coal mining and reclamation operations on Indian lands.

* * * * *

9. 30 CFR 701.3 is revised to read as follows:

§ 701.3 Authority.

The Secretary is required by section 501(b) of the Act to promulgate regulations which establish the permanent regulatory program; by section 523 of the Act to promulgate regulations which establish the Federal lands programs; and is authorized by section 710 of the Act to promulgate regulations which establish a Federal program for Indian lands.

10. 30 CFR 701.4 is amended by adding paragraph (h) to read as follows:

§ 701.4 Responsibility.

* * * * *

(h) The Secretary shall have the responsibility for the administration of the Federal program for Indian lands, as provided for under Subchapter E of this chapter. The Director and other Federal authorities have the responsibilities under the Indian lands program as are provided for under Subchapter E of this chapter.

11. 30 CFR 701.11 is amended by redesignating paragraphs (c) through (e) as (d) through (f) and adding a new paragraph (c) to read as follows:

§ 701.11 Applicability.

* * * * *

(c) Any person who conducts surface coal mining and reclamation operations on Indian lands on or after eight months from the effective date of the Federal program for Indian lands shall have a permit issued pursuant to Part 750 of this chapter. However, a person who is authorized to conduct surface coal mining and reclamation operations may continue to conduct those operations beyond eight months from the effective date of the Federal program for Indian lands if the following conditions are met:

(1) An application for a permit to conduct those operations has been made to the Director within two months after the effective date of the Federal program for Indian lands and the initial administrative decision on that application has not been issued; and

(2) Those operations are conducted in compliance with all terms and conditions of the existing authorization to mine, the requirements of the Act, 25 CFR Part 216, and the requirements of all applicable mineral agreements, leases or licenses.

* * * * *

PART 710—INITIAL REGULATORY PROGRAM

12. The authority for 30 CFR Part 710 reads as follows:

Authority: Secs. 201, 501, and 502, Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201), unless otherwise noted.

13. Section 710.11 is amended by revising paragraph (b) to read as follows:

§ 710.11 Applicability.

* * * * *

(b) *Operations on Indian lands.* Until OSM makes an initial administrative decision on a permit application under Part 750 of this chapter, a person conducting coal mining operations on Indian lands shall comply with the performance standards of this chapter insofar as they are incorporated in 25 CFR Part 216, Subpart B.

* * * * *

14. Subchapter E, consisting of Parts 750 and 755, is added to Title 30 as follows:

Subchapter E—Indian Lands Program

PART 750—REQUIREMENTS FOR SURFACE COAL MINING AND RECLAMATION OPERATIONS ON INDIAN LANDS

Sec.

750.1 Scope.
750.5 Definitions.
750.6 Responsibilities.
750.10 Information collection.
750.11 Permits.
750.12 Permit applications.
750.13 Small operator assistance.
750.14 Lands designated unsuitable for mining by Act of Congress.
750.15 Coal exploration.
750.16 Performance standards.
750.17 Bonding.
750.18 Inspection and enforcement.
750.19 Blaster certification.
750.20 Adoption of Indian coal lease terms.

Authority: 30 U.S.C. 1201–1328; 5 U.S.C. 301.

§ 750.1 Scope.

This subchapter provides for the regulation of surface coal mining and reclamation operations on Indian lands and constitutes the Federal program for Indian lands.

§ 750.5 Definitions.

For purposes of regulating surface coal mining operations on Indian lands, the following terms, when used in this subchapter or in parts referenced by this subchapter, have the following meanings:

BIA means the Bureau of Indian Affairs of the U.S. Department of the Interior.

BLM means the Bureau of Land Management of the U.S. Department of the Interior.

Federal program means the Federal program for Indian lands.

Indian mineral owner means (1) any individual Indian or Alaska native who owns land or mineral interests in land the title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States, or (2) any Indian tribe, band, native, pueblo, community, rancheria, colony, or other group which owns land or mineral interest in land the title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States. This definition does not include owners of lands patented to a village or regional corporation pursuant to the Alaska Native Claims Settlement Act, Pub. L. 92–203.

Local government agencies means, in addition to county, city or township governments, Indian tribal governments.

Minerals agreement means any joint venture, operating, production sharing, service, managerial, lease or other agreements, or any amendment, supplement to or modification of such agreement, providing for the exploration for, or extraction, processing, or the development of coal, or providing for the sale or other disposition of the production or products of such coal resources.

MMS means the Minerals Management Service of the U.S. Department of the Interior.

Regulatory authority means the Office of Surface Mining.

§ 750.6 Responsibilities.

(a) OSM shall: (1) Be the regulatory authority on Indian lands;

(2) After consultation with the Bureau of Indian Affairs and, as applicable, with the Bureau of Land Management, conditionally approve, approve, or disapprove applications for permits, permit renewals, or permit revisions for surface coal mining operations on Indian lands, and applications for the transfer, sale or assignment of such permit rights on Indian lands;

(3) Conduct inspection and enforcement activities with respect to surface coal mining and reclamation operations on Indian lands;

(4) Consult with the BIA and the affected tribe with respect to special requirements relating to the protection of non-coal resources of the area affected by surface coal mining and reclamation operations, and assure operator compliance with such special requirements;

(5) Consult with the Bureau of Land Management concerning requirements relating to the development, production and recovery of mineral resources on Indian lands;

(6) Approve environmental protection performance bonds and liability insurance required for surface coal mining and reclamation operations on Indian lands but not the production royalty bond; and

(7) Ensure compliance with the requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, with respect to permitting actions for surface coal mining and reclamation operations on Indian lands.

(b) The Bureau of Land Management is responsible for: (1) Receiving, reviewing, and conditionally approving, approving or disapproving coal exploration plans and mining plans, as provided in 25 CFR Chapter I or in specific Indian mineral agreements;

(2) Administering, and conducting inspection and enforcement for, coal exploration operations on Indian lands;

(3) Administering mining contract, lease or mineral agreement terms and conditions, as provided for in 25 CFR Chapter I or in specific Indian mineral agreements; and

(4) Administering and conducting inspections and enforcement of terms and conditions of contracts, leases or mineral agreements for coal mining operations, including production verification and inspection of operations for that purpose.

(c) The Minerals Management Service is responsible for collecting and accounting for royalties and other income from Indian mineral agreements except for annual rentals.

(d) The Bureau of Indian Affairs is responsible for: (1) Consulting directly with and providing representation for Indian mineral owners and other Indian land owners in matters relating to surface coal mining and reclamation operations on Indian lands;

(2) After consultation with the affected tribe, reviewing and making recommendations to OSM concerning permit applications, renewals, revisions or transfers of permits, permit rights or performance bonds; and

(3) After consultation with the affected tribe, reviewing mining plans and making recommendations to the Bureau of Land Management pursuant to 25 CFR 216.7.

§ 750.10 Information collection.

The information collection requirements of this part do not require approval from the Office of Management and Budget under 44 U.S.C. 3507 because there are expected to be less than 10 respondents annually.

§ 750.11 Permits.

(a) No person shall conduct surface coal mining and reclamation operations on Indian lands after eight months following the effective date of this subchapter unless that person has first obtained a permit pursuant to this part.

(b) Any person conducting surface coal mining and reclamation operations on lands subject to this part shall comply with the terms and conditions of the permit, the requirements of this subchapter, and the Act.

(c) Surface coal mining and reclamation operations authorized prior to the effective date of this subchapter may be conducted beyond the eight-month period specified in paragraph (a) of this section if the following conditions are present: (1) An application for a permit to conduct those operations under this part has been made within two months of the implementation of the Federal program for Indian lands;

(2) OSM has not yet rendered an initial administrative decision approving or disapproving the permit application; and

(3) Those operations are conducted in compliance with all terms and conditions of the lease or minerals agreement, the existing authorization to mine, the requirements of the Act, and the requirements of 25 CFR Chapter I.

(d) Whenever surface coal mining and reclamation operations are proposed to include both Indian lands and non-Indian lands, OSM will use reasonable efforts to ensure that reviews of the permit applications will be conducted cooperatively and concurrently by OSM and the regulatory authority responsible for the non-Indian lands.

§ 750.12 Permit applications.

(a) Each application for a permit, permit revision, or permit renewal to conduct surface coal mining and reclamation operations on land subject to this part shall be accompanied by a fee made payable to the United States. The amount or method of calculation of the fees shall be determined by the Director.

(b) Unless specified otherwise by the regulatory authority, each person submitting a permit application shall file no less than seven copies of the complete permit application package with OSM. OSM will ensure that the affected tribes, the Bureau of Indian Affairs, and when applicable, the Bureau of Land Management receive copies of the application.

(c)(1) The following requirements of Subchapter G of this chapter shall govern the processing of permit applications on Indian lands except as specified in paragraph (c)(2) or (c)(3) of this section.

(i) Part 773;
(ii) Part 774;
(iii) Part 775;
(iv) Part 777;
(v) Part 778;
(vi) Part 779;
(vii) Part 780;
(viii) Part 783;
(ix) Part 784; and
(x) Part 785;

(2) The following provisions of Subchapter G are not applicable to permitting on Indian lands:

(i) Part 772;
(ii) Sections 773.11, 773.15(c)(3), 777.17;
(iii) Section 778.16 (a) and (b); and
(iv) Sections 785.11, 785.12;

(3) *Special requirements.* (i) Approval of a transfer, assignment, or sale of rights granted under a permit shall not

be construed as approval of a transfer or assignment of a leasehold interest. Leasehold interests may be transferred or assigned only in accordance with 25 CFR Parts 211 and 212.

(ii) The following additional requirements are applicable to permit revisions:

(A) Applications for revisions pursuant to § 774.13(b) of this chapter shall contain the same information on the proposed revised operation as if the revised operation had been proposed as part of the initial operation permitted under this part.

(B) OSM shall determine if the application for revision is complete and if the proposed revision is significant. OSM shall consider the following factors as well as other relevant factors in determining the significance of a proposed revision: (*1*) Changes in production or recoverability of the coal resource; (*2*) the environmental effects; (*3*) the public interest in the operation, or likely interest in the proposed revision; and (*4*) possible adverse impacts from the proposed revision on fish or wildlife, endangered species, bald or golden eagles or cultural resources.

(C) Significant revisions shall be processed as if they are new applications in accordance with Parts 773 and 775 of this chapter. Other revisions shall be reviewed to determine if the findings which were made in issuing the original permit are still valid.

(iii) Any section in this chapter which provides for consultation with, or notification to, State and local governments shall be interpreted as requiring in like manner consultation with, or notification to, tribal governments.

(d) The permit application package shall also contain:

(1) The mining plan required to be submitted by 25 CFR 216.7 or 43 CFR Part 3480, as applicable.

(2) The following information to assure compliance with Federal laws other than the Act:

(i) The description of the proposed surface coal mining and reclamation operation with respect to: (A) Increases in employment, population, and revenues to public and private entities; and (B) the ability of public and private entities to provide goods and services necessary to support surface coal mining and reclamation operations.

(ii) An evaluation of impacts to the scenic and aesthetic resources, including noise on the surrounding area, due to the proposed surface coal mining and reclamation operation.

(iii) A statement, including maps and ownership data as appropriate, of any cultural or historical site listed on the National Register of Historic Places within the permit and adjacent areas of the proposed surface coal mining and reclamation operation.

(iv) A statement of the classes of properties of potential significance within the disturbed area, and a plan for the identification and treatment, in accordance with 36 CFR Part 800, of properties significant and listed, or eligible for listing, on the National Register of Historic Places within the permit area of the proposed surface coal mining and reclamation operation.

(v) A description of compliance with the American Indian Religious Freedom Act, and other Federal laws aimed at protecting cultural resources on Indian lands.

(vi) A description of the probable changes in air quality resulting from the surface coal mining operation and any necessary measures to comply with prevention of significant deterioration limitations, or other Federal laws for air quality protection.

(vii) A description of the location, acreage and condition of important habitats of selected indicator species located within the permit and adjacent areas of the proposed surface coal mining and reclamation operation.

(viii) A description of active and inactive nests and prey areas of any bald or golden eagles located within the permit and adjacent areas of the proposed surface coal mining and reclamation operations.

(ix) A description and special studies, if required, of all threatened and endangered species and their critical habitats located within the permit and adjacent areas of the proposed surface coal mining and reclamation operations.

§ 750.13 Small operator assistance.

Part 795 of this chapter is applicable on Indian lands.

§ 750.14 Lands designated unsuitable for mining by Act of Congress.

Part 761 of this chapter is applicable on Indian lands.

§ 750.15 Coal exploration.

Coal exploration operations on Indian lands shall be conducted in accordance with 25 CFR Part 216 and 43 CFR Part 3480, whichever is applicable.

§ 750.16 Performance standards.

After OSM issues a permit under this part, a person conducting surface coal mining operations on Indian lands shall do so in accordance with Parts 816, 817, 819, 822, 823, 824, 827, and 828 of this chapter. Prior to that time, the person conducting surface coal mining operations shall adhere to the performance standards of 25 CFR Part 216, Subpart B.

§ 750.17 Bonding.

Subchapter J of this title is applicable on Indian lands.

§ 750.18 Inspection and enforcement.

(a) Parts 842, 843 and 845 of this chapter and the hearings and appeals procedures of 43 CFR Part 4 are applicable on Indian lands.

(b) OSM shall furnish copies of notices and orders to mineral owners or surface owners on whose land the surface coal mining operation takes place. OSM may furnish copies of notices and orders to any other person having an interest in the surface coal mining and reclamation operation or the permit area.

(c) BLM shall furnish copies of notices and orders to mineral owners or surface owners on whose land coal exploration operations take place and pursuant to 25 CFR 216.7 and 43 CFR Part 3480, where applicable, to any mineral owner or surface owner, or to any person having an interest in the coal mining operation.

(d) Whenever an authorized representative of the Secretary decides to conduct an inspection of any coal mining operations or any premises in which any records to be maintained are located, the appropriate representative of the local governing Indian tribe shall be notified and be invited to accompany the Secretary's representative on such an inspection.

(e) No provision in this chapter shall be interpreted as replacing or superseding any other remedies of the Indian mineral owners, as set forth in a contract or otherwise available at law.

(f) Appropriate officials of the local governing Indian tribe shall be notified of any hearings or conferences conducted regarding civil penalties and shall be invited to attend.

§ 750.19 Blaster certification

A person seeking to conduct blasting operations on Indian lands shall comply with the requirements of 30 CFR 816.61(c) and 817.61(c) and, upon promulgation of a Federally-administered blaster certification programs shall comply with the requirements contained therein.

§ 750.20 Adoption of Indian coal lease terms.

(a) All leases of coal on Indian lands are amended to include the following:

The Lessee shall comply with all applicable requirements of the Surface Mining Control and Reclamation Act of 1977, and all regulations promulgated thereunder, including those codified at 30 CFR Part 750.

(b) With respect to leases issued after August 3, 1977, the Secretary shall also include and enforce in such leases terms and conditions which are requested in writing by the Indian tribe whose interest is affected by such leases.

PART 755—TRIBAL-FEDERAL INTERGOVERNMENTAL AGREEMENTS

Sec.
755.1 Scope.
755.10 Information collection.
755.11 Application and agreement.
755.12 Terms.
755.13 Authority reserved by the Secretary.
755.14 Amendments.
755.15 Termination.

Authority: Pub. L. 95–87 30 U.S.C. 1201–1328.

§ 755.1 Scope.

This part sets forth requirements for the development, approval and administration of Tribal-Federal Intergovernmental Agreements.

§ 755.10 Information collection.

The information collection requirements contained in this part do not require approval from the Office of Management and Budget under 44 U.S.C. 3507 because there are expected to be less than 10 respondents annually.

§ 755.11 Application and agreement.

(a) An Indian tribe may request that the Secretary enter into a Tribal-Federal intergovernmental agreement with the tribe.

(b) A request for a Tribal-Federal intergovernmental agreement shall be submitted in writing and shall include proposed terms of the agreement consistent with the requirements of this part.

§ 755.12 Terms.

The terms in each Tribal-Federal intergovernmental agreement may include:

(a) Provisions to allow the tribe to work with and assist OSM in the review of permit applications, and to recommend appropriate action on permits, permit applications, inspection and enforcement, and bond release or forfeiture; and

(b) Provisions to provide funding for tribal employees to attend and testify at hearings and to perform other functions under the agreement.

§ 755.13 Authority reserved by the Secretary.

The Secretary shall not delegate to any Indian tribe, nor shall any Tribal-Federal Intergovernmental Agreement be construed to delegate to any tribe, the nondelegable authority exercised by or reserved to the Secretary on Indian lands.

§ 755.14 Amendments.

An agreement that has been approved pursuant to this part may be amended by mutual agreement of the Secretary and the officers of the tribe.

§ 755.15 Termination.

An agreement may be terminated by either party upon written notice to the other specifying the date upon which the agreement will be terminated. The date of termination shall be no less than 30 days from the date of the notice.

[FR Doc. 84–25637 Filed 9–27–84; 8:45 am]
BILLING CODE 4310–05–M

federal register

Friday
September 28, 1984

Part IV

Department of Commerce

National Telecommunications and Information Administration

Public Telecommunications Facilities Program; Closing Date for Applications

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Public Telecommunications Facilities Program: Closing Date for Applications

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Public Telecommunucations Facilities Program: Notice of closing date for applications.

SUMMARY: The National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce, is inviting applications for planning and construction grants for public telecommunications facilities under the Pubic Telecommunications Facilities Program of NTIA. Congress has appropriated an amount not to exceed $24 million for fiscal year 1985, but the authorized level for the Public Telecommunications Facilities Program has not yet been established at this date. Applicants for grants under PTFP must file their applications on or before January 16, 1985. NTIA anticipates making grant awards in early August 1985.

Authority: The Public Telecommunications Financing Act of 1978, 47 U.S.C. 390, et seq. (Act), as amended by the Pulic Broadcasting Amendments of 1981, Pub. L. No. 97–35 (1981 Amendments).

FOR FURTHER INFORMATION CONTACT: Persons desiring further information should contact Dennis R. Connors, Acting Program Director, PTFP/NTIA/DOC, Room 4625, Washington, D.C. 20230. Telephone (202) 377–5802.

SUPPLEMENTARY INFORMATION:

I. Program Goals

The Goals of this program, as stated in section 390 of the Act are:

To assist through matching grants, in the planning and construction of public telecommunications facilities in order to achieve the following objectives: (1) Extend delivery of public telecommunications services to as many citizens of the United States as possible by the most efficient and economical means, including the use of broadcast and nonbroadcast technologies: (2) increase public telecommunications services and facilities available to, operated by, and owned by minorities and women; and (3) strengthen the capability of existing public television and radio stations to provide public telecommunications services to the public.

To accomplish these goals NTIA has adopted a list of priorities which appear in Appendix A to the PTFP Interim Rules. (**Federal Register**, Vol. 49, No. 182, September 18, 1984)

II. Closing Date

Pursuant to § 2301.10 of the PTFP Interim Rules, (**Federal Register**, Vol. 49, No. 182, September 18, 1984) the Administrator of NTIA hereby established the closing date for the filing of applications for grants under the PTFP. The closing date selected for the submission of applications is January 16, 1985.

III. Eligibility

To be eligible to apply for or receive a grant under the PTFP, an applicant must be: (A) A public or noncommercial educational broadcast station; (B) a noncommercial telecommunications entity; (C) a system of public telecommunications entities; (D) a nonprofit foundation, corporation, institution, or association organized primarily for educational or cultural purposes; (E) a nonprofit foundation, corporation, institution, or association organized for any purpose except primarily religious to plan for the provision of public telecommunications services or (F) a State or local government or agency or a political or special purpose subdivision of a State.

IV. Applications Forms and Regulations

To apply for a PTFP grant, an applicant must file a timely and complete application on a current form approved by the agency.* All persons and organizations on the PTFP's mailing list will receive a copy of the current application form and the Interim Rules shortly. Those not on the mailing list may obtain copies by contacting the PTFP at the address above. Prospective applicants should read the Interim Rules carefully before submitting applications. Applicants whose applications had been deferred, will receive pertinent PTFP materials and instructions for requesting reactivation.

Applicants should note that they must comply with the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order requires applicants for financial assistance under this program to file a copy of their application with the appropriate State's Single Point of Contact (SPOC). Applicants are required to serve a copy of their completed application on the appropriate single point of contact on or before January 16, 1985. Applicants are encouraged to contact the appropriate SPOC as early as possible before the NTIA closing date.

V. Funding Criteria

In determining whether to approve a construction grant application, in whole or in part, and the amount of such grant, or whether to defer action on such an application, the Agency will evaluate all the information in the application file and consider the following factors (the order of listing implies no priority):

The funding criteria for construction applications are as follows:

(a) How well the applicant has satisfied the assurances required in § 2301.5; (b) the program purposes set forth in § 2301.20 as well as the specific program priorities set forth in the Appendix of these Rules; (c) the adequacy and continuity of financial resources for long-term operational support, which assures the applicant's continual service to the communities within the service area; and the availability of necessary funds for capital expenditures; (d) the extent to which non-Federal funds will be used to meet the total cost of the project; (e) The extent to which the applicant has: (1) Assessed specific educational, informational, and cultural needs of the community(ies) to be served by the proposed public telecommunications service; (2) evaluated alternate technologies, the bases upon which decisions were made as to the technology to be utilized and the extent to which the proposed service will not duplicate service already available; (3) provided meaningful documentation of applicant's equipment requirements; (4) provided meaningful documentation of community support for the service to be provided (such as letters from key elected/appointed policy-making officials, from agencies for whom the applicant produces or will produce programs or other materials); (f) the extent to which the evidence supplied in the application reasonably assures an increase in public telecommunications services and facilities available to, operated by, and owned (or controlled) by minorities and women; (g) the extent to which various items of eligible apparatus proposed are necessary to, and capable of, achieving the objectives of the project and will permit the most efficient use of the grant funds; (h) the extent to which the eligible equipment requested meets current broadcast industry performance standards; (i) the

*The Office of Management and Budget (OMB) has approved the information collection and reporting requirements contained in NTIA's application as required under the Paperwork Reduction Act of 1980 (OMB Approval No. 0660–0003).

extent to which the applicant will have available sufficient qualified staff to operate and maintain the facility and provide services of professional quality; (j) the extent to which the applicant has planned and coordinated the proposed services with other telecommunications entities in the service area; (k) the extent to which the project implements local, statewide or regional public telecommunications systems plans, if any; (l) the extent to which the applicant's proposed five (5) year facilities plan required by section 392(a) of the Act is practical, financially affordable and consistent with the intent of the Act and Regulations; (m) the readiness of the Commission to grant any necessary authorization; (n) the urgency for funding based on justification of needs.

In determining whether to approve a planning grant application, in whole or in part, and the amount of such grant, or whether to defer action on such an application, the Agency will evaluate all the information in the application file and consider the following factors (the order of listing implies no priority);

The funding criteria for planning applications are as follows:

(a) How well the applicant has satisfied the assurances required in § 2301.5; (b) the extent to which the applicant's interests and purposes are consistent with the purposes of the Act and the priorities of the Agency; (c) the qualifications of the proposed planner to provide a public telecommunications facilities plan; (d) the extent to which the planning project's proposed procedural design assures that the applicant would obtain adequate: (1) Financial, human and support resources necessary to conduct the plan, (2) coordination with other telecommunications entities at the local, state, regional and national levels, (3) evaluation of alternate technologies and existing services, and (4) participation by the public to be served (and by minorities and women in particular) in the planning of the project; (e) the extent to which the applicant has engaged in pre-planning studies to determine the technical feasibility of the proposed planning project (such as the availability of a frequency assignment, if necessary for the project); (f) the extent to which the proposed procedure and timetable are feasible and can achieve the expected results.

VI. Filing Applications

Applications delivered by mail must be *RECEIVED* no later than close of business, January 16, 1985, and must be addressed to: Public Telecommunications Facilities Program, NTIA/DOC, Room 4625, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Applications *delivered by hand must be delivered* to the above address between 8:30 a.m. and 5:00 p.m. on or before close of business January 16, 1985. Applicants whose applications are not received by close of business January 16, 1985 will be notified that their applications will not be considered in the current competition and will be returned.

NTIA requires that all applicants whose proposed projects need authorization from the Federal Communications Commission (FCC), must tender an application to the FCC for such authority on or before January 16, 1985. However, you are urged to submit it with as much lead time before the PTFP closing date as possible. The greater the lead time the better chance your FCC application will be properly processed to coincide with our grant cycle. (An application is tendered to the FCC when it has been received by the Secretary of the FCC). NTIA will return the applications of any applicant which fails to tender an application to the FCC for any necessary authority on or before January 16, 1985.

(Catalog of Federal Domestic Assistance No. 11.550)

Scott Mason,

Chief, Management Division.

[FR Doc. 84-25775 Filed 9-27-84; 8:45 am]

BILLING CODE 3510-04-M

federal register

Friday
September 28, 1984

Part V

Department of Education

Office of Bilingual Education and Minority Languages Affairs

Discretionary Grant Programs; Application Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1985 Applications and Requests

DEPARTMENT OF EDUCATION

Office of Bilingual Education and Minority Languages Affairs

Discretionary Grant Programs, Application Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1985 Applications and Requests

AGENCY: Office of Bilingual Education and Minority Languages Affairs, Education.

ACTION: Application notice establishing closing dates for transmittal of certain Fiscal Year 1985 Applications and Requests.

SUMMARY: The purpose of these application notices is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of applications and requests for awards under certain programs administered by the Department of Education.

Organization of Notice

This notice contains four parts. Part I includes, in chronological order, a list of all closing dates for new awards covered by this notice. Part II consists of individual application announcements for each program inviting new applications. Part III includes, in chronological order, a list of all closing dates for noncompeting continuation awards covered by this notice, and Part IV consists of individual announcements for each program inviting noncompeting continuation requests.

The budget estimates in the individual application notices are based on the President's budget request for Fiscal Year 1985 and are subject to enactment by the Congress.

Instructions for Transmittal of Applications

Applicants should note specifically the instructions for the transmittal of applications included below. Applicants transmitting requests for noncompeting continuation awards also must follow the instructions included below.

Transmittal of Applications

Applications for new projects must be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document. Each late applicant for a new project will be notified that its application will not be considered.

To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document. If a request for a noncompeting cintinuation is late, the Department of Education may lack sufficient time to review it with other noncompeting continuation requests and may decline to accept it.

Applications Delivered by Mail

Applications must be addressed to the Department of Education, Application Control Center, *Attention:* (Insert appropriate CFDA Number), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, lthe Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant for a new project will be notified that its application will not be considered.

Applications Delivered by Hand

Hand-delivered applications must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application for a new project that is hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date.

Intergovernmental Review

The Education Department General Administrative Regulations (EDGAR), 34 CFR Part 79, pertaining to intergovernmental review of Federal programs, apply to all programs included in this Notice except 84.003H—Bilingual Education Act—School of Education Projects Program.

Applications and requests for grants under the covered programs are subject to the requirement for intergovernmental review, except for applications submitted by non-governmental entities, including State postsecondary educational institutions and Federally recognized Indian tribal governments. Applicants for grants under the covered programs should give special attention to the instructions for Intergovernmental review that are provided in the individual program announcements.

PART I—PROGRAMS WITH CLOSING DATES FOR NEW AWARDS LISTED IN CHRONOLOGICAL ORDER

CFDA	Program	Closing date
84.077A	Bilingual vocational training—new projects.	Nov. 28, 1984.
84.099A	Bilingual vocational instructor training—new projects.	Do.
84.003S	Bilingual Educational Act—State educational agency projects for coordinating technical assistance—new projects.	Nov. 30, 1984.
84.003B	Bilingual Education Act—basic projects program—new projects.	Dec. 7, 1984.
84.003J	Bilingual Education Act—training projects program (activities A, B, and C)—training—new projects.	Dec. 28, 1984.

PART II—INDIVIDUAL ANNOUNCEMENTS FOR PROGRAMS WITH NEW AWARDS LISTED UNDER PART I

84.077A—Bilingual Vocational Training Program

Closing Date

November 28, 1984.

Applications are invited for new projects under the Bilingual Vocational Training Program.

Authority for this program is contained in sections 181–189B of the Vocational Education Act of 1963, as amended by the Education Amendments of 1976 (Pub. L. 94–482). (20 U.S.C. 2411–2421)

This program issues awards to local educational agencies, State agencies, postsecondary educational institutions, private nonprofit vocational training institutions, and nonprofit organizations especially created to serve a group whose language as normally used is other than English.

The purpose of the awards is to provide bilingual vocational training to persons who are from environments where the dominant language is other than English and who are unemployed or underemployed because of their limited English speaking ability.

Closing Date for Transmittal of Applications

An application for a grant must be mailed or hand delivered by November 28, 1984.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.077A, Washington, D.C. 20202.

Program Information

An application will be approved for a project period of from one to three years.

Priorities

The Education Department General Administrative Regulations (34 CFR 75.105) permit the Secretary to establish annual priorities for the selection of applications in a particular Fiscal Year. For Fiscal Year 1985, the Secretary invites the submission of applications that propose bilingual vocational training in occupations which have unique opportunities for advancement in salary or which lead to entrepreneurship or ownership of small businesses. An application that meets the invitational priority does not receive competitive or absolute preference over applications that do not meet the priority.

Special Procedures

An applicant must provide a copy of its application to the State Board for Vocational Education for comment, as required under 34 CFR 525.604(a), to give the State Board an opportunity to comment on the application.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officals, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State	
Alabama	New York
Arizona	North Dakota
Arkansas	Ohio
California	Oklahoma
Connecticut	Oregon
Delaware	Pennsylvania
Florida	Rhode Island
Hawaii	South Carolina
Indiana	South Dakota
Kansas	Tennessee
Louisiana	Texas
Maine	Utah
Massachusetts	Vermont
Michigan	Virginia
Missouri	Washington
Montana	Wisconsin
Nebraska	Wyoming
Nevada	Guam
New Hampshire	Northern Mariana Islands
New Jersey	Puerto Rico
New Mexico	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by January 28, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.077A, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds

It is expected that approximately $700,000 will be available for the Bilingual Vocational Training Program in Fiscal Year 1985.

It is estimated that these funds could support 3 projects.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms

Applications are expected to be ready for mailing in October 1984. They will be mailed to individuals on the mailing list for the Bilingual Vocational Training Program. A copy of the application package may be obtained by writing to the Bilingual Vocational Training Program, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885–0002)

Applicable Regulations

Regulations applicable to this program include the following:

(1) The regulations governing the Bilingual Vocational Training Program, 34 CFR Part 525.

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

(3) The Department of Labor regulations (29 CFR 95.34) as in effect on September 30, 1979, governing training allowances for participants in the Bilingual Vocational Training Program.

Further Information

For further information contact the Bilingual Vocational Training Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 732-1752 or 447-9227.

(20 U.S.C. 2411-2421)

84.099A—Bilingual Vocational Instructor Training Program

Closing Date

November 28, 1984.

Applications are invited for new projects under the Bilingual Vocational Instructor Training Program.

Authority for this program is contained in sections 181-189B of the Vocational Education Act of 1963, as amended by the Education Amendments of 1976 (Pub. L. 94-482). (20 U.S.C. 2411-2421)

This program issues awards to State agencies and public or private nonprofit educational institutions.

The purpose of the awards is to provide training programs for persons seeking to improve their skills and qualifications as instructors in bilingual vocational training programs for persons of limited English speaking ability.

Closing Date for Transmittal of Applications

An application for a grant must be mailed or hand delivered by November 28, 1984.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.099A, Washington, D.C. 20202.

Program Information

An application will be approved for a project period of from one to three years.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A-95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State	
Alabama	New Mexico
Arizona	New York
Arkansas	North Dakota
California	Ohio
Connecticut	Oklahoma
Delaware	Oregon
Florida	Pennsylvania
Hawaii	South Carolina
Indiana	South Dakota
Kansas	Tennessee
Louisiana	Texas
Maine	Utah
Massachusetts	Vermont
Michigan	Virginia
Missouri	Washington
Montana	Wisconsin
Nebraska	Wyoming
Nevada	Guam
New Hampshire	Northern Mariana Islands
New Jersey	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by January 28, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.099A, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds

It is expected that approximately $118,000 will be available for the Bilingual Vocational Instructor Training Program in Fiscal Year 1985.

It is estimated that these funds could support one new project.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms

Application packages are expected to be ready for mailing in October 1984. They will be mailed to individuals on the mailing list for the Bilingual Vocational Training Program. A copy of the application package may be obtained by writing to the Bilingual Vocational Training Program, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. However, the program information is only intented to aid applicants in applying for assistance.

Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885–0002)

Applicable Regulations

Regulations applicable to this program include the following:

(1) The regulations governing the Bilingual Vocational Instructor Training Program, 34 CFR Part 526.

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact the Bilingual Vocational Training Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 732–1840 or 447–9227. (20 U.S.C. 2411–2421)

84.003S—Bilingual Education Act—State Educational Agency Projects for Coordinating Technical Assistance

Closing Date

November 30, 1984.

Applications are invited for new projects under the Bilingual Education Act—State Educational Agency Projects for Coordinating Technical Assistance Program.

Authority for this program is contained in section 721 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561) (20 U.S.C. 3231).

This program issues awards to State educational agencies (SEAs) to assist SEAs in the coordination of technical assistance to programs of bilingual education assisted under the Bilingual Education Act within their States.

Closing Date for Transmittal of Applications

An application must be mailed or hand delivered by November 30, 1984.

Applications Delivered by Mail

An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003S, Washington, D.C. 20202.

Program Information

An application will be approved for a project period of from one to three years.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indiana tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current lis of States that have established a process, designated a single point of contact, and have selected this program for review:

State

Alabama	Missouri
Arizona	Montana
Arkansas	Nebraska
California	Nevada
Connecticut	New Hampshire
Delaware	New Jersey
Florida	New Mexico
Hawaii	New York
Indiana	North Dakota
Kansas	Ohio
Louisiana	Oklahoma
Maine	Oregon
Massachusetts	Pennsylvania
Michigan	South Carolina
South Dakota	Wisconsin
Tennessee	Wyoming
Texas	Guam
Utah	Northern Mariana Islands
Vermont	Puerto Rico
Virginia	
Washington	

Immediately upon receipt of this notice, applicants that are governmental entities must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department. Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by January 30, 1985, to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.003S, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds

An award to an SEA for Fiscal Year 1985 may not exceed five percent of the total amount paid under part A of the Bilingual Education Act to local educational agencies in the State of the SEA in Fiscal Year 1984.

It is expected that approximately $2,653,350 will be available for new awards under the State Educational Agency Projects for Coordinating Technical Assistance Program in Fiscal Year 1985.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms

Application packages are expected to be ready for mailing in October 1984. They will be mailed to each eligible State educational agency. A copy of the application package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is intended only to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 50 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885–0003)

Applicable Regulations

Regulations applicable to this program include the following:

(1) The regulations governing the State Educational Agency Projects for Coordinating Technical Assistance Program, 34 CFR Parts 500 and 503.

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact the State Educational Agency Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 245–2922. (20 U.S.C. 3231)

84.003B—Bilingual Education Act—Basic Projects in Bilingual Education Program

Closing Date

December 7, 1984.

Applications are invited for new projects under the Bilingual Education Act (Act)—Basic Projects in Bilingual Education Program.

Authority for this program is contained in sections 703–722 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561). (20 U.S.C. 3223–3232)

This program issues awards to local educational agencies (for purposes of this program, the term "local educational agency" includes a nonprofit institution or organizations of an Indian tribe that operates an elementary or secondary school in which Indian children constitute more than 50 percent of the enrollment), institutions of higher education applying jointly with one or more local educational agencies, and elementary or secondary schools operated or funded by the Bureau of Indian Affairs (BIA) for Indian children on a reservation.

The purpose of the awards is to establish, operate, or improve programs of bilingual education to assist children of limited English proficiency and to build the capacity of grantees to continue those programs when funding under the Act is reduced or no longer available.

Closing Date for Transmittal of Applications

An application must be mailed or hand delivery by December 7, 1984.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003B Washington, D.C. 20202.

Program Information

As stated in 34 CFR 501.31, the Secretary annually establishes a cut-off score, based on the selection criteria in 34 CFR 501.30, which an application must meet to be considered for a grant. The Secretary establishes 30 points as the cut-off score for applications under the Basic Projects in Bilingual Education Program for Fiscal Year 1985.

The maximum project period which an applicant may propose is three years.

To be eligible for assistance, an applicant must meet the requirements found in the regulations applicable to this program, including the following:

(1) An applicant must establish an advisory council to assist in the development of its application. Requirements pertaining to advisory councils are contained in 34 CFR 501.20.

(2) An applicant must consult with appropriate private school officials in designing its application and must provide for the participation in its project of children enrolled in nonprofit private schools in the area to be served, whose educational needs, language(s), and grade level(s) are of a similar type to those which the project is intended to address. Requirements pertaining to private school participation are contained in 34 CFR 501.21.

(3) An applicant must include adequate auxiliary and supplementary training programs for persons who are participating in, or preparing to participate in, the programs of bilingual education to be supported by the proposed project. Applicants should refer to 34 CFR 501.10(c) for the types of training activities authorized and to 34 CFR 500.41 for the rates for allowable costs for trainees participating in the training activities.

(4) A local educational agency, applying as a sole or joint applicant, is required to hold at least one meeting, open to the public, to discuss the contents of its application. Requirements for scheduling and holding this open meeting are contained in the Education Department General Administrative Regulations (34 CFR 75.139–75.141). The local educational agency must complete the certification form in the application package. This requirements must be met regardless of whether the local educational agency is designated as the applicant under 34 CFR 75.128.

(5) Joint applicants must complete a special certification form in the application package.

(6) An applicant must provide a copy of its application to the appropriate State educational agency in its State in advance of submitting it to the Department of Education. Requirements pertaining to State educational agency review are contained in 34 CFR 500.20.

An eligible school operated or funded by the Bureau of Indian Affairs must submit its application for comment to the Secretary of the Interior or his or her designee, using procedures outlined in 34 CFR 500.20(c).

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State
Alabama
Arizona
Arkansas
California
Connecticut
Delaware
Florida
Hawaii
Indiana
Kansas
Louisiana
Maine
Massachusetts
Michigan
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Washington
Wisconsin
Wyoming
Guam
Northern Mariana Islands
Puerto Rico

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department. Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by February 8, 1985, to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.003B, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds

It is expected that approximately $37,500,000 will be available for new grants under the Basic Projects in Bilingual Education Program in Fiscal Year 1985.

It is estimated that these funds could support approximately 220 projects.

The anticipated award for most new projects is between $50,000 and $200,000.

However, these estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms

Application packages are expected to be ready for mailing in October 1984. They will be mailed to individuals on the mailing list for the Bilingual Education Act programs. A copy of the application package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, DC 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the entire application not exceed 60 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885–0003.)

Applicable Regulations

Regulations applicable to this program include the following:

(1) The regulations governing the Basic Projects in Bilingual Education Program, 34 CFR Parts 500 and 501.

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact the Basic Projects Application Coordinator, Office of Bilingual Education and Minority Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, DC 20202. Telephone (202) 245–2961. (20 U.S.C. 3223–3232)

84.003J—Bilingual Education Act—Training Projects Program (Activities A, B, and C)

Closing Date

December 28, 1984.

Applications are invited for new projects under the Bilingual Education Act—Training Projects Program, that propose any one or a combination of activities described in 34 CFR 510.10 (a), (b), and (c).

Authority for this program is contained in section 723 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561). (20 U.S.C. 3233)

This program issues awards to local educational agencies (for purposes of this program, the term "local educational agency" includes a nonprofit institution or organization of an Indian tribe that operates an elementary or secondary school in which Indian children constitute more than 50 percent of the enrollment); State educational agencies, and institutions of higher education or nonprofit private organizations which apply after consultation with, or jointly with, one or more local educational agencies or a State educational agency.

The purpose of the awards is to establish, operate, or improve programs of bilingual education at institutions of higher education for persons who are participating in, or preparing to participate in, programs of bilingual education and bilingual education training.

Closing Date for Transmittal of Applications

An application must be mailed or hand delivered by December 28, 1984.

Applications Delivered by Mail

An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84:003J, Washington, D.C. 20202.

Program Information

As stated in 34 CFR 510.34(a) of the regulations, the Secretary annually establishes a cut-off score based on the selection criteria in 34 CFR 510.31, which an application must meet to be considered for a grant. The Secretary establishes 30 points as the cut-off score for applications under the Training Projects Program (Activities A, B, and C) for Fiscal Year 1985.

The maximum project period which a local educational agency, applying as a joint applicant, may propose is three years. The maximum project period which an applicant other than a local edcuational agency may propose is five years. An applicant that proposes a project period of more than one year must justify the need for the proposed project period.

To be eligible for assistance, an applicant must meet the requirements found in regulations applicable to this program, including the following:

(1) A local educational agency, applying as a joint applicant, is required to hold at least one meeting, open to the public, to discuss the contents of its application. Requirements for scheduling and holding this open meeting are contained in the Education Department General Administrative Regulations (34 CFR 75.139–75.141).

(2) Joint applicants must complete a special certification form in the program information package.

(3) An applicant must provide a copy of its application to the appropriate State educational agency in its State in advance of submitting it to the Department of Education. Requirements pertaining to State educational agency review are contained in 34 CFR 500.20.

(4) Certain applicants must establish an advisory council to assist in the development of an application. Requirements pertaining to advisory councils are contained in 34 CFR 510.21.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objectives of Executive Order 12372 is to foster an intergovernmental partnership and a stringthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allow States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accomodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of State that have established a process, designated a single point of contact, and have selected this program for review:

State

Alabama
Arizona
Arkansas
California
Connecticut
Delaware
Florida
Hawaii
Indiana
Kansas
Louisiana
Maine
Massachusetts
Michigan
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Washington
Wisconsin
Wyoming
Guam
Northern Mariana Islands
Puerto Rico

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional and local entities may submit comments directly to the Department. Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by February 28, 1985, to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.003J, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds

It is expected that approximately $300,000 will be available for new grants under the Training Projects Program (Activities A, B, and C) in Fiscal Year 1985.

It is estimated that these funds could support two projects.

The anticipated award for each project is $150,000.

However, these estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms

Applications are expected to be ready for mailing in October 1984. They will be mailed to individuals on the mailing list for the Bilingual Education Act programs. A copy of the application form and program information package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance.

Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 40 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885-0003)

Applicable Regulations

Regulations applicable to this program include the following:

(1) The regulations governing the Training Projects Program, 34 CFR Parts 500 and 510.

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact the Training Projects (Activities A, B, and C) Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 245-2595. (20 U.S.C. 3233)

PART III—PROGRAMS WITH CLOSING DATES FOR NONCOMPETING CONTINUATIONS LISTED IN CHRONOLOGICAL ORDER

CFDA	Program	Closing date
84.003H	Bilingual Education Act—school of education projects program—noncompeting continuations.	Nov. 5, 1984.
84.003R	Bilingual Education Act—training projects program (activity E)—noncompeting continuations.	Do.
84.077B	Bilingual vocational training—noncompeting continuations.	Nov. 13, 1984.
84.099B	Bilingual vocational instructor training—noncompeting continuations.	Do.
84.003E	Bilingual Education Act—demonstration projects program—noncompeting continuations.	Jan. 4, 1985.
84.003N	Bilingual Education Act—training projects program (activity D)—noncompeting continuations.	Jan. 14, 1985.
84.003K	Bilingual Education Act—training projects program (activities A, B, and C)—noncompeting continuations.	Jan. 28, 1985.
84.003T	Bilingual Education Act—State educational agency projects for coordinating technical assistance—noncompeting continuations.	Feb. 11, 1985.
84.003C	Bilingual Education Act—basic projects program—noncompeting continuations.	Mar. 15, 1985. April 15, 1985.

PART IV—INDIVIDUAL ANNOUNCEMENTS FOR PROGRAMS WITH NONCOMPETING CONTINUATIONS LISTED IN PART III

84.003H—Bilingual Education Act—School of Education Projects Program

Closing Date

November 5, 1984.

Requests are invited for noncompeting continuation awards under the Bilingual Educations Act—School of Education Projects Program.

Authority for this program is contained in section 723 of the Elementary and Secondary Education Act of 1965, as amended by the Education amendments of 1978 (Pub. L. 95-561). (20 U.S.C. 3233)

Current recipients of grants under this program that have one or more year(s) remaining of an approved multi-year project period may request continuation of their present projects.

The purpose of the awards is to assist institutions of higher education in developing or expanding their capability to provide degree-granting bilingual education training programs.

Closing Date for Tansmittal of Requests

To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered by November 5, 1984.

If the request is late, the Department of Education may lack sufficient time to review it with other requests for noncompeting continuations and may decline to accept it.

Requests Delivered by Mail

A request sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003H, Washington, D.C. 20202.

Program Information

In the case of a request submitted by an LEA as a joint applicant, the following applies. As stated in 34 CFR 500.40, the Secretary makes a continuation award only if the grantee meets the conditions of section 721(e)(2) of the Bilingual Education Act, which requires a grantee to demonstrate, among other things, that it is making satisfactory progress toward achieving the stated objectives of the progam.

In the case of applicants other than LEAs, the Secretary uses the procedures and criteria in 34 CFR 75.253 for determining whether to make a continuation award.

Available Funds

It is expected that approximately $200,000 will be available for four noncompeting continuation grants under the School of Eduction Projects Program in Fiscal Year 1985.

However, these estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Request Forms

Request packages are expected to be ready for mailing in October 1984. They will be mailed to current recipients that have one or more year(s) remaining of an approved multi-year project period. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Language affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202.

Requests must be prepared and submitted in accordance with the regulations, instructions and forms included in the program information package. However, the program information is only intended to aid applicants in requesting assistance. Nothing in the progam information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that grantees not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885-0004.)

Applicable Regulations

Regulations applicable to this program include the following:

(1) The regulations governing the School of Education Projects Program 34 CFR Parts 500 and 514.

(2) The Education Department General Administrative Regulations (EDGAR), 43 CFR Parts 74, 75, 77, and 78.

Further Information

For further information contact the School of Education Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202. Telephone: (202) 245-2595. (20 U.S.C. 3233)

84.003R—Bilingual Education Act—Training Projects Program (Activity E)

Closing Date

November 5, 1984.

Requests are invited for noncompeting continuations under the Bilinual Education Act—Training Projects Program that proposed the activity described in 34 CFR 510.10(e).

Authority for this program is contained in section 723 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561). (20 U.S.C. 3233)

Current recipients of grants under this program that have one or more year(s) remaining of an approved multi-year project period may request continuation of their present projects.

The purpose of the awards is to provide non-degree training programs to increase the skills of State educational agency personnel in carrying out their responsibilities with regard to programs of bilingual education.

Closing Date for Transmittal of Requests

To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered by November 5, 1984.

If the request is late, the Department of Education my lack sufficient time to review it with other requests for noncompeting continuations and may decline to accept it.

Requests Delivered by Mail

A request sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003R, Washington, D.C. 20202.

Program Information

In the case of a request submitted by an LEA as either a sole or joint applicant, the following applies: As stated in 34 CFR 500.40, the Secretary makes a continuation award only if the grantee meets the conditions of section 721(e)(2) of the Bilingual Education Act, which requires a grantee to demonstrate, among other things, that it is making satisfactory progress toward achieving the stated objectives of the program.

In the case of applicants other than LEAs, the Secretary uses the procedures and criteria in 34 CFR 75.253 for determining whether to make a continuation award.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process or review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State
Alabama
Arizona
Arkansas
California
Connecticut
Delaware
Florida
Hawaii
Indiana
Kansas
Louisiana
Maine
Massachusetts
Michigan
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Washington
Wisconsin
Wyoming
Guam
Northern Mariana Islands
Puerto Rico

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order.

Applicants proposing to perform activitives in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department. Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by December 5, 1984, to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.003R, 400 Maryland Avenue, S.W., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds

It is expected that approximately $180,000 will be available for three noncompeting continuation grants under the Training Projects Program (Activity E) in Fiscal Year 1985.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute of regulations.

Request Forms

Request packages are expected to be ready for mailing in October 1984. They will be mailed to current recipients that have one or more year(s) remaining of an approved multi-year project period. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education 400 Maryland Avenue, SW., (Reporters Building, Room 421), Washington, D.C. 20202.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in requesting assistance.

Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that grantees not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885–0004.)

Applicable Regulations

The regulations applicable to this program include the following:

(a) The regulations governing the Training Projects Program, 34 CFR Parts 500 and 510.

(b) The Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact the Training Projects (Activity E) Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., (Reporters Building, Room 421), Washington, D.C. 20202, Telephone (202) 245–2922. (20 U.S.C. 3233)

84.077B—Bilingual Vocational Training Program

Closing Date

November 13, 1984.

Applications are invited for noncompeting continuation awards under the Bilingual Vocational Training Program.

Authority for this program is contained in sections 181–189B of the Vocational Education Act of 1963, as amended by the Education Amendments of 1976 (Pub. L. 94–482). (20 U.S.C. 2411–2421)

Current recipients of grants under this program that have one or more year(s) remaining of an approved multi-year project period may apply for continuation of their present projects.

The purpose of the awards is to provide bilingual vocational training to persons who are from environments where the dominant language is other than English and who are unemployed or under-employed because of their limited English speaking ability.

Closing Date for Transmittal of Applications

To be assured of consideration for funding, an application for a continuation award should be mailed or hand delivered by November 13, 1984.

If the application is late, the Department of Education may lack sufficient time to review it with other applications for noncompeting continuations and may decline to accept it.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.077B, Washington, D.C. 20202.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Orde and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State

Alabama	Louisiana
Arizona	Maine
Arkansas	Massachusetts
California	Michigan
Connecticut	Missouri
Delaware	Montana
Florida	Nebraska
Hawaii	Nevada
Indiana	New Hampshire
Kansas	New Jersey
New Mexico	Texas
New York	Utah
North Dakota	Vermont
Ohio	Virginia
Oklahoma	Washington
Oregon	Wisconsin
Pennsylvania	Wyoming
Rhode Island	Guam
South Carolina	Northern Mariana Islands
South Dakota	Puerto Rico
Tennessee	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by December 13, 1984 to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.077B, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds

It is expected that approximately $1,695,000 will be available for eight noncompeting continuations under the Bilingual Vocational Training Program in Fiscal Year 1985.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms.

Application packages are expected to be ready for mailing in October 1984. They will be mailed to current recipients that have one or more year(s) remaining

of an approved multi-year project period. A copy of the application may be obtained by writing to the Bilingual Vocational Training Program, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885–0002.)

Applicable Regulations

Regulations applicable to this program include the following:

(1) The regulations governing the Bilingual Vocational Training Program, 34 CFR part 525.

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

(3) The Department of Labor regulations (29 CFR 95.34) as in effect on September 30, 1979, governing training allowances for participants in the Bilingual Vocational Training Program.

Further Information

For further information contact the Bilingual Vocational Training Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 732–1852 or 447–9227. (20 U.S.C. 2411–2421)

84.099B—Bilingual Vocational Instructor Training Program

Closing Date

November 13, 1984.

Applications are invited for noncompeting continuation awards under the Bilingual Vocational Instructor Training Program.

Authority for this program is contained in Sections 181–189B of the Vocational Education Act of 1963, as amended by the Education Amendments of 1976 (Pub. L. 94–482). (20 U.S.C. 2411–2421)

Current recipients of grants under this program that have one or more year(s) remaining of an approved project period may apply for continuation of their present projects.

The purpose of the awards is to provide training programs for persons seeking to improve their skills and qualifications as instructors in bilingual vocational training programs for persons of limited English speaking ability.

Closing Date for Transmittal of Applications

To be assured of consideration for funding, an application for a continuation award should be mailed or hand delivered by November 13, 1984.

If the application is late, the Department of Education may lack sufficient time to review it with other applications for noncompeting continuations and may decline to accept it.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.099B, Washington, D.C. 20202.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance,
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to acccommodate State and local views or explain why those views will not be accommodated, and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Exectutive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State	
Alabama	New Mexico
Arizona	New York
Arkansas	North Dakota
California	Ohio
Connecticut	Oklahoma
Delaware	Oregon
Florida	Pennsylvania
Hawaii	South Carolina
Indiana	South Dakota
Kansas	Tennessee
Louisiana	Texas
Maine	Utah
Massachusetts	Vermont
Michigan	Virginia
Missouri	Washington
Montana	Wisconsin
Nebraska	Wyoming
Nevada	Guam
New Hampshire	Northern Mariana Islands
New Jersey	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by December 13, 1984 to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.099B, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT*

SEND APPLICATIONS TO THE ABOVE ADDRESS.

Available Funds

It is expected that approximately $800,000 will be available for four noncompeting continuations under the Bilingual Vocational Instructor Training Program in Fiscal Year 1985.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms

Application packages are expected to be ready for mailing in October 1984. They will be mailed to current recipients that have one or more year(s) remaining of an approved multi-year project period. A copy of the application package may be obtained by writing to the Bilingual Vocational Instructor Training Program, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885–0002.)

Applicable Regulations

Regulations applicable to this program include the following:

(1) The regulations governing the Bilingual Vocational Instructor Training Program, 34 CFR Part 526.

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact the Bilingual Vocational Training Instructor Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 732–1840 or 447–9227.

(20 U.S.C. 2411–2421)

84.003E—Bilingual Education Act—Demonstration Projects Program

Closing Dates

January 4, 1985.

Requests are invited for noncompeting continuations under the Bilangual Education Act—Demonstration Projects Program.

Authority for this program is contained in Sections 703–722 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561). (20 U.S.C. 3223–3232)

Current recipients of grants under this program that have one or more year(s) remaining of an approved multi-year project period may request continuation of their present projects.

The purpose of the awards is to provide financial assistance to demonstrate exemplary approaches to programs of bilingual education and to build the capacity of grantees to continue those programs when Title VII funds are reduced of no longer available.

Closing Date for Transmittal of Requests

To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered by January 4, 1985.

If the request is late, the Department of Education may lack sufficient time to review it with other requests for noncompeting continuations and may decline to accept it.

Requests Delivered by Mail

A request sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003E, Washington, D.C. 20202.

Program Information

As stated in 34 CFR 500.40, the Secretary makes a continuation award only if the grantee meets the conditions of section 721(e)(2) of the Billingual Education Act, which requires a grantee to demonstrate, among other things, that it is making satisfactory progress toward achieving the stated objectives of the program.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;

Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and

- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State	
Alabama	New York
Arizona	North Dakota
Arkansas	Ohio
California	Oklahoma
Connecticut	Oregon
Delaware	Pennsylvania
Florida	South Carolina
Hawaii	South Dakota
Indiana	Tennessee
Kansas	Texas
Louisiana	Utah
Maine	Vermont
Massachusetts	Virginia
Michigan	Washington
Missouri	Wisconsin
Montana	Wyoming
Nebraska	Guam
Nevada	Northern Mariana Islands
New Hampshire	Puerto Rico
New Jersey	
New Mexico	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this

notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above State, areawide, regional, and local entities may submit comments directly to the Department. Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by February 4, 1984, to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.003E, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Aavailable Funds

It is expected that approximately $6,800,000 will be available for 38 noncompeting continuation grants under the Demonstration Projects Program in Fiscal Year 1985.

However, these estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Request Forms

Request packages are expected to be ready for mailing in October 1984. They will be mailed to current recipients that have one or more year(s) remaining of an approved multi-year project period. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information in only intended to aid applicants in requesting assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that grantees not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885–0004.)

Applicable Regulations

Regulations applicable to this program include the following:

(a) The regulations governing the Demonstration Projects Program 34, CFR Parts 500 and 502.

(b) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact the Demonstration Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 447–9227. (20 U.S.C. 3223–3232)

84.003N—Bilingual Education Act—Training Projects Program (Activity D)

Closing Date

January 14, 1985.

Requests are invited for noncompeting continuations under the Bilingual Education Act—Training Projects Program that proposed the activity described in 34 CFR 510.10(d).

Authority for this program is contained in section 723 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561). (20 U.S.C. 3233)

Current recipients of grants under this program that have one or more year(s) remaining of an approved multi-year project period may request continuation of their present projects.

The purpose of the awards is to improve the skills of parents and other participants in carrying out their responsibilities in programs of bilingual education.

Closing Date for Transmittal of Requests

To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered by January 14, 1985.

If the request is late, the Department of Education may lack sufficient time to review it with other requests for noncompeting continuations and may decline to accept it.

Requests Delivered by Mail

A request sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003N, Washington, D.C. 20202.

Program Information

In the case of of a request submitted by an LEA as either a sole or joint applicant, the following applies: As stated in 34 CFR 500.40, the Secretary makes a continuation award only if the grantee meets the conditions of section 721(e)(2) of the Bilingual Education Act, which requires a grantee to demonstrate, among other things, that it is making satisfactory progress toward achieving the stated objectives of the program.

In the case of applicants other than LEA's, the Secretary uses the procedures and criteria in 34 CFR 75.253 for determining whether to make a continuation award.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State	
Alabama	New York
Arizona	North Dakota
Arkansas	Ohio
California	Oklahoma
Connecticut	Oregon
Delaware	Pennsylvania
Florida	South Carolina
Hawaii	South Dakota
Indiana	Tennessee
Kansas	Texas
Louisiana	Utah
Maine	Vermont
Massachusetts	Virginia
Michigan	Washington
Missouri	Wisconsin
Montana	Wyoming
Nebraska	Guam
Nevada	Northern Mariana Islands
New Hamshire	Puerto Rico
New Jersey	
New Mexico	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's prorocess under the Executive Order. Applicants proposing to perform activities in more than one State shoud contsact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures estalished in those States under the Executive Order. A list containing the single point of contact for each State is included in the appliction package for this program.

In States not listed above State, areawide, regional, and local entities may submit comments directly to the Department. Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by February 14, 1985, to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.003N, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be detemined on the same basis as applicaitons.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds.

It is expected that approximately $1,800,000 will be available for 19 noncompeting contuinuation grants under the Training Projects Program (Activity D) in Fiscal Year 1985.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Request Forms

Request packages are expected to be ready for mailing in October 1984. They will be mailed to current recipients that have one or more year(s) remaining of an apporved multi-year project period. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporterts Building, Room 421), Washington, D.C. 20202.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in requesting assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond thoses imposed under the statuue and regulations.

The Secretarty strongly urges that a grantee not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885–0004.)

Applicable Regulations

The regulations applicable to this program include the following:

(a) The Regulations governing the Training Projects Program, 34 CFR Parts 500 and 510.

(b) The Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact the Training Projects (Activity D) Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, (Reporters Building, Room 421), 400 Maryland Avenue, SW., Washington, D.C. 20202 Telephone (202) 245–2595. (20 U.S.C. 3233)

84.003K—Bilingual Education Act—Training Projects Program (Activities A, B, and C)

Closing Date

January 28, 1985.

Requests are invited for noncompeting continuations under the Bilingual Education Act—Training Projects Program, that propose any one or combination of the activities described in 34 CFR 510.10 (a), (b), and (c).

Authority for this program is contained in Section 723 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561). (20 U.S.C. 3233)

Current recipients of grants under this program that one or more year(s) remaining of an approved multi-year project period may request continuation of their present projects.

The purpose of the awards is to establish, operate, and improve programs of bilingual education at institutions of higher education for persons who are participating in, or preparing to participate in, programs of bilingual education and bilingual education training.

Closing Date for Transmittal of Requests

To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered by January 28, 1985.

If the request is late, the Department of Education may lack sufficient time to review it with other requests for noncompeting continuations and may decline to accept it.

Requests Delivered by Mail

A request sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003K, Washington, D.C. 20202.

Program Information

In the case of a request submitted by an LEA as either a sole or joint applicant, the following applies: As stated in 34 CFR 500.40, the Secretary makes a continuation award only if the grantee meets the conditions of section 721(e)(2) of the Bilingual Education Act, which requires a grantee to demonstrate, among other things, that it is making satisfactory progress toward achieving the stated objectives of the program.

In the case of applicants other than LEAs, the Secretary uses the procedures and criteria in 34 CFR 75.253 for determining whether to make a continuation award.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at

48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State	
Alabama	New York
Arizona	North Dakota
Arkansas	Ohio
California	Oklahoma
Connecticut	Oregon
Delaware	Pennsylvania
Florida	South Carolina
Hawaii	South Dakota
Indiana	Tennessee
Kansas	Texas
Louisiana	Utah
Maine	Vermont
Massachusetts	Virginia
Michigan	Washington
Missouri	Wisconsin
Montana	Wyoming
Nebraska	Guam
Nevada	Northern Mariana Islands
New Hampshire	Puerto Rico
New Jersey	
New Mexico	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department. Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by February 28, 1985, to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.003K, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds

It is expected that approximately $11,700,000 will be available for 127 noncompeting continuation grants under the Training Projects Program (Activities A, B, and C) in Fiscal Year 1985.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Request Forms

Request packages are expected to be ready for mailing in October 1984. They will be mailed to current recipients that have one or more year(s) remaining of an approved multi-year project period. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in requesting assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that a grantee not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885–0004.)

Applicable Regulations

The regulations applicable to this program include the following:

(a) The regulations governing the Training Projects Program, 34 CFR Parts 500 and 510.

(b) The Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact the Training Projects (Activities A, B, and C) Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Reporters Building, Room 421), 400 Maryland Avenue, SW., Washington, D.C. 20202, Telephone (202) 245–2595. (20 U.S.C. 3233)

84.003T—Bilingual Education Act—State Educational Agency Projects for Coordinating Technical Assistance Program

Closing Date

February 11, 1985.

Requests are invited for noncompeting continuations under the Bilingual Education Act—State Educational Agency Projects for Coordinating Technical Assistance Program.

Authority for this program is contained in Section 721 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561). (20 U.S.C. 3231)

Current recipients of grants under this program that have one or more year(s) remaining of an approved multi-year project period may request continuation of their present projects.

The purpose of the awards is to assist State educational agencies in the coordination of technical assistance to programs of bilingual education assisted under the Bilingual Education Act within their States.

Closing Date for Transmittal of Requests

To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered by February 11, 1985.

If the request is late, the Department of Education may lack sufficient time to review it with other requests for noncompeting continuations and may decline to accept it.

Requests Delivered by Mail

A request sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003T, Washington, D.C. 20202.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State	
Alabama	Kansas
Arizona	Louisiana
Arkansas	Maine
California	Massachusetts
Connecticut	Michigan
Delaware	Missouri
Florida	Montana
Hawaii	Nebraska
Indiana	Nevada
New Hampshire	Texas
New Jersey	Utah
New Mexico	Vermont
New York	Virginia
North DAkota	Washington
Ohio	Wisconsin
Oklahoma	Wyoming
Oregon	Guam
Pennsylvania	Northern Mariana Islands
South Carolina	Puerto Rico
South Dakota	
Tennessee	

Immediately upon receipt of this notice, applicants that are governmental entities must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department. Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by March 13, 1985, to the following address:

The Secretary, U.S. Department of Education, Room 4181 84.003T, 400 Maryland Avenue, SW., Washington, D.C. 20202. (proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATION TO THE ABOVE ADDRESS.*

Available Funds

It is expected that approximately $1,825,000 will be available for noncompeting continuation grants under the State Educational Agency Projects for Coordinating Technical Assistance Program in Fiscal Year 1985.

An award to an SEA may not exceed five percent of the total amount paid under Part A of the Bilingual Education Act to local educational agencies in the State of the SEA in Fiscal Year 1984.

Request Forms.

Request packages are expected to be ready for mailing in October 1984. They will be mailed to current recipients that have one or more year(s) remaining of an approved multi-year project period. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in requesting assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that grantees not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885–0004.)

Applicable Regulations

Regulations applicable to this program include the following.

(1) The regulations governing the State Educational Agency Projects for Coordinating Technical Assistance Program, 34 CFR Parts 500 and 503.

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact the State Educational Agency Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 245–2922. (20 U.S.C. 3231)

84.003C—Bilingual Education Act—Basic Projects Program

Closing Dates

March 15, 1985—Requests for third budget period, April 15, 1985—Requests for second budget period.

Requests are invited for noncompeting continuation awards under the Bilingual Education Act—Basic Projects Program.

Authority for this program is contained in Sections 703–722 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561). (20 U.S.C. 3223–3232)

Current recipients of grants under this program that have one or more year(s) remaining of an approved multi-year

project period may request continuation of their present projects.

The purpose of the awards is to establish, operate, or improve programs of bilingual education to assist children of limited English proficiency and to build the capacity of grantees to continue those programs when Title VII funds are reduced or no longer available.

Closing Date for Transmittal of Requests

To be assured of consideration for funding, requests for noncompeting continuation awards for a third budget period should be mailed or hand delivered by March 15, 1985. Requests for noncompeting continuation awards for a second budget period should be mailed or hand delivered by April 15, 1985.

If the request is late, the Department of Education may lack sufficient time to review it with other requests for noncompeting continuations and may decline to accept it.

Requests Delivered by Mail

A request sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003C, Washington, D.C. 20202.

Program Information

As stated in 34 CFR 500.40, the Secretary makes a continuation award only if the grantee meets the conditions of section 721(E)(2) of the Bilingual Education Act, which requires a grantee to demonstrate, among other things, that it is making satisfactory progress toward achieving the stated objectives of the program.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Program." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A-95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State	
Alabama	New York
Arizona	North Dakota
Arkansas	Ohio
California	Oklahoma
Connecticut	Oregon
Delaware	Pennsylvania
Florida	South Carolina
Hawaii	South Dakota
Indiana	Tennessee
Kansas	Texas
Louisiana	Utah
Maine	Vermont
Massachusetts	Virginia
Michigan	Washington
Missouri	Wisconsin
Montana	Wyoming
Nebraska	Guam
Nevada	Northern Mariana Islands
New Hampshire	Puerto Rico
New Jersey	
New Mexico	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department. Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by April 15, 1985 for requests for a third budget period, or by May 15, 1985 for requests for a second budget period, to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.003C, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds

It is expected that approximately $51,000,000 will be available for 524 noncompeting continuation grants under the Basic Projects in Bilingual Education Program in Fiscal Year 1985.

Request Forms

Request packages are expected to be ready for mailing in October 1984. They will be mailed to current recipients that have one or more year(s) remaining of an approved multi-year project period. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the request package. However, the program information is only intended to aid applicants in requesting assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that grantees not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1885-0004.)

Applicable Regulations

The regulations applicable to this program include the following.

(1) The regulations governing the Basic Projects in Bilingual Education Program, 34 CFR Parts 500 and 501.

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact the Basic Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW. (Reporters Building, Room 421), Washington, D.C. 20202. Telephone (202) 245–2922. (20 U.S.C. 3223–3232)

(Catalog of Domestic Assistance No. 84.003, Bilingual Education; 84.077, Bilingual Vocational Training; 84.099, Bilingual Vocational Instructor Training)

Dated: September 24, 1984.

T.H. Bell,

Secretary of Education.

[FR Doc. 84-25787 Filed 9-27-84; 8:45 am]

BILLING CODE 4000-01-M

federal register

Friday
September 28, 1984

Part VI

Department of Agriculture

Food Safety and Inspection Service

9 CFR Parts 307, 350, 351, 354, 355, 362, and 381

Fee Increase for Inspection Services; Final Rule

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 307, 350, 351, 354, 355, 362, and 381

[Docket No. 84-013F]

Fee Increase for Inspection Services

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat and poultry products inspection regulations to increase fees charged by FSIS to provide overtime inspection, identification, certification, or laboratory services to meat and poultry establishments. The fees reflect the increased costs of providing these services in fiscal year 1985.

EFFECTIVE DATE: September 30, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. William L. West, Director, Budget and Finance Division, Administrative Management, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-3367.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This rule is issued in conformance with Executive Order 12291, and has ben determined to be not a "major rule." It will not result in an annual effect on the economy of $100 million or more; a major increase in cost or prices for consumers, indiviidual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a subsantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because the fees provided for in this document are not new but merely reflect a minimal increase in the costs currently borne by those entities which elect to utilize certain inspection services.

Background

Each fiscal year, the fees for certain services rendered to operators of official meat and poultry establishments, importers, or exporters by the Food Safety and Inspection Service (FSIS) are reviewed and a cost analysis is performed to determine if such fees are adequate to recover the cost of providing the services. The analysis relates to fees charged in connection with overtime and holiday inspection, identification, certification, or laboratory services. The fees to be charged for these services are determined by an analysis of data on the current cost of these services coupled with the increase in that cost due to the increase for salaries of Federal employees allocated by Congress under the Federal Pay Comparability Act of 1970.

Based on the Agency's analysis of the costs incurred in providing these services, a proposal was published in the **Federal Register** on August 21, 1984 (49 FR 33155), to increase the fees related to such services to reflect increased costs associated therewith in the upcoming fiscal year.

The only comment received on the proposal states that the Agency should not impose an increase in fees upon establishments in the absence of a Federal pay raise or other appropriate justification. In this regard, the increase in fees reflect a cost increase in salary for promotions, within-grade increases, and the .5 percent pay raise approved by Congress subsequent to the last increase in fees. In addition the costs for some fringe benefits, travel and administrative support have all increased. The fees provided for in this document reflect only a minimal increase in the costs currently borne by those entities electing to utilize those services.

These fee increases do not include the increase resulting from an anticipated pay raise for Federal employees. Although the pay raise is normally effective at the beginning of each fiscal year and calculated into the fee increases, this fiscal year Congress is delaying the pay increase. When Congress enacts a pay increase, FSIS will engage in further rulemaking prior to raising fees.

The amendments, as proposed, to the Federal meat and poultry products inspection regulations are promulgated herein.

List of Subjects

9 CFR Part 307

Meat inspection, Fee charges.

9 CFR Part 350

Meat inspection, Fee charges.

9 CFR Part 351

Meat inspection, Fee charges.

9 CFR Part 354

Meat inspection, Fee charges.

9 CFR Part 355

Animal foods, Fee charges.

9 CFR Part 362

Poultry and poultry products, Fee charges.

9 CFR Part 381

Poultry products inspection, Fee charges.

PART 307—[AMENDED]

1. The authority citation for Part 307 reads as follows:

Authority: 41 Stat. 241, 7 U.S.C. 394; 34 Stat. 1264, as amended; 21 U.S.C. 621; 62 Stat. 334; 21 U.S.C. 695, 7 CFR 2.15(a), 2.92.

2. Section 307.5(a) is revised to read as follows:

§ 307.5 Overtime and holiday inspection service.

(a) The management of an official establishment, an importer, or an exporter shall pay the Food Safety and Inspection Service $21.00 per hour per Program employee to reimburse the Program for the cost of the inspection service furnished on any holiday as specified in paragraph (b) of this section; or for more than 8 hours on any day, or more than 40 hours in any administrative workweek Sunday through Saturday.

* * * * *

PART 350—[AMENDED]

3. The authority citation for Part 350 reads as follows:

Authority: 41 Stat. 241, 7 U.S.C. 394; 60 Stat. 1087, as amended, 7 U.S.C. 1622; 60 Stat. 1090, as amended, 7 U.S.C. 1624; 34 Stat. 1264, as amended, 21 U.S.C. 621; 62 Stat. 334, 21 U.S.C. 695; 7 CFR 2.15(a), 2.92.

4. Section 350.7(c) is revised to read as follows:

§ 350.7 Fees and charges.

* * * * *

(c) The fees to be charged and collected for service under the regulations in this Part shall be at the rate of $17.96 per hour for base time, $21.00 per hour for overtime including Saturdays, Sundays, and holidays, and $34.68 per hour for laboratory service, to cover the costs of the service and shall be charged for the time required to render such service. Where appropriate, this time will include, but will not be

limited to, the time required for travel of the inspector or inspectors in connection therewith during the regularly scheduled administrative workweek.

* * * * *

PART 351—[AMENDED]

5. The authority citation for Part 351 reads as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

6. Section 351.8 is revised to read as follows:

§ 351.8 Charges for surveys for plants.

Applicants for the certification service shall pay the Department for salary costs at the rate of $17.96 per hour for base time, $21.00 per hour for overtime, travel and per diem allowances at rates currently allowed by the Government Travel Regulations, and other expenses incidental to the initial survey of rendering plants or storage facilities for which certification service is requested.

7. Section 351.9(a) is revised to read as follows:

§ 351.9 Charges for examinations.

(a) The fees to be charged and collected by the Administrator for examination shall be $17.96 per hour for base time and $21.00 per hour for overtime including Saturdays, Sundays, and holidays, as provided for in § 351.14 and $34.68 per hour for any laboratory service required to determine the eligibility of any technical animal fat for certification under the regulations in this Part. Such fees shall be charged for the time required to render such service, including, but not limited to, the time required for the travel of the inspector or inspectors in connection therewith.

* * * * *

PART 354—[AMENDED]

8. The authority citation for Part 354 reads as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

9. Section 354.101(b) is revised to read as follows:

§ 354.101 On a fee basis.

* * * * *

(b) The charges for inspection service will be based on the time required to perform such services. The hourly rate shall be $17.96 for base time and $21.00 for overtime or holiday work.

PART 355—[AMENDED]

10. The authority citation for Part 355 reads as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

11. Section 355.12 is revised to read as follows:

§ 355.12 Charge for service.

The fees to be charged and collected by the Administrator shall be $17.96 per hour for base time, $21.00 per hour for overtime, including Saturdays, Sundays, and holidays, and $34.68 per hour for laboratory services to reimburse the Department for the cost of the inspection service furnished.

PART 362—[AMENDED]

12. The authority citation for Part 362 reads as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

13. Section 362.5(c) is revised to read as follows:

§ 362.5 Fees and charges.

* * * * *

(c) The fees to be charged and collected for service under the regulations in this Part shall be at the rate of $17.96 per hour for base time, $21.00 per hour for overtime including Saturdays, Sundays, and holidays, and $34.68 per hour for laboratory service to cover the costs of the service and shall be charged for the time required to render such service, including, but not limited to, the time required for the travel of the inspector or inspectors in connection therewith during the regularly scheduled administrative workweek.

* * * * *

PART 381—[AMENDED]

14. The authority citation for Part 381 reads as follows:

Authority: 71 Stat. 447, 448, as amended, 21 U.S.C. 463, 468; 7 CFR 2.15(a), 2.92.

15. Section 381.38(a) is revised to read as follows:

§ 381.38 Overtime and holiday inspection service.

(a) The management of an official establishment, an importer, or an exporter shall pay the Food Safety and Inspection Service $21.00 per hour per Program employee to reimburse the Program for the cost of the inspection service furnished on any holiday specified in paragraph (b) of this section; or for more than 8 hours on any day, or more than 40 hours in any administrative workweek Sunday through Saturday.

* * * * *

The Administrator has determined that good cause exists to make these amendments effective less than 30 days after publication in the **Federal Register.**

Done at Washington, DC, on: September 25, 1984.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 84-26005 Filed 9-27-84; 9:03 am]

BILLING CODE 3410-DM-M

Federal Register

Friday
September 28, 1984

Part VII

Department of Health and Human Services

Office of the Secretary

Medicare Program; Notices

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[BDM-009-N]

Medicare Program; Part A Premium for the Uninsured Aged for the 12-Month Period Beginning January 1, 1985

AGENCY: Office of the Secretary, HHS.
ACTION: Notice.

SUMMARY: This notice announces Medicare's monthly hospital insurance premium for the uninsured aged for the 12 months beginning January 1, 1985.

EFFECTIVE DATE: January 1, 1985.

FOR FURTHER INFORMATION CONTACT: Sol Mussey, Director, Division of Medicare Cost Estimates, Office of Financial and Actuarial Analysis, 1-C-11 Oak Meadows Building, 6325 Security Blvd., Baltimore, Maryland 21207, Telephone: (301) 594-2829.

SUPPLEMENTARY INFORMATION: Under the authority in section 1818(d)(2) of the Social Security Act (42 U.S.C. 1395i-2(d)(2)), I have determined that the monthly Medicare hospital insurance premium for the uninsured aged for the 12 months beginning January 1, 1985, is $174.

Section 1818 of the Social Security Act provides for voluntary enrollment in the hospital insurance program (Part A of Medicare). Subject to payment of a monthly premium, of certain persons age 65 and older who are uninsured for social security or railroad retirement benefits and do not otherwise meet the requirements for entitlement to hospital insurance. (Persons insured under the Social Security or Railroad Retirement Acts need not pay premiums for hospital insurance.)

Section 1818(d)(2) of the Act, as amended by seciton 606(b) of the Social Security Amendments of 1983 (Pub. L. 98-21) requires the Secretary to determine and publish, during the next to last quarter of each calendar year, the amount of the monthly Part A premium for voluntary enrollment for the following calendar year. The formula specified in this section requires that, for the period beginning January 1, 1985, the 1973 base year premium ($33) be multiplied by the ratio of (1) the 1985 inpatient hospital deductible to (2) the 1973 inpatient hospital deductible rounded to the nearest multiple of $1 or, if midway between multiples of $1, to the next higher multiple of $1.

Under section 1813(b)(2) of the Act, the 1985 inpatient hospital deductible was determined to be $400. The 1973 deductible was actuarially determined to be $76, although the 1973 deductible was actually promulgated to be only $72, to comply with a ruling of the Cost of Living Council. (See 37 FR 21452, October 11, 1972.) The monthly premium for the 12-month period beginning January 1, 1985 has been calculated using the $76 deductible for 1973, since this more closely satisfies the intent of the law. Thus, the monthly hos pital insurance premium is $33×(400/76)=$173.68, which is rounded to $174.

Regulatory Impact Statement

The monthly hospital insurance premium for the uninsured aged for the 12-month period beginning January 1, 1985, will increase to $174. That amount is 12 percent higher than the $155 monthly premium amount for the 12 month period beginning January 1, 1984.

The estimated cost of this increase to the approximately 22 thousand enrollees who do not otherwise meet the requirements for entitlement to hospital insurance will be about $5 million.

Because this notice merely announces an amount required by the formula specified in section 1818(d)(2) of the Act, and does not alter any regulation or policy, no analyses under Executive Order 12291 or the Regulatory Flexibility Act, Pub. L. 96-354, are required, and the Secretary so certifies.

(Sec. 1818(d)(2) of the Social Security Act (42 U.S.C. 1395i-2(d)(2))

(Catalog of Federal Domestic Assistance Program No. 13.773 Medicare—Hospital Insurance)

Dated: September 21, 1984.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 26, 1984.

Maragaret M. Heckler,

Secretary.

[FR Doc. 84-28009 Filed 9-27-84; 11:58 am]
BILLING CODE 4120-03-M

[BDM-010-GN]

Medicare Program; Monthly Actuarial Rates and Monthly Premium Rate

AGENCY: Office of the Secretary, HHS
ACTION: General Notice.

SUMMARY: This notice announces the monthly actuarial rates for aged (age 65 or over) and disabled (under age 65) enrollees in the Medicare Supplementary Medical Insurance (SMI) program for calendar year 1985. It also announces the monthly SMI premium rate to be paid by all enrollees during calendar year 1985.

DATE: The premium rate in this notice is calculated under the provisions of sections 1839(a)(3) and 1839(e) of the Social Security Act as revised by section 2302 of Pub. L. 98-369, the Deficit Reduction Act of 1984. Section 1839(e) of the Act temporarily holds the SMI premium at a constant percentage of the monthly actuarial rate for aged beneficiaries, while section 1839(a)(3), provides that the rates apply on a calendar year basis.

EFFECTIVE DATE: January 1, 1985.

FOR FURTHER INFORMATION CONTACT: Susan Kunkel, Supervisory Actuary, Division of Medicare Cost Estimates, 1-C-11 Oak Meadows Building, Baltimore, Maryland 21207, Telephone: (301) 594-1049.

SUPPLEMENTARY INFORMATION:

Background

The Secretary of Health and Human Services is required by law to issue two annual notices relating to the Medicare Supplementary Medical Insurance (SMI) program.

One notice announces two amounts that, according to actuarial estimates, will equal, respectively, one-half the expected average monthly cost of SMI for each aged enrollee (age 65 or over) and one-half the expected average monthly cost of SMI for each disabled enrollee (under age 65) during the calendar year beginning the following January. These amounts are called "monthly actuarial rates".

The second notice announces the monthly SMI premium rate to be paid by aged and disabled enrollees for the calendar year beginning the following January. (Although the costs to the program per disabled enrollee are higher than for the aged, the law provides that they pay the same premium amount.) Beginning with the passage of section 203 of Pub. L. 92-603 and until the passage of section 124 of the Tax Equity and Fiscal Responsiblity Act of 1982 (Pub. L. 97-248), the premium rate was limited to the lesser of the actuarial rate for aged enrollees, or the current monthly premium rate increased by the same percentage as the most recent general increase in monthly title II social security benefits. The difference between the premiums paid by all enrollees and total incurred costs is met from the general revenues of the Federal government.

Section 124 of Pub. L. 97-248, the Tax Equity and Fiscal Responsibility Act of 1982, amended section 1839 of the Social Security Act by temporarily suspending the limitation on annual increases in the SMI premium rate. As further amended by section 606 of Pub. L. 98-21 and section 2302 of Pub. L. 98-369, section

1839 sets the monthly premium rate for calendar years 1984 through 1987 at a level equal to 50 percent of the monthly actuarial rates for aged beneficiaries. In January 1988, calculation of the premium rate will revert to the method used before the passage of Pub. L. 97–248, Pub. L. 98–21 and Pub. L. 98–369, except that it will remain on a calendar year basis.

The notices of these amounts for calendar year 1985 are as follows:

Notice of Monthly Actuarial Rates

As required by sections 1839(a) (1) and (4) of the Social Security Act (42 U.S.C. 1395(a) (1) and (4)), as amended, I have determined that the monthly actuarial rates applicable for calendar year 1985 are $31.00 for enrollees age 65 and over, and $52.70 for disabled enrollees under age 65. The accompanying statement gives that actuarial assumptions and bases from which these rates are derived.

Notice of Monthly Premium Rate

As required by section 1839(e)(1) of the Social Security Act (42 U.S.C. 1395r(e)(1)), as amended, I have determined that the standard monthly premium amount will be $15.50 during calendar year 1985. The accompanying statement shows how this amount was derived.

Statement of Actuarial Assumptions and Bases Employed in Determining the Monthly Actuarial Rates and the Standard Monthly Premium Rate for the Supplementary Medical Insurance Program Beginning January 1985

1. Actuarial Status of the Supplementary Medical Insurance Trust Fund

The law reqires that the SMI program be financed on an incurrred basis; that is, program income during the calendar year for which the actuarial rates are effective must be sufficient to pay for services furnished during that year (including associated administrative costs) even though payment for some of these services will not be made until after the close of the year. The portion of income required to cover benefits not paid until after the close of the calendar year is added to the trust fund until needed. Thus, the assets in the trust fund at any time should be no less than benefit and administrative costs incurred but not yet paid.

Because the rates are established prospectively, they are subject to projection error. As a result, the income to the program may not equal incurred costs. Therefore, trust fund assets should be maintained at a level that is adequate to cover a moderate degree of projection error in addition to the amount of incurred but unpaid expenses. Table 1 summarizes the estimated actuarial status of the trust fund as of the end of the financing period for periods from 1983 through 1984.

TABLE 1.—ACTUARIAL STATUS OF THE SMI TRUST FUND AS OF THE END OF THE FINANCING PERIODS, JUNE 30, 1983–DECEMBER 31, 1984

[In millions of dollars]

Financing period ending[1]	Assets	Liabilities	Assets less liabilities
June 30, 1983	$6,781	$3,973	$2,808
Dec. 31, 1983	7,070	4,273	2,797
Dec. 31, 1984	8,641	4,968	3,673

[1] Prior to July 1, 1983, the financing periods were the 12-month periods ending June 30. For the transitional period, the financing period is July 1, 1983 through December 31, 1983. After December 31, 1983, the financing periods are the calendar year periods ending December 31.

2. Monthly Actuarial Rate for Enrollees Age 65 and Older

The monthly actuarial rate is one-half the monthly projected cost of benefits and administrative expenses for each enrollee age 65 and older, adjusted to allow for interest earnings on assets in the trust fund and a contingency margin. The contingency margin is an amount appropriate to provide for a moderate degree of projection error and to amortize unfunded liabilities.

The monthly actuarial rate for enrollees age 65 and older for calendar year 1985 was determined by projecting per-enrollee cost for the 12-month periods ending June 30, 1985 and June 30, 1986, by type of service. Although the actuarial rates are now applicable for calendar years, Projections of per-enrollee costs were determined on a July to June period, consistent with the July 1 annual fee screen update used for benefits prior to the passage of section 2306(b) of Pub. L. 98–369. The values for the 12-month period ending June 30, 1982, were established from program data. Subsequent periods were projected using a combination of program data and data from external sources. The projection factors used are shown in Table 2. These per-enrollee values are then adjusted to apply to a calendar year period. The projected values for financing periods from July 1, 1982, through December 31, 1985,are shown in Table 3.

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for enrollees age 65 and over for calendar year 1985 is $33.12. The monthly actuarial rate of $31.00 provides an adjustment for interest earnings and $–1.27 for a contingency margin. A negative margin is needed to begin to reduce the surplus which is developing in 1984 to a more appropriate level.

3. Monthly Actuarial Rate for Disabled Enrollees

Disabled enrollees are those persons enrolled in SMI because of entitlement to disability benefits for not less than 24 months or because of entitlement to Medicare under the end-stage renal disease program. Projected monthly costs for disabled enrollees (other than those suffering from end-stage renal disease) are prepared in a fashion exactly parallel to projections for the aged, using appropriate actuarial assumptions (see Table 2). Costs for the end-stage renal disease program are projected using a different computer model because of the complex demographic problems involved. The combined results for all disabled enrollees are shown in Table 4.

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for disabled enrollees for calendar year 1985 is $59.10. The monthly actuarial rate of $52.70 provides an adjustment for interest earnings and $–1.40 for a contingency margin. A negative margin is needed to begin to reduce the surplus which is developing in 1984 to a more appropriate level.

TABLE 2—PROJECTION FACTORS[1] 12-MO PERIODS ENDING JUNE 30 OF 1983–86

[In percent]

12-mo period ending June 30	Physicians' services		Radiology and pathology	Outpatient hospital services	Home Health agency services	Health care prepayment plans	Independent lab services
	Fees[2]	Residues[3]					
Aged:							
1983	8.9	14.0	3.0	15.0	15.0	20.0	1.0
1984	7.1	3.4	−14.5	15.6	4.2	20.0	−7.6

TABLE 2—PROJECTION FACTORS[1] 12-MO PERIODS ENDING JUNE 30 OF 1983–86—Continued

(In percent)

12-mo period ending June 30	Physicians' services		Radiology and pathology	Outpatient hospital services	Home Health agency services	Health care prepayment plans	Independent lab services
	Fees[2]	Residues[3]					
1985	0.5	9.0	−0.9	22.3	15.1	20.2	94.2
1986	5.8	5.0	9.6	22.2	7.6	24.8	6.1
Disabled:							
1983	8.9	12.5	6.0	15.0	0.0	20.0	19.0
1984	7.1	5.6	−13.3	22.4	0.0	24.8	−4.8
1985	0.5	10.5	0.0	23.7	0.0	26.3	148.1
1986	5.8	7.2	9.4	26.8	0.0	34.0	4.9

[1] All values are per enrollee.
[2] As recognizeid for payment under the program.
[3] Increase in the number of services received per enrollee and greater relative use of more expensive services.

TABLE 3.—DERIVATION OF MONTHLY ACTUARIAL RATE FOR ENROLLEES AGE 65 AND OVER, FINANCING PERIODS ENDING JUNE 30, 1983, THROUGH DEC. 31, 1985

	Financing periods			
	July 1, 1982, through June 30, 1983	July 1, 1983, through Dec. 31, 1983	January 1, 1984, through Dec. 31, 1984	January 1, 1985, through Dec. 31, 1985
Covered services (at level recognized):				
Physicians' reasonable charges	$25.28	$27.32	$29.34	$32.37
Radiology and pathology	1.11	.99	.95	.99
Outpatient hospital and other institutions	4.43	4.95	5.70	6.96
Home health agencies	.03	.03	.03	.03
Health care prepayment plans	.77	.88	1.01	1.24
Independent lab	.37	.35	.51	.69
Total services	31.99	34.52	37.54	42.28
Cost-sharing:				
Deductible	−2.49	−2.51	−2.52	−2.53
Coinsurance	−5.86	−6.39	−6.93	−7.81
Total benefits	23.64	25.62	28.09	31.94
Administrative expenses	.99	1.11	1.13	1.18
Incurred expenditures	24.63	26.73	29.22	33.12
Value of interest	−.65	−.65	−.79	−.85
Contingency margin for projection error and to amortize the surplus or deficit	.62	.92	.77	−.27
Monthly actuarial rate	24.60	27.00	29.20	31.00

[1] This rate, although originally promulgated for the 12-mo period ending June 30, 1984, was modified by section 606(c)(2) of Pub. L. 98-21 to apply only to the 6-mo period ending Dec. 31, 1983.

TABLE 4.—DERIVATION OF MONTHLY ACTUARIAL RATE FOR DISABLED ENROLLEES, FINANCING PERIODS ENDING JUNE 30, 1983, THROUGH DEC. 31, 1985

	Financing periods			
	July 1, 1982, through June 30, 1983	July 1, 1983, through Dec. 31, 1983	Jan. 1, 1984, through Dec. 31, 1984	Jan. 1, 1985, through Dec. 31, 1985
Covered services (at level recognized):				
Physicians' reasonable charges	$29.38	$31.85	$34.32	$38.23
Radiology and pathology	1.14	1.02	0.98	1.03
Outpatient hospital and other institutions	25.17	26.61	28.50	32.19
Home health agencies	.00	.00	.00	.00
Health care prepayment plans	0.44	0.52	0.62	0.81
Independent lab	0.55	0.53	0.80	1.11
Total services	56.68	60.53	65.22	73.37
Cost-sharing:				
Deductible	−2.27	−2.30	−2.33	−2.36
Coinsurance	−10.85	−11.64	−12.50	−14.02
Total benefits	43.56	46.59	50.39	56.99
Administrative expenses	1.98	1.99	2.03	2.11
Incurred expenditures	45.54	48.58	52.42	59.10
Value of interest	3.51	3.61	−4.39	−5.00
Contingency margin for projection error and to amortize the surplus or deficit	07	1 13	6.27	−1.40
Monthly actuarial rate	42.10	[1]46.10	54.30	52.70

[1] This rate, although originally promulgated for the 12-month period ending June 30, 1984, was modified by section 606(c)(2) of Pub. L. 98-21 to apply only to the 6-month period ending Dec. 31, 1983

4. Sensitivity Testing

Several factors contribute to uncertainty about future trends in medical care costs. In view of this, it seems appropriate to test the adequacy of the rates announced here using alternative assumptions. The most unpredictable factors that contribute significantly to future costs are outpatient hospital costs, physician residual (as defined in Table 2), and increases in physician fees as constrained by the program's reasonable charge screens and economic index. Two alternative sets of assumptions and the results of those assumptions are shown in Table 5. All assumptions not shown in Table 5 are the same as in Table 2.

Table 5 indicates that, under the assumptions used in preparing this report, the monthly actuarial rates will result in an excess of assets over liabilities of $2,728 million by the end of December 1985. This amounts to 9.3 percent of the estimated total incurred expenditures for the following year. Assumptions which are somewhat more pessimistic (and, therefore, test the adequacy of the assets to accommodate projection errors), produce a deficit of $425 million by the end of December 1985, which amounts to −1.3 percent of the estimated total incurred expenditures for the following year. Under family optimistic assumptions, the monthly actuarial rates will result in a surplus of $5,701 by the end of December 1985, which amounts to 21.3 percent of the estimated total incurred expenditures for the following year.

TABLE 5.—PROJECTION FACTORS AND THE ACTUARIAL STATUS OF THE SMI TRUST FUND UNDER ALTERNATIVE SETS OF ASSUMPTIONS FOR FINANCING PERIODS THROUGH DEC. 31, 1985

	This projection			Low cost projection			High cost projection		
	12-mo periods ending June 30,			12-mo periods ending June 30,			12-mo periods ending June 30,		
	1984	1985	1986	1984	1985	1986	1984	1985	1986
Projection factors (in percent):[1]									
Physician services—fees:[2]									
Aged	7.1	0.5	5.8	6.6	0.0	5.1	7.6	1.0	6.5
Disabled	7.1	0.5	5.8	6.6	0.0	5.1	7.6	1.0	6.5
Physician services—Residual:[3]									
Aged	3.4	9.0	5.0	1.9	7.3	2.7	4.9	10.7	7.3
Disabled	5.6	10.5	7.2	1.6	5.5	0.2	9.6	15.5	14.2
Outpatient hospital services:									
Aged	15.6	22.3	22.2	10.6	15.3	12.2	20.6	29.3	32.2
Disabled	22.4	23.7	26.8	16.4	13.7	11.8	28.4	33.7	41.8
	As of Dec. 31,			As of Dec. 31,			As of Dec. 31,		
	1983	1984	1985	1983	1984	1985	1983	1984	1985
Actuarial status (in millions):									
Assets	$7,070	$8,641	$8,490	$7,070	$9,375	$10,932	$7,070	$7,886	$5,896
Liabilities	4,273	4,968	5,762	4,041	4,624	5,231	4,506	5,316	6,321
Assets Less Liabilities	2,797	3,673	2,728	3,029	4,751	5,701	2,564	2,570	−425
Ratio of assets less liabilities to expenditures (in percent)[4]	12.7	14.4	9.3	14.3	20.0	21.3	11.2	9.4	−1.3

[1] All values are per enrollee.
[2] As recognized for payment under the program.
[3] Increase in the number of services received per enrollee and greater relative use of more expensive services.
[4] Ratio of assets less liabilities at the end of the year to total incurred expenditures during the following year, expressed as a percent.

5. Standard Premium Rate

For calendar years 1984 through 1987, the law provides that the standard monthly premium rate for both aged and disabled enrollees shall be 50 percent of the monthly actuarial rate for enrollees age 65 and older. Therefore, the standard monthly premium rate for both aged and disabled enrollees for calendar year 1985 is $15.50 which is 50 percent of the monthly actuarial rate for this period ($31.00).

Regulatory Impact Statement

The monthly SMI premium rate of $15.50 for all enrollees during calendar year 1985 is 6.2 percent higher than the $14.60 monthly premium amount for the previous financing period.

The estimated cost of this increase over the current premium to the approximately 29.9 million SMI enrollees will be about $325 million for calendar year 1985.

Because this notice of the SMI premium rate announces an amount required by the formula specified in section 1839(e)(1) of the Social Security Act, and does not alter any regulation or policy, no analyses under Executive Order 12291 or the Regulatory Flexibility Act, Pub. L. 96–354, are required, and the Secretary so certifies.

(Secs. 1839(a) (1), (3), and (4); and (e) (1) and (2) of the Secial Security Act; 42 U.S.C. 1395r(a) (1), (3), and (4); and (e) (1) and (2))

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare-Supplementary Medical Insurance)

Dated: September 21, 1984.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 26, 1984.

Margaret M. Heckler,

Secretary.

[FR Doc. 84-26010 Filed 9-27-84; 11:58 am]

BILLING CODE 4120-03-M

[BDM-011-N]

Medicare Program; Inpatient Hospital Deductible and Coinsurance Amounts for 1985

AGENCY: Office of the Secretary (OS), HHS.

ACTION: Notice.

SUMMARY: This notice announces the inpatient hospital deductible and coinsurance amounts for calendar year

1985 under Medicare's Hospital Insurance Program. The Medicare statute specifies the formula to be used to determine these amounts. The inpatient hospital deductible will be $400. The daily coinsurance amounts will be: (a) $100 for the 61st through 90th days of hospitalization; (b) $200 for lifetime reserve days; and (c) $50 for the 21st through the 100th days of extended care services in a skilled nursing facility. Each figure represents an increase of approximately 12 percent over the corresponding 1984 figure.

EFFECTIVE DATE: January 1, 1985.

FOR FURTHER INFORMATION CONTACT: Sol Mussey, Director, Division of Medicare Cost Estimates, Office of Financial & Actuarial Analysis, 1–C–11 Oak Meadows Building, 6325 Security Blvd., Baltimore, Maryland 21207, (301) 594–2829.

SUPPLEMENTARY INFORMATION: Under the authority in section 1813(b)(2) of the Social Security Act (42 U.S.C. 1395e(b)(2)), the Secretary has determined that the Medicare inpatient hospital deductible for 1985 will be $400.

Section 1813 provides for an inpatient hospital deductible and certain coinsurance amounts to be deducted from the amount payable by Medicare for inpatient hospital services and extended care services furnished an individual. Section 1813(b)(2) requires the Secretary of HHS to determine and publish, between July 1 and October 1 of each year, the amount of the inpatient hospital deductible applicable for the following calendar year.

Because the coinsurance amounts in section 1813 are fixed percentages of the inpatient hospital deductible for services furnished in the same calendar year, the increase in the deductible has the effect of also increasing the amount of coinsurance the Medicare beneficiary must pay. Thus, for inpatient hospital services or extended care services furnished in 1985, the daily coinsurance for the 61st through 90th days of hospitalization (¼ of the inpatient hospital deductible) will be $100; the daily coinsurance for lifetime reserve days (½ of the inpatient hospital deductible) will be $200; and the daily coinsurance for the 21st through the 100th days of extended care services in a skilled nursing facility (⅛ of the inpatient hospital deductible) will be $50.

Under the formula in the law, the deductible for calendar year 1985 must be equal to $45 multiplied by the ratio of (1) the current average per diem rate for inpatient hospital services for calendar year 1983 to (2) the average per diem rates for such services in 1966. The amount so determined is rounded to the nearest multiple of $4. The average per diem rates are based on the amounts paid to participating hospitals by Medicare for inpatient services to insured individuals, plus the deductible and coinsurance amounts.

The average per diem rate for a calendar year is computed from the inpatient hospital bills for all beneficiaries. Each bill shows the number of inpatient days of care and the interim cost (the sum of interim reimbursement, deductible, and coinsurance). The data are summarized for each year, and an average interim per diem rate computed that accurately reflects interim costs on an accrual basis.

In order to reflect the change in the average per diem hospital cost under the program properly, the average interim cost must be adjusted to show the effect of final cost settlements made with each participating hospital after the end of its accounting year. The final settlements adjust the interim payment to the hospital to the actual full cost of providing covered services to beneficiaries. To the extent that the ratio of final cost to interim cost for 1983 differs from the ratio of final cost to interim cost for 1966, the increase in average interim per diem costs will not coincide with the increase in actual cost that has occurred.

The current average interim per diem rate for inpatient hospital services for calendar year 1983, based on tabulated interim costs, is $341.20; the corresponding amount for 1966 is $37.92. The averages are based on approximately 108 million days of hospitalization in 1983 and 30 million days in 1966 (last 6 months of the year). The ratio of final cost to interim cost is approximately 1.045 for 1983 and 1.055 for 1966. Thus, the inpatient hospital deductible is $45×(341.20×1.045)/(37.92×1.055)=$401.07 which is rounded to $400.

Regulatory Impact Statement

The inpatient hospital deductible and coinsurance amounts for calendar year 1985 will be 12 percent higher than the 1984 amounts. The inpatient hospital deductible increased from $356 to $400; the daily coinsurance for the 61st through 90th days of hospitalization increased from $89 to $100; the daily coinsurance for lifetime reserve days increased from $178 to $200; and the daily coinsurance for the 21st through 100th days of extended care services in a skilled nursing facility increased from $44.50 to $50.

The estimated cost to beneficiaries due to these increases is $460 million. This amount is based on an estimated 7.9 million beneficiaries who will have 8.0 million benefit periods and use 3.9 million hospital coinsurance days, 1.8 million lifetime reserve days, and 4.1 million skilled nursing facility coinsurance days in 1985.

HCFA computed the 1985 inpatient hospital deductible and coinsurance amounts in the same manner as in previous years as required by section 1813 of the Act. The costs associated with this notice are the result of legislative requirements implemented by this notice. Since this notice merely announces amounts required by legislation and is not a proposed rule or final rule issued after a proposal, no analysis is required under Executive Order 12291 or the Regulatory Flexibility Act, and the Secretary so certifies.

(Sec. 1813(b)(2) of the Social Security Act (42 U.S.C. 1395e(b)(2)))

Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: September 21, 1984.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 26, 1984.

Margaret M. Heckler,

Secretary.

[FR Doc. 84–26011 Filed 9–27–84; 11:58 am]

BILLING CODE 4120–03–M

federal register

Friday
September 28, 1984

Part VIII

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Standards and Criteria for Evaluating Intermediary and Carrier Performance During Fiscal Year 1985; General Notice With Comment Period

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BPO-48-GNC]

Medicare Program; Standards and Criteria for Evaluating Intermediary and Carrier Performance During Fiscal Year 1985

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

ACTION: General notice with comment period.

SUMMARY: This notice describes the standards and criteria to be used for evaluating the performance of fiscal intermediaries and carriers in the administration of the Medicare program for fiscal year 1985. The results of these evaluations are considered whenever we enter into, renew, or terminate an intermediary or carrier agreement or take other contract actions; assign or reassign providers of services to an intermediary; or designate regional or national intermediaries.

This notice is published in accordance with sections 1816(f) and 1842(b)(2) of the Social Security Act, as amended by section 2326 of the Deficit Reduction Act of 1984 (Pub. L. 98-369), which requires us to publish for public comment in the **Federal Register** those criteria and standards against which we evaluate intermediaries and carriers.

EFFECTIVE DATES: October 1, 1984. To assure consideration, comments should be mailed by October 29, 1984.

ADDRESS: Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, Attention: BPO-48-GNC, P.O. Box 26676, Baltimore, Maryland 21207.

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

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

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, we will accept the comments of interested parties, consider them, and publish the comments and our responses to them in a subsequent **Federal Register** if we modify the FY 85 criteria and standards as announced.

FOR FURTHER INFORMATION CONTACT: Newton H. Dikoff, (301) 594-8191.

SUPPLEMENTARY INFORMATION:

A. Background

Under Section 1816 of the Social Security Act, public or private organizations and agencies participate in the administration of Part A (Hospital Insurance) of the Medicare program under agreements with the Secretary of Health and Human Services. These agencies or organizations are known as fiscal intermediaries, and they perform bill processing and benefit payment functions for the Medicare program. Most providers of services (such as hospitals, skilled nursing facilities (SNFs), and home health agencies (HHAs)) submit bills to these intermediaries, which determine whether the services are covered under Medicare and determine correct payment amounts. The intermediaries then make payments to the providers on behalf of the beneficiaries.

Under Section 1842 of the Social Security Act, the Secretary is authorized to enter into contracts with carriers to fulfill various functions in the administration of Part B (Supplementary Medical Insurance) of the Medicare program. Beneficiaries, physicians and suppliers of services submit claims to these carriers. The carriers determine whether the services are covered under Medicare and the reimbursable amount (usually on the basis of reasonable charges) for the services or supplies and then make payment to the appropriate party.

Beginning in 1980 for intermediaries and in 1981 for carriers, we have been evaluating contractor quality and efficiency through the Contractor Performance Evaluation Program (CPEP). On June 23, 1980 we published regulations at 42 CFR 421.120 to implement a statutory requirement in Section 1816(f) of the Social Security Act that we establish by regulations our criteria and standards for evaluating intermediary performance. We revised § 421.120 on February 18, 1983 (48 FR 7178) to provide for publication of **Federal Register** notices to announce standards and criteria applicable during each fiscal year. Since that time we have been publishing our standards and criteria for intermediaries in the **Federal Register.**

Under the requirements of 42 CFR 421.120, we previously published (for intermediaries) performance criteria and the individual elements of each. Performance criteria evaluate the overall effectiveness of an intermediary's Medicare operation. Under the requirements of 42 CFR 421.122, we published (for intermediaries) statistical standards, which establish measures of performance based on nationwide intermediary experience during a base period.

B. Fiscal Year 1985 Criteria and Standards—General

Until July 18, 1984, as discussed below, there was no requirement for publication of a regulation or notice for carrier evaluation. Nonetheless, we have evaluated carrier performance under CPEP using criteria and standards similar to those we used for intermediaries, even though we have not published them for comment in the **Federal Register.** Instead, we relied on consultation with the carrier community in developing appropriate criteria snd standards.

Section 2326(c) of the Deficit Reduction Act of 1984 (Pub. L. 98-369) amended section 1816(f) of the Social Security Act by deleting the requirement that we establish intermediary performance criteria and standards by regulation. At the same time Section 2326(c) added a requirement to Section 1816(f) for intermediaries and to Section 1842(b) for carriers that we publish in the **Federal Register** for comment the criteria and standards against which we evaluate both intermediaries and carriers, and that we give the public an opportunity to comment before implementing them. In view of this requirement, this notice announces the FY 1985 criteria and standards to be used to measure the effectiveness and efficiency of both intermediaries and carriers.

In view of the fact that we have previously published notices containing criteria and standards (e.g., see 48 FR 7308 and 49 FR 14581) we are noting several differences from prior notices.

First, due to the changes of legislation, already discussed, this notice for the first time includes criteria and standards applicable to carriers. The criteria and standards for carriers are different from those applicable to intermediaries, to reflect the different operations of these contractors. Criteria and standards to evaluate carrier performance appear in Section E of this notice. The seven criteria to evaluate carriers contain 70 elements and eight standards.

The second change from prior year notices involves the distinction between

performance criteria and statistical standards. Since performance criteria are provided for by 42 CFR 421.120 and statistical standards by § 421.122, we presented them in separate parts of prior notices. In fact, the statistical standards may measure the performance of activities quantitatively, which are also being measured by performance criteria qualitatively. Therefore, we are no longer separately presenting discussion of the statistical standards. Instead, the standards are identified under the performance areas where they apply. For FY 1985, there are nine performance criteria with six statistical standards applicable to intermediaries, and seven performance criteria with eight standards applicable to carriers.

Third, we are modifying the performance areas that we evaluate to parallel more closely the way intermediary and carrier budgets are organized. This change will allow us to make comparisons between similar activities of different intermediaries and carriers more accurately. Unlike the situation that existed when the CPEP evaluations began in 1980 and 1981, all intermediaries and carriers no longer perform virtually identical functions. For example, for home health agencies, there are designated regional intermediaries and alternative designated intermediaries. Since not all intermediaries process home health agency bills, it is no longer appropriate to establish a performance standard for home health agency bill processing that all intermediaries must meet. It is appropriate, however, to measure the efficiency and effectiveness of those contractors with specialized functions under the budget area where the activity takes place.

We also are making changes in the measurements used to evaluate performance for FY 1985. The new scoring system is presented in Section C. (See 48 FR 7309 for a complete explanation of the previous scoring system). Following is an overview of the scoring system changes.

In prior years, the measurement system used a three-tiered approach which consisted of performance areas, criteria and elements. The performance areas were general activity areas, such as "Provider Reimbursement"; the criteria were more specific (e.g. "Identify, control and recover overpayments to providers timely"); and elements were the most specific (e.g., "overpayments to providers must not exceed established threshold levels"). Each performance area and criterion was assigned a "passing" score and points were accumulated depending on performance as measured under each element. For example, for FY 1984, to pass the "Provider Reimbursement" area an intermediary was required to attain 176 points; to pass the criterion, "Identify, Control and review overpayments to providers timely" (one of the four criteria in the provider reimbursement area) required 38 points. A contractor failed CPEP if it failed to achieve a passing score for any area.

For FY 1985, the measurement uses a two-tiered approach that consists of criteria and elements (and, in some instances, statistical standards). Performance areas will no longer be used. Since all contractors do not perform identical processes, as explained earlier, it is inappropriate to require that all achieve an identical, fixed passing score. For example, a designated regional intermediary for HHAs will receive points for processing HHA bills that accumulate towards achieving the overall passing score, whereas no points would be given to an intermediary that was not so designated, since it precessed no HHA bills. This would result in one contractor having an opportunity to accumulate a higher total score based on the diversity of its workload rather than on its performance level. On the the other hand, if we limited the criteria and elements only to the common activities of all contractors we would diminish our ability to measure areas where good performance is critical.

Since it is no longer necessary for all contractors to achieve a fixed total score, it is no longer necessary to organize the criteria into performance areas. Consequently, under the FY 1985 measurement a contractor will fail CPEP if it fails to achieve a passing score for any criterion.

Also under the revised scoring system included in this notice (and previously discussed with intermediaries and carriers), we have identified a number of activities (elements or standards) that have such significant program importance that deficient performance in that activity cannot be tolerated. These are being designated as "critical standards" or "critical elements". A deficient score in a critical standard or element constitutes failure of that standard or element and failure of the entire CPEP. For intermediaries the 16 critical standards or elements are:

- Process bills at an acceptable unit cost.
- Meet targeted volume of electronic media claims (EMC) by September 30, 1985.
- Provide the patient bill (PATBILL) data to peer review organizations (PROs) within agreed upon timeframes and assure complete hosptial discharge data.
- Report bills processed after March 31, 1985 to HCFA in the UNIBILL format.
- Achieve negotiated savings goals in adjudicating secondary payer claims involving working aged cases.
- Achieve negotiated savings goals in adjudicating secondary payer claims involving automobile, liability and no-fault insurance.
- Accurately conduct HHA Coverage Compliance Reviews.
- Administer a cost-effective medical review/utilization review program.
- Recover overpayments to providers timely.
- Properly perform audits and target amount computation.
- Establish and administer a cost-effective provider audit program.
- Properly compute blended payment rate under PPS.
- Establish interim payments to hospitals to approximate Medicare reimbursable costs.
- Confine the incidence of hospital overpayments to acceptable levels.
- Confine the incidence of SNF overpayments to acceptable levels.
- Confine the incidence of HHA overpayments to acceptble levels.

For carriers the 13 critical standards or elements are:

- Process claims at an acceptable unit cost.
- Respond accurately to beneficiary inquiries.
- Make accurate medical review determinations.
- Implement mandated prepayment screens.
- Complete beneficiary requests for reviews accurately.
- Meet targeted volume of electronic media claims by September 30, 1985.
- Implement the HCFA common procedure coding system and install the annual update timely.
- Achieve negotiated savings goals in adjudicating secondary payer claims involving working aged.
- Achieve negotiated savings goals in adjudicating secondary payer claims involving auto, liability, and no-fault insurance.
- Recover physician/supplier overpayments timely.
- Maintain an acceptable overpayment deductible error rate.
- Maintain an acceptable underpayment deductible error rate.
- Administer a cost-effective medical review/utilization review program.

For fiscal year 1985, the unit cost evaluation also is being fundamentally restructured. In prior years we

determined a unit cost of bill processing and then adjusted it for each intermediary to take into account significant measureable factors that are not within the intermediary's control. In an effort to narrow the range of unit cost performance, for fiscal year 1985 each contractor will have an individual standard for its reasonable bill processing administrative unit cost. This standard is based on driving all costs to or below the fiscal year 1983 mean cost for all intermediaries or carriers, respectively, and reducing the mean unit cost through increased efficiency. These individual standards also take into account the Bureau of Labor Statistics geographic wage index, bill mix, inflation, reduced incremental cost for processing workload increases between fiscal year 1983 and 1985, and individual contractor circumstances (such as significant changes in cost for fiscal year 1984). The individual standards required substantial reductions in unit cost for those contractors with unit costs greatly in excess of the national mean and lesser reductions in unit cost for lower cost contractors.

Action Based on Performance Evaluations

We may, as in previous years, initiate administrative actions as a result of the evaluation of intermediary and carrier performance using these performance standards and elements. Under sections 1816 and 1842 of the Act we consider the results of the evaluations in determinations we make concerning:

1. Entering into, renewing or terminating agreements with contractors; and

2. Decisions concerning other contract actions for intermediaries and carriers (such as deletion of an automatic renewal clause). These are made on a case-by-case basis and depend primarily on the nature and degree of performance. More specifically, they depend on:

a. Relative overall performance compared to other contractors;

b. Number of standards and elements for which superior, average, or deficient performance occurs;

c. Extent of each failure; and

d. Relative significance of the elements and standards for which superior or deficient performance occurs within the overall Contractor Performance Evaluation Program (CPEP).

In addition, we consider the results of intermediary evaluations in determinations we make concerning—

3. Assignment or reassignment of providers; and

4. Designation of regional or national intermediaries for classes of providers.

We make individual contract action decisions after considering these factors in terms of their relative significance and impact on the government's ability to administer the Medicare program efficiently.

Replacement of Contractors Through Competitive Bidding

Finally, section 2326(a) of the Deficit Reduction Act of 1984 (Pub. L. 98–369) allows HCFA to use competitive bidding to replace a contractor whose performance over a period of time has been in the lowest 20th percentile as measured by these cost and performance criteria. In fiscal year 1985 and again in fiscal year 1986, section 2326(a) authorizes HCFA to enter into two intermediary agreements and two carrier contracts based on competitive bidding, without regard to provider nomination rights, in order to replace low ranking intermediaries and carriers.

C. Scoring System

For both intermediaries and carriers each performance criterion is comprised of a number of review elements, and, in certain criteria, statistical standards as well. Each element and standard will be scored on a scale of 0–10. This differs from the method used in prior years, in that the bonus/penalty point concept is eliminated. Each element has a method of evaluation that is used to calculate a score based on a contrator's performance for that element.

In general, in a contractor exactly meets the requirements for an element, it would achieve a score of 7, to which we refer as the threshold score. Based on the performance level established for each element, a score below the threshold (i.e., a score of 6 or lower) constitutes a deficiency requiring correction or improvement.

A contractor's performance will be evaluated against each standard and element. Each standard and element is assigned a weight of 1, 3, or 5 according to its relative significance within the evaluation program, with critical standards and elements receiving a weight of 5. For each performance criterion, the evaluation will be carried out in terms of points earned compared to points available to the contractor. That is, if a contractor does not perform a particular function or the element addressing a particular funcition is not reviewed for some other reason, the points available to the contractor will be appropriately reduced. In any event, a contractor will be required to achieve a certain percentge of points (we are tentatively proposing 70 percent) available to a performance criterion as well as equal or exceed the threshold score for each of the designated critical standards and elements in order to pass that criterion.

Certain standards and elements are being designated as "critical". A critical standard or element is a standard or element that addresses a contractor function of such significant program importance that deficient performance cannot be tolerated. Therefore, a deficient score (i.e., 6 or below a critical standard or element) constitutes a failure of that standard or element, a failure of the criterion in which it is contained and failure of the CPEP. Critical standards or elements are annotated with an asterisk in the lists of standards and elements below.

Failure to meet the individual unit cost standard (in the absence of adjustment to the standard preapproved by HCFA) will result in failure of CPEP. The mean of the individual contractor unit cost standards will be the standard for all contractors. Contractors with actual fiscal year 1985 unit costs over this mean will receive a score less than the total score possible for the element under CPEP.

D. Criteria and Standards for Intermediaries

We will use nine criteria to evaluate the overall quality of an intermediary's performance during fiscal year 1985. They are (1) bill processing; (2) beneficiary services; (3) provider services; (4) productivity investments; (5) payment safeguards—bill processing; (6) payment safeguards—provider reimbursement; (7) payment safeguards—medical review/utilization review; (8) fiscal management; and (9) contractor management. The nine areas to be evaluated contain a total of 92 elements and six standards. There are five elements for bill processing, four for beneficiary services, two for provider services, five for productivity investments, seven for payment safeguards—bill processing, 20 for payment safeguards—provider reimbursement, 17 for payment safeguards—medical review, 18 for fiscal management, and 14 for contract management. There are six standards for bill processing.

1. Bill Processing Criterion

For the fiscal year 1985 evaluation period, we will use the following elements below to determine if an intermediary properly controlled and processed bills from providers and submitted accurate bill information to

HCFA. The intermediary is required to meet the following elements:

- Control bills from date of receipt (Element 1 Weight = 3.0).
- Ensure that hospital inpatient bills pass HCFA utilization edits (Element 2 Weight = 1.0).
- Ensure that hospital outpatient bills pass HCFA utilization edits (Element 3 Weight = 1.0).
- Ensure that SNF bills pass HCFA utilization edits (Element 4 Weight = 1.0).
- Make payment for dialysis to end stage renal disease providers based on a determined composite rate or the approved exception rate and assure that duplicate payments do no occur (Element 5 Weight = 3.0).

The intermediary must meet the following standards:

- Process hospital inpatient bills timely (Standard 1 Weight = 1.0).
- Process SNF bills timely (Standard 3 Weight = 1.0).
- Process HHA bills timely (Standard 4 Weight=1.0).
- Control the number of days work on hand over 30 days to an acceptable level (Standard 5 Weight=1.0).
- Process bills at an acceptable cost (Standard 6 Weight=5.0)*.

2. Beneficiary Services Criterion

An intermediary must ensure that, in Medicare matters, beneficiaries are treated according to law, regulations and general instructions covering such areas as responding to inquiries, providing reconsiderations of claims and furnishing appropriate notices of reconsideration decisions. We will use the elements below to evaluate the beneficiary services criterion for FY 1985. The intermediary is required to:

- Repond accurately to beneficiary inquiries (Element 1 Weight=3.0).
- Respond timely to beneficiary inquiries (Element 2 Weight=1.0).
- Prepare accurate reconsideration determinations (Element 3 Weight=3.0).
- Prepare appropriate notices of reconsideration decisions and furnish copies to appropriate parties (Element 4 Weight=1.0).

3. Provider Services Criterion

An intermediary must ensure that, in Medicare matters, providers are treated according to law, regulations and general instructions in regard to responding to inquires. We will use the elements below to evaluate the provider services criterion for FY 1985. The intermediary is required to:

- Respond accurately to provider inquiries (Element 1 Weight=3.0).
- Respond timely to provider inquiries (Element 2 Weight=1.0).

4. Productivity Investments Criterion

An intermediary must take programmatic, administrative and systems initiatives designed to improve the cost effectiveness and/or efficiency of Medicare claims operations, reduce burdens on the public, and improve beneficiary understanding of the program. We will use the standards or elements below to evaluate this criterion in FY 1985. The intermediary is required to:

- Meet targeted volume of electronic media claims (EMC) by September 30, 1985 (Element 1 Weight=5.0).*
- Use the national standard format for electronic media claims (EMC) (Element 2 Weight=3.0).
- Provide patient bill (PATBILL) data to peer review organizations (PROs) within agreed upon timeframes and assure complete hospital discharge data. (Element 3 Weight=5.0).*
- Report bills processed after March 31, 1985 in the uniform bill (UNIBILL) format (Element 4 Weight=5.0)*.
- Implement contractor initated enhancements efficiently and effectively (Element 5 Weight=3.0).

5. Payment Safeguards—Bill Processing Criterion

An intermediary must administer the Medicare program in manner that achieves maximum savings and cost avoidance for the Medicare trust funds. We will use the elements below to evaluate this criterion in FY 1985. The intermediary is required to:

- Properly process limitation of liability determinations for non-PPS provider billings (Element 1) Weight=3.0).
- Properly process limitation of liability determination for PPS-Hospital billings (Element 2 Weight=3.0).
- Achieve negotiated savings goals in adjudicating secondary payer claims involving working aged cases (Element 3 Weight=5.0).*
- Achieve negotiated savings goals in adjudicating secondary payer claims involving automobile, liability, and no-fault insurance cases (Element 4 Weight=5.0)*.
- Identify and dispose of all fraud and abuse cases properly (Element 5 Weight=3.0).
- Properly compute blended payment rates under PPS (Element 6 Weight=5.0).*
- Ensure that no payments are made to excluded, terminated or suspended providers, physicians or suppliers (Element 7 Weight=3.0).

6. Payment Safeguards—Provider Reimbursement Criterion

An intermediary must administer the program in a manner that achieves maximum savings and cost avoidance for the Medicare trust funds. We will use the elements below to evalute the criterion in FY 1985. The intermediary will be required to:

- Establish interim payments for hospitals to approximate Medicare reimbursable costs (Element 1 Weight=5.0)*.
- Establish interim payments for SNFs to approximate Medicare reimbursable costs (Element 2 Weight=3.0).
- Establish interim payments for HHAs to approximate Medicare reimbursable costs (Element 3 Weight=3.0).
- Properly compute, review and adjust interim rates under PPS (Element 4 Weight=5.0)*.
- Review "Interim Rate Change Reports" (HCFA Form 91) and take appropriate action on accordance with general instructions (Element 5 Weight=1.0).
- Take appropriate action when providers fail to file cost reports by the due date (Element 6 Weight=3.0).
- Confine the incidence of hospital overpayments to acceptable levels (Element 7 Weight=5.0)*.
- Confine the incidence of SNF overpayments to acceptable levels (Element 8 Weight=5.0)*.
- Confine the incidence of HHA overpayments to acceptable levels (Element 9 Weight=5.0)*.
- Properly calculate and assess interest (Element 10 Weight=3.0).
- Recover overpayments to providers timely (Element 11 Weight=5.0)*.
- Properly finalize hospital cost reports for reporting periods prior to PPS. (Element 12 Weight=3.0).
- Properly finalize SNF cost reports. (Element 13 Weight=3.0).
- Properly perform audits and target amount computations required by section 1886 of the Act (Element 14 Weight=5.0)*.
- Properly finalize HHA cost reports. (Element 15 Weight=3.0).
- Establish and administer a cost effective provider audit program (Element 16 Weight=5.0)*.
- Properly identify and dispose of fraud and abuse cases involving audited cost reports (Element 17 Weight=3.0).
- Settle hospital FY 1984 cost reports by the end of FY 1985 (Element 18 Weight=1.0).

* Identifies critical standard or element.

• Settle SNF FY 1984 cost reports by the end of FY 1985 (Element 19 Weight=1.0).

• Settle HHA FY 1984 cost reports by the end of FY 1985 (Element 20 Weight=1.0).

7. Payment Safeguards—Medical Review/Utilization Review (MR/UR) Criterion

An intermediary must perform necessary medical review activities as required by HCFA instructions in a timely, accurate and cost effective manner. The intermediary is required to:

• Subject inpatient Hospital bills to the appropriate level of medical review (Element 1 Weight=1.0).

• Subject outpatient Hospital bills to the appropriate level to medical review (Element 2 Weight=1.0).

• Subject home health agency bills to the appropriate level of medical review (Element 3 Weight=1.0).

• Subject CORF bills to the appropriate level of medical review (Element 4 Weight=1.0).

• Subject SNF bills to the appropriate level of medical review (Element 5 Weight=1.0).

• Subject electronic media claims (EMC) bills to the appropriate level of medical review (Element 6 Weight=1.0).

• Process outpatient bills to ensure that correct medical review determinations are made (Element 7 Weight=3.0).

• Process HHA bills to assure that correct medical review determinations are made (Element 8 Weight=3.0).

• Process SNF bills to ensure that correct medical review determinations are made (Element 9 Weight=3.0).

• Process CORF bills to ensure that correct medical review determinations are made (Element 10 Weight=3.0).

• Process EMC bills to ensure that correct medical review determinations are made (Element 11 Weight=3.0).

• Properly rank HHAs for coverage compliance reviews (Element 12 Weight=3.0).

• Within one year of ranking, review HHAs ranked within the top 10 percent (Element 13 Weight=1.0).

• Accurately conduct HHA coverage compliance reviews (Element 14 Weight=5.0).*

• Conduct a 100 percent prepayment medical review of HHA providers where required (Element 15 Weight=3.0).

• Administer a cost-effective MR/UR program (Element 16 Weight=5.0).*

• Submit timely "Reports of Benefit Savings" (Element 17 Weight=1.0).

8. Fiscal Management Criterion

An intermediary must take measures to protect the Medicare program and the public interest. It must manage Federal funds for both benefit payments and cost of administration in accordance with its agreement with the Secretary, the Federal Acquisition Regulations, the HHS Acquisition Regulations, and HCFA instructions. The intermediary is required to:

• Ensure that cost allocations are consistent (provide reasonable assurance that comparable transactions are treated alike) and chargeable to a particular cost objective in accordance with the relative benefits received or other equitable relationship (Element 1 Weight=3.0).

• Confine actual operations expenditures to the latest approved budget and have the ability to identify potential expenditures in excess of the approved budget in advance of the occurrence of such expenditures (Element 2 Weight=3.0).

• Confine actual MR/UR expenditures to the latest approved budget and have the ability to identify potential expenditures in excess of the approved budget in advance of the occurrence of such expenditures (Element 3 Weight=3.0).

• Confine actual provider audit expenditures to the latest approved budget and have the ability to identify potential expenditures in excess of the approved budget in advance of the occurrence of such expenditures (Element 4 Weight=3.0).

• Confine actual productivity investment expenditures to the latest approved budget and have the ability to identify potential expenditures in excess of the approved budget in advance of the occurrence of such expenditures (Element 5 Weight=3.0).

• Confine administrative funds drawn to the approved budget distribution and in accordance with actual expenditures (Element 6 Weight=3.0).

• Submit the budget request in accordance with general instructions (Element 7 Weight=3.0).

• Submit the budget request timely (Element 8 Weight=1.0).

• Submit accurate "Plan of Expenditure Reports" (Element 9 Weight=3.0).

• Submit "Plan of Expenditure Reports" timely (Element 10 Weight=1.0).

• Submit accurate "Interim Expenditure Reports" (IERs) (Element 11 Weight=3.0).

• Submit IERs timely (Element 12 Weight=3.0).

• Submit accurate "Variance Reports" (Element 13 Weight=3.0).

• Submit "Variance Reports" timely (Element 14 Weight=1.0).

• Submit accurate "Time Account Adjustment Schedules" (Element 15 Weight=1.0).

• Submit "Time Account Adjustment Schedules" timely (Element 16 Weight=1.0).

• Submit an accurate "Final Administrative Cost Proposal" (FACP) (Element 17 Weight=3.0).

• Submit the FACP timely (Element 18 Weight=1.0).

9. Contract Management Criterion

An intermediary must take measures to ensure compliance with HCFA directives and meet management information needs in administering the Medicare program. The intermediary is required to:

• Submit leases and other subcontracts (including those for electronic data processing (EDP) services) to HCFA for prior approval or give notice in accordance with the Medicare agreement and HCFA instructions (Element 1 Weight=3.0).

• Achieve Small and Disadvantaged Businesses (SADBUS) goals (Element 2 Weight=1.0).

• Submit accurate cost report data for the hospital cost report information system (HCRIS) (Element 3 Weight=3.0).

• Submit HCRIS reports timely (Element 4 Weight=1.0).

• Submit accurate "Intermediary Benefit Payment Reports" (Element 5 Weight=3.0).

• Submit timely "Intermediary Benefit Payment Reports" (Element 6 Weight=1.0).

• Submit accurate provider overpayment data (Element 7 Weight=3.0).

• Submit provider overpayment data timely (Element 8 Weight=1.0).

• Submit accurate "Medicare Program Provider Overpayment Cause Reports" (HCFA 411) (Element 9 Weight=3.0).

• Submit "Medicare Program Provider Overpayment Cause Reports" (HCFA Form 411) timely (Element 10 Weight=1.0).

• Submit accurate ESRD cost reports and worksheets (Element 11 Weight=1.0).

• Submit timely ESRD cost reports and worksheets (Element 12 Weight=1.0).

• Implement administrative instructions (such as Intermediary Letters and manual transmittals) issued by HCFA central office accurately and timely (Element 13 Weight=3.0).

• Implement HCFA regional office directives and recommendations accurately and timely (Element 14 Weight=3.0).

E. Criteria and Standards for Carriers

We will use seven criteria to evaluate the overall quality of carrier performance during fiscal year 1985. They would be: (1) Claims processing; (2) beneficiary services; (3) productivity investments; (4) payment safeguards—claims processing; (5) payment safeguard——medical review/utilization review; (6) fiscal management; and (7) contract management. The seven areas to be evaluated contain a total of 70 elements and eight standards. There are six elements for claims processing, 14 for beneficiary services, five for productivity investments, 12 for payment safeguards—claims processing, 10 for payment safeguards—medical review/utilization review, 17 for fiscal management and six for contract management. There are six standards for claims processing and two for payment safeguards—claims processing.

1. Claims Processing Criterion

A carrier must accurately determine the amount of program payments allowed for covered services in processing allowable Part B Medicare claims. A carrier must also disallow claims for non-covered services. The processing of allowed and disallowed claims must be performed in a timely, economical manner. For FY 1985 we will use the following 6 elements to assess carriers' claims processing performance. The carrier must:

- Control claims from actual date of receipt (Element 1 Weight=3.0).
- Establish customary charge screens in accordance with regulations and instructions (Element 2 Weight=3.0).
- Establish locality prevailing charges in accordance with instructions and regulations (Element 3 Weight=3.0).
- Update new reasonable charge screens timely (Element 4 Weight=3.0).
- Properly compute the ESRD physician monthly capitation rate and assure that duplicate payments are not made under this program (Element 5 Weight=3.0).
- Properly integrate the ESRD beneficiary selection from the HCFA Form 382 annual listing and monthly update into the claims processing system (Element 6 Weight=1.0).
- The carrier also must meet the following 6 standards:
- Process assigned claims timely in accordance with HCFA 30 day standard (Standard 1 Weight=1.0).
- Process assigned claims timely in accordance with HCFA 60 day standard (Standard 2 Weight=1.0).
- Process nonassigned claims timely in accordance with HCFA 30 day standard (Standard 3 Weight=1.0).
- Process nonassigned claims timely in accordance with HCFA 60 day standard (Standard 4 Weight=1.0).
- Control days work on hand over 30 days to an aceptable level. (Standard 5 Weight=1.0).
- Process claims at an acceptable unit cost. (Standard 6 Weight=5.0).*

2. Beneficiary Services Criterion

A carrier must ensure that Medicare beneficiaries are treated according to law, regulations and general instructions covering areas such as responding to inquiries, issuing notice of determinations and providing impartial reviews. We will use 14 elements to evaluate carrier performance in serving beneficiaries. The carrier must:

- Respond timely to beneficiary inquiries (Element 1 Weight=1.0).
- Respond accurately to beneficiary inquiries (Element 2 Weight=5.0).*
- Provide readable responses to beneficiary inquiries (Element 3 Weight=3.0).
- Maintain a proper level of service for incoming telephone calls (Element 4 Weight=3.0).
- Respond accurately to telephone inquiries (Element 5 Weight=3.0).
- Respond timely to telephone inquiries (Element 6 Weight=1.0).
- Respond accurately to physician and supplier inquiries (Element 7 Weight=3.0).
- Respond timely to physician and supplier inquiries (Element 8 Weight=1.0).
- Properly generate explanations of Medicare benefits (EOMBs) and denial notices (Element 9 Weight=3.0).
- Ensure that special message developed by the carrier for the EOMB are approved by the HCFA regional office (Element 10 Weight=1.0).
- Prepare the physician and supplieri assignment rate list timely (Element 11 Weight=3.0).
- Complete reviews accurately (Element 12 Weight=5.0).*
- Complete reviews timely (Element 13 Weight=1.0).
- Furnish readable notices of review determinations (Element 14 Weight=3.0).

3. Productivity Investments Criterion

A carrier must take programmatic, administrative and system initiatives designed to improve the cost effectiveness and/or efficiency of Medicare claims operations, reduce burdens on the public and improve beneficiary understanding of the problem. We will use five elements to assess performance of this activity. The carrier is required to:

- Meet targeted volume of electronic media claims by September 30, 1985 (Element 1 Weight=5.0). *
- Use the national standard format for EMC (Element 2 Weight=3.0).
- Implement the HCFA Common Procedure Coding System and install the annual update timely. (Element 3 Weight=5.0). *
- Notify HCFA central office promptly of all local code assignments (Element 4 Weight=3.0).
- Implement contractor-initiated enhancements efficiently and effectively (Element 5 Weight=3.0).

4. Payment Safeguards—Claims Processing Criterion

A carrier must administer the Medicare program in a manner that achieves maximum savings and cost avoidance to the Medicare trust funds. We will use 12 elements and two standards to assess performance in this area. The carrier is required to:

- Adjudicate claims for non-physician medical services accurately (Element 1 Weight=3.0).
- Conduct postpayment reviews to identify and develop claims for non-physician services furnished to hospital inpatients (Element 2 Weight=1.0).
- Correctly determine reimbursement of laboratory services and lowest charge level items (Element 3 Weight=3.0).
- Follow HCFA instructions regarding provider-based physician reimbursement (Element 4 Weight=3.0).
- Follow HCFA instructions regarding teaching physician reimburusement (Element 5 Weight=3.0).
- Achieve negotiated savings goals in adjudicating secondary payer claims involving working aged cases (Element 6 Weight=5.0). *
- Achieve negotiated savings goals in adjudicating secondary payer claims involving automobile, liability, and no-fault insurance. (Element 7 Weight=5.0). *
- Identify and dispose of all fraud and abuse cases properly (Element 8 Weight=3.0).
- Determine liability and properly dispose of beneficiary overpayment cases (Element 9 Weight=3.0).
- Recover physician and supplier overpayments timely (Element 10 Weight=5.0). *
- Properly calculate and assess interest penalties (Element 11 Weight=3.0).
- Ensure that no payments are made to exclude, terminated or suspended providers, physicians, or suppliers (Element 12 Weight=3.0).

The carrier also is required to meet the following two standards:

• Maintain an acceptabe overpayment deductible error rate (Standard 1 Weight=5.0). *

• Maintain an acceptable underpayment deductible error rate (Standard 2 Weight=5.0). *

5. Payment Safeguards—Medical Review/Utilization Review Criterion

A carrier must administer the Medicare program in a manner that achieves maximum MR/UR savings to the Medicare trust funds. We will use ten elements to assess performance in this area. The carrier is required to:

• Submit accurate quarterly medical review reports (Element 1 Weight=3.0).

• Submit timely quarterly medical review reports (Element 2 Weight=1.0).

• Submit an accurate annual medical review report (Element 3 Weight=3.0).

• Submit a timely annual medical review report (Element 4 Weight=1.0).

• Make accurate medical review determinations (Element 5 Weight=5.0).*

• Make appropriate medical necessity utilization review of Part B claims (Element 6 Weight=1.0).

• Administer a cost-effective MR/UR program (Element 7 Weight=5.0).*

• Conduct effective postpayment program (Element 8 Weight=3.0).

• Implement mandated prepayment screens (Element 9 Weight=5.0).*

• Review physician services for Part A denials shifted to Part B for review of physician services (Element 10 Weight=3.0).

6. Fiscal Management Criterion

A carrier must take measures to protect the Medicare program and the public interest. It must manage Federal funds for both beneft payments and cost of administration in accordance with its agreement with the Secretary, the Federal acquisition regulations and HCFA instructions. We will use 17 elements to measure performance of carriers' fiscal management of the Medicare program. Each carrier is required to:

• Ensure that cost allocations are consistent (provide reasonable assurance that comparable transactions are treated alike) and chargeable to a particular cost objective in accordance with the relative benefits received or other equitable relationship (Element 1 Weight=3.0).

• Confine actual operations expenditures to the latest approved budget and have the ability to identify potential expenditures in excess of the approved budget in advance of the occurrence of such expenditures (Element 2 Weight=3.0).

• Confine actual medical review/utilization review expenditures to the latest approved budget and have the ability to identify potential expenditures in excess of the approved budget in advance of the occurrence of such expenditures (Element 3 Weight=3.0).

• Confine actual program investment expenditures to the latest approved budget and have the ability to identify potential expenditures in excess of the approved budget in advance of the occurrence of such expenditures (Element 4 Weight=3.0).

• Confine administrative funds drawn to the approved Budget Distribution and in line with actual expenditures (Element 5 Weight=3.0).

• Submit the budget request accurately (Element 6 Weight=3.0).

• Submit the budget request timely (Element 7 Weight=1.0).

• Submit accurate "Plan of Expenditure Reports" (Element 8 Weight=3.0).

• Submit "Plan of Expenditure Reports" timely (Element 9 Weight=1.0).

• Submit accurate "Interim Expenditure Reports" (Element 10 Weight=3.0).

• Submit "Interim Expenditure Reports" timely (Element 11 Weight=3.0).

• Submit accurate "Variance Reports" (Element 12 Weight=3.0).

• Submit "Variance Reports" timely (Element 13 Weight=1.0).

• Submit accurate "Time Account Adjustment" schedules (Element 14 Weight=1.0).

• Submit Time Account Adjustment Schedules timely (Element 15 Weight=1.0).

• Submit an accurate FACP (Element 16 Weight=3.0).

• Submit a timely FACP (Element 17 Weight=1.0).

7. Contract Management Criterion

A carrier must take measures to ensure compliance with HCFA directives and meet management information needs in adminstering the Medicare program. A carrier would be required to:

• Submit leases and other subcontracts (including those for EDP services) to HCFA for prior approval or give notice in accordance with the Medicare agreement and HCFA instructions (Element 1 Weight=3.0).

• Achieve Small and Disadvantaged Business (SADBUS) goals (Element 2 Weight=1.0).

• Submit accurate physician and supplier overpayment data quarterly (Element 3 Weight=3.0).

• Submit physician and supplier overpayment data timely (Element 4 Weight=1.0).

• Implement Intermediary Letters and manual transmittals issued by FCFA central office accurately and timely (Element 5 Weight=3.0).

• Implement HCFA regional office directives and recommendations accurately and timely (Element 6 Weight=3.0).

F. Regulatory Impact Analysis

1. Executive Order 12291

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any major rule. A major rule is defined as a rulemaking document, including a notice such as this one, that is likely to have an annual economic impact of $100 million or more, cause a major increase in costs or prices, or have a significant adverse affect on competition, employment, investment, productivity, or innovation.

We do not expect this notice to meet any of these criteria. Its primary direct effect is on our operations and the operations of our contractors. We expect the incremental costs of administering these criteria and standards to be more than offset by resulting improvements in efficiency and effectiveness. We are estimate that our costs will increase only minimally. Further, we expect the effects on both competition and productivity to be favorable, not adverse, and the effects, if any, on employment, investment, and innovation to be negligible.

For these reasons, we have determined that this notice is not a major rule. Therefore, a regulatory impact analysis is not required.

2. Regulatory Flexibility Act

Section 603 of the Regulatory Flexibility Act (5 U.S.C. 601 to 612) requires us to prepare and publish a regulatory flexibility analysis for any rulemaking document unless the Secretary certifies, under section 605(b) of that Act, that the requirements do not have a significant impact on a substantial number of small entities.

Under the RFA, a small entity is defined as a small business, an independently owned and operated nonprofit enterprise that is not dominant in its field, or an agency or governmental entity of a jurisdiction with a population of less than 50,000. We consider all providers and suppliers to be small entities. We do not consider intermediaries and carriers to be small entities since they are our agents. Rather, we consider the providers,

physicians and supplies with which they deal on our behalf to be the entities for which we assess impacts subject to the RFA.

The direct effect of this notice is on our contractors. Since they are not small entities, even though we expect this notice to have an effect on contractor operations, an analysis of that impact is not required. However, it is clear that many standards and elements, such as those governing bill processing, beneficiary services, and provider services, will have indirect effects on a substantial number of providers and suppliers. Therefore, in order to verify that a regulatory flexibility analysis is not required, we assessed whether the indirect impact on those small entities will be significant.

Generally, the operations to which the standards and elements of the intermediary and carrier performance criteria refer are required by law, other regulations, contract, or other program instructions. These criteria provide an evaluation process and do not in themselves require the performance of the operations they evaluate. The most important indirect effect on providers and suppliers is to ensure that they are paid timely and accurately. We do not expect these criteria and standards to have any indirect adverse effects on them. Therefore, we have determined that the evaluation process in itself will not have a significant impact on providers and suppliers, and the Secretary certifies, in accordance with section 605(b) of the RFA, that this notice will not have a significant economic impact on a substantial number of small entities. An initial regulatory flexibility analysis is not required.

3. Paperwork Reduction Act

This notice contains no information collection requirements subject to EOMB approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

(Sections 1102, 1814, 1816, 1842 and 1871 the Social Security Act (42 U.S.C. 1302, 1395f, 1395h, 1395u and 1395hh))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance)

Dated September 20, 1984.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

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LIST OF PUBLIC LAWS

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S.J. Res. 275/Pub. L. 98-418

To designate the month of October 1984 as "National Spina Bifida Month". (Sept. 25, 1984; 98 Stat. 1606) Price: $1.00

S. 1546/Pub. L. 98-419

Deepwater Port Act Amendments of 1984. (Sept. 25, 1984; 98 Stat. 1607) Price: $1.00

H.R. 5177/Pub. L. 98-420

Granting the consent of Congress to an amendment to the Wheeling Creek Watershed Protection and Flood Prevention District Compact entered into by the States of West Virginia and Pennsylvania. (Sept. 25, 1984; 98 Stat. 1611) Price: $1.00

S. 806/Pub. L. 98-421

To provide for a plan to reimburse the Okefenoke Rural Electric Membership Corporation for the costs incurred in installing electrical service to the Cumberland Island National Seashore. (Sept. 25, 1984; 98 Stat. 1613) Price: $1.00

S.J. Res. 25/Pub. L. 98-422

Redesignating the Saint Croix Island National Monument in the State of Maine as the "Saint Croix Island International Historic Site". (Sept. 25, 1984; 98 Stat. 1615) Price: $1.00

S.J. Res. 334/Pub. L. 98-423

To provide for the designation of the month of November 1984, as "National Hospice Month". (Sept. 25, 1984; 98 Stat. 1617) Price: $1.00

S.J. Res. 335/Pub. L. 98-424

To designate the week beginning on May 19, 1985, as "National Tourism Week". (Sept. 25, 1984; 98 Stat. 1618) Price: $1.00

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