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Thursday
December 6, 1984

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Coast Guard

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State Department

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Federal Aviation Administration

Biologics
Food and Drug Administration

Communications Equipment
Federal Communications Commission

Crop Insurance
Federal Crop Insurance Corporation

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Organization and Functions (Government Agencies)
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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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Presidential Documents

Title 3—

The President

Proclamation 5286 of December 4, 1984

National Pearl Harbor Remembrance Day, 1984

By the President of the United States of America

A Proclamation

On the morning of December 7, 1941, the Imperial Japanese Navy launched an unprovoked surprise attack on units of the Armed Forces of the United States stationed at Pearl Harbor, Hawaii. Over 2,400 United States citizens were killed and almost 1,200 were wounded in the attack. This battle marked our entry into World War II and galvanized the will of the American people to achieve ultimate victory.

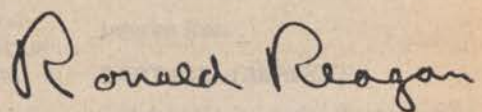
Today, Japan is firmly united with us as an ally in defense of the freedom we share. But the lesson of Pearl Harbor is as important today as it was over forty years ago. In an uncertain world, democracies should always seek peace but also be prepared to defeat aggression. Military strength can deter war and give diplomacy time to achieve its beneficial results.

The people of the United States owe a tremendous debt of gratitude to all members of our Armed Forces who served at Pearl Harbor and in the many battles that followed in all other theaters of action of World War II. Their selfless dedication and sacrifice will never be forgotten.

The Congress, by House Joint Resolution 392, has designated December 7, 1984, as "National Pearl Harbor Remembrance Day" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim December 7, 1984, as National Pearl Harbor Remembrance Day and call upon the people of the United States to observe this solemn occasion with appropriate ceremonies and activities and to pledge eternal vigilance and strong resolve to defend this Nation and its allies from all future aggression.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of December, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.



[FR Doc. 84-32073
Filed 12-5-84; 11:21 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 49, No. 236
Thursday, December 6, 1984

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 413

[Doc. No. 16795; Amdt. No. 3]

Texas Citrus Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.
ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Texas Citrus Crop Insurance Regulations (7 CFR Part 413), effective for the 1986 and succeeding crop years, by providing procedures for an insurance offer at a given production guarantee, after inspection, on production potential of less than 3 tons for a crop year following a crop year in which substantial damage has occurred. The intended effect of this action is to remove a restriction affecting policyholders relative to availability of insurance on low production acreage due to previous years severe crop damage.

This action is taken under the authority contained in the Federal Crop Insurance Act, as amended.

DATES:

Effective date: December 6, 1984.

Comment date: Written comments, data, and opinions on this rule must be submitted not later than February 4, 1985, in order to be considered.

ADDRESS: Written comments on this rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512-1 (December 15, 1983). This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this proposed rule applies are: Title—Crop Insurance; Number 10.450.

This program 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 exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

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.

Merritt W. Sprague, Manager, FCIC, has determined that an emergency situation exists which warrants publication of this rule without providing a period of public comment. During a severe freeze on December 24, 1983, most Texas citrus trees were damaged to the extent that orange and grapefruit production will be below 3 tons per acre for the 1985 crop year. This action is therefore necessary because the extensive damage to citrus groves will place many citrus policyholders in the position of having no insurance protection for the 1986 crop year without this change.

FCIC is therefore changing the provisions found in subsection 2.d.(2) of the policy to provide that, if such acreage is inspected by FCIC and considered acceptable and we agree in writing to insure such acreage, insurance will be available. A change in subsection 7.a. of the policy will also allow FCIC to make an offer to insure the grove at a given production guarantee after inspection of groves that have had severe damage and have not produced 3 tons of oranges or grapefruit the previous crop year.

All Texas citrus policyholders are presently being contacted to advise them of these changes.

FCIC is currently making inspections of the damaged groves, and is accepting such written mutual agreements on the prescribed form (Form FCI-2).

Written comments will be solicited by FCIC for 60 days after publication of this rule in the **Federal Register**. This rule will be scheduled for review so that any amendments made necessary by public comment may be published in the **Federal Register** as quickly as possible.

All comments made pursuant to this action will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C., during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 413

Crop insurance, Texas citrus.

Interim Rule

PART 413—[AMENDED]

Accordingly, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Texas Crop Insurance Regulations (7 CFR Part 413), effective for the 1986 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 413 is:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516)

§ 413.7 [Amended]

2. Section 413.7(d)2.d.(2) is revised to read as follows.

* * * * *

2. Crop, acreage, and share insured.

* * * * *

d. * * *

(2) Which does not have the potential of 3 tons per acre of oranges or grapefruit the crop year following a crop year in which substantial damage occurred unless inspected and considered acceptable by us and unless we agree in writing to insure such acreage;

3. Section 413.7(d)7.a. is revised to read as follows:

* * * * *

7. Insurance period.

a. Insurance attaches on December 1 prior to the calendar year of normal bloom, except:

(1) That for the crop year following a crop year in which substantial damage occurred, insurance will not attach until the acreage is inspected by us and considered acceptable, and you agree, in writing to the production guarantee we offer you for such crop year; and

(2) That for the initial crop year, if we accept the application after December 1, insurance will attach on the twentieth day after you sign the application.

Done in Washington, D.C., on October 23, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: November 30, 1984.

Approved by:

Edward Hews,

Acting Manager.

[FR Doc. 84-31807 Filed 12-5-84; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 445

[Amdt. No. 1; Doc. No. 1331S]

Pepper Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Pepper Crop Insurance Regulations (7 CFR Part 445), effective for the 1985 and succeeding crop years as follows: (1) Specifying named perils as the causes of loss; (2) prohibiting coverage for peppers grown for direct consumer marketing; (3) providing that coverage will not attach to acreage where peppers were planted the previous planting period except under certain conditions; (4) providing that lack of available plants will not be a consideration in requiring replanting; (5) providing that the final planting dates will be in the actuarial tables; (6) increasing the minimum value of unsold, harvested, or appraised production with respect to the allowable cost for harvest and hauling; (7) increasing the replanting payment to $300 per acre; (8) defining maximum bed width; (9) redefining the planting period; and, (10) adding two sections dealing with "notices" and "determinations." The intended effect of this rule is to update the policy for insuring peppers. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: January 7, 1985.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this proposed rule applies are: Title—Crop Insurance; Number 10.450.

This program 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 exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

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 Evironmental Impact Statement is needed.

On Wednesday, May 30, 1984, FCIC published a notice of proposed rulemaking in the **Federal Register** at 49 FR 22487, proposing to amend the Pepper Crop Insurance Regulations (7 CFR Part 445), as set out in the summary above.

The public was given 60 days in which to submit written comments, data, and opinions on the proposed rule, but none was received. Therefore, the proposed rule as published on May 30, 1984, is hereby adopted as final.

List of Subjects in 7 CFR Part 445

Crop insurance, Peppers.

Final Rule

PART 445—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Pepper Crop Insurance Regulations (7 CFR Part 445), effective with the 1985 and succeeding crop years, in the following instances:

1. The authority citation for 7 CFR Part 445 is:

Authority: 506, 516, Pub.L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 445.7(d) is revised to read as set forth below:

§ 445.7 The application and policy.

* * * * *

(d) The application for the 1985 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37; 400.38), and may be amended from time to time for subsequent crop years. The provisions of the Pepper Crop Insurance Policy are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Pepper—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occuring within the insurance period:

(1) Frost;
(2) Freeze;
(3) Hail;
(4) Fire;
(5) Tornado;
(6) Hurricane;
(7) Tropical depression that has been named by the U.S. Weather Service; or
(8) Failure of the irrigation water supply after planting due to unavoidable cause;

Unless those causes are expected, excluded, or limited by the actuarial table or section 9f(7).

b. We will not insure against any loss of production due to:
(1) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants or employees;
(2) The failure to follow recognized good pepper farming practices;
(3) The impoundment of water by any governmental, public or private dam or reservoir project;
(4) Any cause not specified in section 1a as an insured loss;
(5) The failure to carry out a good pepper irrigation practice; or
(6) The breakdown of irrigation equipment or facilities.

2. Crop, acreage, and Share insured.

a. The crop insured is peppers: (1) Which are planted for harvest as fresh market peppers; (2) in which you have a share as reported by you or as determined by us, whichever we shall elect; (3) which are grown on insured acreage; and (4) for which an amount of insurance and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be irrigated acreage designated as insurable by the actuarial table.

c. The insured share is your share as landlord, owner-operator, or tenant in the insured peppers at the time of each planting period.

d. We will not insure any acreage of peppers grown by any person if:
(1) The person had not grown peppers for commercial sales the previous crop year; or
(2) The person had not participated in the management of the pepper farming operation the previous crop year.

e. We do not insure any acreage:
(1) Of peppers grown for direct consumer marketing;
(2) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;
(3) Which is not irrigated;
(4) On which peppers are not grown on plastic mulch;
(5) On which tomatoes, peppers, eggplants or tobacco have been grown and the soil was not fumigated or properly treated before planting peppers;
(6) Which was planted to peppers the preceding planting period, unless the pepper plants of the preceding planting period were destroyed:
(a) Less than 30 days after the date of planting; or
(b) Less than 60 days after the date of direct seeding;
(7) Which is destroyed, it is practical to replant to peppers, and such acreage was not replanted. (The unavailability of plants for replanting is not a valid basis for failing to replant.)
(8) Initially planted after the final planting date contained in the actuarial table;
(9) Of volunteer peppers;
(10) Planted to a type or variety of peppers not established as adapted to the area or excluded by the actuarial table;
(11) Planted for experimental purposes; or
(12) Planted with a crop other than peppers.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and practice.

You must report at the time of each planting period on our form:

a. All the acreage of fall, winter and spring-planted peppers in the county in which you have a share;

b. The practice, including the bed size; and

c. Your share.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any pepper plantings in the county. This report must be submitted for each planting period on or before the reporting date established by the actuarial table for each planting period. We may determine all indemnities on the basis of information you submit on this report. If you do not submit this report by the reporting date, we may elect to determine by unit for each planting period the insured acreage, share, and practice or we may deny liability on any unit for any planting. Any report submitted by you may be revised only upon our approval.

4. Coverage levels and amounts of insurance.

a. The coverage levels and amounts of insurance are contained in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and amount of insurance before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the amount of insurance, times the premium rate, times the insured acreage, times your share at the time of each planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest will accrue at the rate of one and one-half percent (1-½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract will be transferred to:

(1) The contract of your estate or surviving spouse if you die;

(2) The contract of the person who suceeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium will be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a will be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches when the peppers are planted in each planting period and ends at the earliest of:

a. Total destruction of the peppers on the unit;

b. Discontinuance of harvest on the unit;

c. The date harvest should have started on the unit on any acreage which will not be harvested;

d. Final harvest; or

e. Final adjustment of a loss.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) You want our consent to replant peppers damaged due to any insured cause (To quality for a replanting payment, the acreage replanted must be at least the lesser of 10 acres or 10 percent of the insured acreage sustaining a loss in excess of 50 percent of the plant stand on the unit.);

(b) During the period before harvest, the peppers on any unit are damaged and you decide not to further care for or harvest any part of the peppers;

(c) You want our consent to put the acreage to another use; or

(d) After consent to put acreage to another use is given, additonal damage occurs.

Insured acreage may not be put to another use until we have appraised the peppers and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is replanted or put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a lost on any unit.

(3) If probable loss is later determined and you are going to claim an indemnity on any unit, notice must be given not later than 48 hours:

(a) After total destruction of the peppers on the unit;

(b) After discontinuance of harvest on the unit; or

(c) Before harvest would normally start if any acreage on the unit is not to be harvested.

b. You may not destory or replant any of the peppers on which a replanting payment will be claimed until we give consent.

c. You must obtain written consent from us before you destory any of the peppers which are not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the peppers on the unit;

(2) Discontinuance of harvesting on the unit; or

(3) The date harvest should have started on the unit on any acreage which will not be harvested.

b. We will not pay any indemnity unless you:

(1) Establish the total production and the value received for all peppers on the unit and that any loss of production or value has been directly caused by one or more of the insured casues during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the amount of insurance times the percentage for the state of production defined by the actuarial table;

(2) Subtracting therefrom the total value of production to be counted (see section 9f); and

(3) Multiplying this result by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity will be reduced proportionately.

e. The indemnity will be reduced by the amount of any replanting payment.

f. The total value of production to be counted for a unit will include all harvested and appraised production.

(1) The total value will include any amount received for peppers on the unit minus the allowable cost as designated by the actuarial table.

(2) The value of appraised production to be counted will include:

(a) The value of unharvested mature green and red peppers and the value of the potential production lost due to uninsured causes or the failure to follow recognized good pepper farming practices;

(b) Not less than the dollar amount of insurance per acre for any acreage abandoned or put to another use without our prior written consent or which is damaged solely by an uninsured cause;

(c) The value of any appraised production of mature green and red peppers on unharvested acreage.

(3) Unharvested peppers injured or with defects due to insurable causes which cannot be marketed will not be counted.

(4) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of peppers becomes general in the county for the planting period;

(b) Harvested; or

(c) Further damaged by an insured cause before the acreage is put to another use.

(5) We may determine the amount and value of production of any unharvested peppers on the basis of field appraisals conducted after the end of the insurance period.

(6) The value of unsold harvested or appraised production shall be determined by multiplying such production by the simple average F.O.B. shipping point price per 1⅑ bushel (minus allowable cost as shown by the actuarial table), as reported by the Federal-State Market News Service, for the seven consecutive market days commencing the earlier of:

(a) The date harvest starts; or

(b) The date harvest could have started on any acreage which will not be harvested.

The price for such peppers will not be less than $8.00 per 1⅑ bushel minus allowable cost shown by the actuarial table.

(7) When you have elected to exclude hail and fire as insured causes of loss and the peppers are damaged by hail or fire, appraisals for uninsured causes will be made in accordance with Form FCI–78–A, "Request to Exclude Hail and Fire".

(8) The value of commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

g. A replanting payment may be made on any insured peppers replanted after we have given consent and the acreage replanted is at least the lesser of 10 acres or 10 percent of the insured acreage sustaining a loss in

excess of 50 percent of the plant stand fo unit.

(1) No replanting payment will be mad acreage on which a replanting payment has been made during the current crop year.

(2) The replanting payment per acre will be your actual cost per acre for replanting, but will not exceed the product obtained by multiplying $300.00 per acre by your share.

h. If the information reported by your results in a lower premium than the actual premium determined to be due, the replanting payment and the indemnity will be reduced proportionately.

i. Any replanting payment will be considered as an indemnity.

j. You must not abandon any acreage to us.

k. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

l. We will pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no instance will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

m. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the peppers are planted for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

n. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of Indemnity

You may assign to another party your right to an indemnity for the crop year only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all peppers produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim will be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date both the payment under such other programs and set off was approved.

d. The cancellation and termination dates are July 31.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your amount of insurance at which indemnities are computed is no longer offered, the actuarial table will provide the amount of insurance which you are deemed to have elected. All contract changes will be available at your service office by April 30 preceding the cancellation date. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of pepper crop insurance:

a. "Acre" means 43,650 square feet of plastic mulch not more than 6 feet wide (6 foot bed) on which at least 7,260 linear feet row(s) are planted.

b. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the amount of insurance, coverage levels, premium rates, practices, insurable and uninsurable acreage, and related information regarding pepper insurance in the county.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

d. "Crop year" means the period within which the peppers are normally grown beginning August 1 and continuing through the harvesting of the spring-planted peppers and shall be designated by the calendar year in which the spring-planted peppers are normally harvested.

e. "Harvest" means the final picking of marketable peppers on the unit.

f. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

g. "Insured" means the person who submitted the application accepted by us.

h. "Mature green pepper" means a pepper which has reached the stage of development that will withstand normal handling and shipping.

i. "Peppers Grown for Direct Consumer Marketing" means peppers grown for the purpose of selling directly to the consumer which are grown on acreage not subject to an agreement between producer and packer to pack the production. (The producer-packer agreement must be made before you report your acreage.)

j. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

k. "Planting" means transplanting the pepper plant into the field or direct seeding in the field.

l. "Planting Period" means the peppers planted within the dates specified by the actuarial table, as fall-planted, winter-planted or spring-planted.

m. "Plant Stand" means the number of live plants per acre before the plants were damaged due to insurable causes.

n. "Replanting" means performing the cultural practices necessary to replant insured acreage to peppers.

o. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

p. "Tenant" means a person who rents land from another person for a share of the peppers or a share of the proceeds therefrom.

q. "Unit" means all insurable acreage of peppers for each planting period in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the peppers on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement with us. Units as herein defined will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with FCIC's Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, D.C. on July 31, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: November 30, 1984.

Approved by:

Edward Hews,

Acting Manager.

[FR Doc. 84-31810 Filed 12-5-84; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 27, 29, and 91

[Docket No. 23266; Amdts. 1-32, 27-21, 29-24, and 91-185]

Rotorcraft Regulatory Review Program; Amendment No. 2

Correction

In FR Doc. 84-29088, beginning on page 44422, in the issue of Tuesday, November 6, 1984, make the following corrections:

1. On page 44424, column one, first full paragraph, line nineteen, "man" should read "mean".

2. On page 44433, column three, § 27.672 (b), in the last line, "failure" should read "failed".

3. On page 44437, column two, change No. 49., line three, "words" should read "word".

§ 29.1329(e) [Corrected]

4. On page 44439, third column in § 29.1329(e) on line two "of" should read "or" and on line three "or" should read "of".

BILLING CODE 1505-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210, 229, 231, and 241

[Release Nos. 33-6559; 34-21521; IC-14253; FR-20; File S-7-9-84]

Rules and Guide for Disclosures Concerning Reserves for Unpaid Claims and Claim Adjustment Expenses of Property-Casualty Underwriters

AGENCY: Securities and Exchange Commission.

ACTION: Final rules and guide.

SUMMARY: The Commission is adopting rules and authorizing an industry guide to improve disclosures concerning the underwriting and claims reserving experience of property-casualty insurance underwriters. The disclosures are intended to assist investors in understanding and evaluating companies' reserving practices and the effect on reported income of adjustments to reserves established in prior periods and in comparing those practices and adjustments among entities.

DATE: This document is effective December 6, 1984. The rules and guide are applicable to filings containing financial statements for fiscal years ending after December 15, 1984, except that Exhibit 29 required by Rule 601 of Regulation S-K (§ 229.601(a)(29)) is applicable to filings containing financial statements for fiscal years ending after December 15, 1985 with earlier application encouraged.

FOR FURTHER INFORMATION CONTACT: Jeremiah Harrington or Dorothy Walker (202-272-2130), Office of the Chief Accountant, or Howard Hodges (202-272-2553), Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

Background

On February 15, 1984 the Commission issued a release proposing to require additional disclosures concerning the underwriting and claims reserving experience of property-casualty ("P/C") underwriters. [49 FR 6911, Release No. 33-6513]. The Commission had become concerned that the existing disclosures about loss reserves and the effects of adjustments to loss reserves estimated in prior years were inadequate, thereby impeding the ability of investors to fully evaluate the financial condition and results of operations of enterprises with significant P/C reserve liabilities. Additional disclosures regarding reserving methods and experience were considered necessary to improve the ability of users to evaluate the financial statements of P/C underwriters.

Forty-two comment letters were received in response to the proposal.[1] Virtually all commentors supported the overall objectives of the release with a significant number acknowledging the need for improved disclosures. Most commentors, however, suggested substantial revisions to the proposal which they thought would enhance investor ability to understand or use the disclosures or would otherwise reduce its costs and complexity.

The remainder of this release contains a Summary of the Final Rules and Guide, and the reasons for changes from the proposal in the order listed below:

—Summary of Final Rules and Guide
—Summary of Changes
—Disclosure Threshold Criteria
—Reconciliation of Beginning and Ending Claims Reserves
—Provision for Inflation
—Disclosures Related to Discounting

[1] Twenty-three comment letters were received from industry, one from an institution representing actuaries, eight from accounting firms, one from an institution representing accountants, and nine from financial analysts.

—Disclosures About Differences Between GAAP and Regulatory Reserves
—Summary Financial Disclosures about P/C Activities
—Information from Reports Furnished to State Insurance Regulatory Authorities

Summary of Final Rules and Guide

The final rules and guide, like the proposals, provide for different levels of user interest and different levels of registrant concentration in P/C insurance underwriting operations. The information called for by the Guide [2] will provide investors with information about: (1) Certain significant transactions during the periods being reported on, (2) changes in historical reserve amounts for the latest ten years, (3) a company's reserving practices, including those used in estimating inflation, and significant changes in those practices, (4) the effect, if any, of the discounting of reserves, and (5) any difference between reserves reflected in reports to state regulatory authorities and those appearing in financial statements prepared in accordance with generally accepted accounting principles ("GAAP").

For those investors who want more detailed financial data, an exhibit requires loss reserve information derived from reports to state regulatory authorities, on a consolidated or combined basis, for the most recent year presented. Also, a schedule will provide certain financial statement details of P/C operations and financial condition.

The Commission believes that the disclosure requirements and guidelines set forth herein are necessary to enhance the ability of investors and others to evaluate the financial condition and results of operations of enterprises with significant P/C reserve liabilities.

Summary of Changes

The Commission has carefully reviewed the comments received in response to the proposal and has made a number of changes designed to respond to commentators' concerns while, at the same time, achieving the Commission's objectives of improved disclosures.

The two issues that generated the most comment were disclosures on disaggregated reserves by line of business on a GAAP basis and the disclosure threshold criteria. Therefore, the most significant changes have been made in these areas. First, requirements have been eliminated for disaggregation of reserve amounts computed in accordance with GAAP on the basis of the line of business categories used in reports to state regulators. Second, criteria for determining when the disclosures are called for have generally been conformed throughout the rules and guide; and a new disclosure threshold has been provided to be applied to the separate disclosures of (a) the registrant and its consolidated subsidiaries, (b) unconsolidated subsidiaries, and (c) fifty-percent-or-less-owned equity investees.[3]

The first change is reflected in the revision of one of the proposed schedules to eliminate disclosure by line of business and the elimination of the other schedule.[4] In addition, a proposed Exhibit [5] which required line of business disclosure was replaced by a simplified tabular presentation of aggregate reserve information in a format suggested by several commentators.

The second change responds to a number of commentators' concerns that the proposed disclosures would be triggered by an income test, and that this could result in disclosures being called for one year and not the next, because of the volatility of P/C earnings. Therefore, circumstances under which the disclosures would be given have been revised by eliminating the test of P/C income materiality, but reducing the reserves to common stock ratio test from 1:1 to ½:1. Commentators also pointed out that group (a) or (b) or (c) above might be insignificant in a particular case and that the cost of presenting detailed information for an insignificant group of entities would exceed any related benefits to investors. Therefore, the final rules and guide do not call for information for any group whose P/C reserves are less than 5% of the P/C reserves attributable to the enterprise as a whole.

These changes, as well as certain other changes, are discussed in more detail in the rest of this release.

Disclosure Threshold Criteria

An issue that generated significant comment was the absence of separate tests for determining the need for presentation of separate information for unconsolidated subsidiaries and 50%-or-less-owned equity investees. Commentators considered it impracticable to provide detailed disclosures for what may be insignificant groups of subsidiaries or investees. Some also stated that many 50%-or-less-owned equity investees are public companies that would be required to include claim reserve disclosures in their own filings with the Commission.

The final rules and guidelines include criteria that are responsive to the concerns of commentators. First, to the extent possible, the criteria have been conformed in each requirement. Disclosure requirements are triggered when P/C reserves exceed one-half of consolidated common stockholders' equity. Second, exemptions have been provided for certain quantitative data of 50%-or-less-owned equity investees if those entities provide disclosures to the Commission as registrants in their own right. Third, if ending reserves of: (a) The registrant and its consolidated subsidiaries, (b) unconsolidated subsidiaries or (c) the proportionate share of the registrant and its other subsidiaries in the reserves of its 50%-or-less-owned equity investees are less than 5% of the total reserves of categories (a), (b) and (c), that category has been omitted from the disclosure requirements.

Reconciliation of Beginning and Ending Claims Reserves and Exhibit of Deficiences (Redundancies)

The proposal called for a reconciliation of beginning and ending GAAP reserves for unpaid claims and claim adjustment expenses in the aggregate, for each of the latest three years. Disclosure of the portion of incurred losses for each year attributable to the current year and to each of the two preceding years separately was also proposed, as well as the amount of discount reflected in the provision for losses for the current year and the amortization of discounts provided in prior years.

The principal opposition to the proposed reconciliation concerned the requirement to disaggregate incurred losses attributable to prior years. Some commentators indicated that the breakdown of losses into specific prior years was difficult. Others were concerned that less sophisticated

[2] The Guide applies to the description of business, but allows for presentation of the information in Management's Discussion and Analysis ("MD&A") if in management's opinion such presentation would be more meaningful to investors. The indication by the Guide that an item should be considered for discussion in the description of business does not change management's responsibilities under the MD&A requirements of Regulation S–K [17 CFR 229.303].

[3] It is anticipated that registrants would be either consolidating or not consolidating material insurance subsidiaries and therefore would only need to provide disclosures for a maximum of two categories.

[4] Proposed Rules § 210.12–18 and 12–19, respectively (of Regulation S–X).

[5] Proposed §§ 229.601 (a) 30 and (b) 30 (of Regulation S–K).

investors might simply recalculate net income of prior years, without recognizing that the prior years already include the same type of adjustments for previous years. Other commentators opposed the proposal to disclose the effects of discounting on each year's reconciliation. Many believed it would be difficult, if not impossible, to quantify discount amortization. Supportive commentators indicated that the reconciliations were effective in illustrating the impact of provisions for prior years' losses on current income.

The Commission continues to believe that investors may be able to better evaluate reserves if they can review subsquent adjustments to historical reserve estimates, and that, together with management's comments, a reconciliation of reserves is appropriate. The proposal has been modified to eliminate the provision to show separately in this table the amount of the adjustment to income in the current year applicable to each of the two prior years. However, the reconciliation still calls for the amount of the adjustment to income in the current year applicable to all prior years. The development table discussed below provides information about adjustments to the liability for unpaid claims and claim adjustment expenses, as originally reported, on a year by year basis for the ten prior years.[6]

The proposed rules would also have required disclosure by statutory line of business, of deficiences (redundancies) in GAAP claims reserves in increments of one year, five years and ten years. The disclosure would have been provided separately for the parent and its consolidated subsidiaries, for the unconsolidated subsidiaries and for the 50%-or-less-owned equity investees. The proposal also required disclosure of the amount of discount, if any, amortized during each development period, disclosure whether claims reserves were ceded during any of the years during each development period, and, if so, a statement of the reserves eliminated and the related premiums paid.

Comment letters from all groups suggested that the information was too detailed (particularly with respect to the disclosures by line of business), and that it represented only one of many formats in which someone might want to consider the basic data. A significant number of commentators suggested alternative approaches to reduce the cost and complexity of the proposed disclosure, the principle focus being on providing information on an aggregate basis. In this connection, commentators generally agreed that a discussion by management of the registrant's reserving experience presented in reasonable proximity to the aggregate development information could provide understandable information to most readers.

The Commission continues to believe that disclosure of the development of incurred claims, paid claims and claim reserves is necessary for an evaluation of a P/C underwriter's reserving practices. However, it agrees with commentators that it may not be necessary to provide this information by line of business to meet the Commission's disclosure objectives.

Therefore, the provisions of Item 2B of Guide 6 have been changed to include a table which reflects reserve development information on an aggregate basis. This table is intended to inform investors of the materiality of adjustments required during periods following the dates as of which its original reserves were established by showing the historical pattern of changes in reserve estimates and claim payments. The Commission believes that disclosure of the historical patterns and management's explanation of such changes will provide investors with greater understanding of the factors that may affect future earnings. An example of the table follows.

CONSOLIDATED

[In millions of dollars]

	Year ended								
	1976	1977	1978	1979	1980	1981	1982	1983	1984
Liability for unpaid claims and claim adjustment expense	484	602	775	952	1,154	1,380	1,626	1,703	1,749
Paid (cumulative) as of:									
End of year									
One year later	241	262	305	343	369	458	504	554	
Two years later	358	411	488	518	644	724	805		
Three years later	451	525	612	643	818 [4]	915			
Four years later	521	606	727	813	942				
Five years later	569	683	801	891					
Six years later	619	731	939						
Seven years later	650	764							
Eight years later[7]	672								
Liability reestimated as of:									
End of year	484	602	775	952	1,154	1,380	1,626	1,703	1,749
One year later	562	662	793	886	1,025	1,197	1,308	1,475	
Two years later	625	753	885	996	1,182	1,306	1,472		
Three years later	678	806	954	1,088	1,243	1,386			
Four years later	707	846	1,013	1,117	1,286				
Five years later	731	889	1,032	1,144					
Six years later	761	904	1,050						
Seven years later	770	918							
Eight years later	782								
Redundancy (deficiency)	(298)	(316)	(275)	(192)	(132)	(6)	154	228	

[7] The example only covers eight years. See footnote 6 infra. The general format of this table was suggested by several commentators as a cost effective way to meet the Commission's objectives as stated in the proposal.

The table is intended to illustrate the manner in which reserve estimates change as time passes. Each column reflects the underwriter's experience with the reserve it estimated at the end of the stated fiscal year. The first line shows the reserve as originally reported. The middle portion shows the cumulative amounts paid as of the end of successive years with respect to that reserve liability. The lower portion shows retroactive reestimates of the reserve as of the end of successive years resulting from management's awareness of additional facts and circumstances. To examine the pattern of payments or changes with respect to a particular reserve estimates investors would

[6] Only eight years coverage would be expected to be provided for calendar year 1984 and only nine years coverage is required for calendar year 1985. The phased-in requirement is consistent with changes in reporting requirements of state regulatory authorities.

simply read down the column under that estimate.

Provision for Inflation

Although inclusion of a provision for inflation in estimated reserves is required by Statement of Financial Accounting Standards No. 60, no specific method is prescribed for calculating that provision. The proposal requested disclosure of the registrant's method of estimating the amount of any explicit provisions for inflation and for the circumstances relied upon by management in accepting the adequacy of implicit provisions for the effects of inflation.

A number of commentators indicated that the provision for inflation is included in overall projections of expected claim costs without being specifically identified. These commentators asserted that many factors are considered when providing for reserves; inflation is just one of those factors; and it is not feasible or meaningful to separate out the inflation factor individually.

The Commission believes that a general description of each registrant's practice in arriving at a provision for inflation may be useful in evaluating currently reported reserves. Provisions for inflation for this purpose may be taken to mean provision for future changes in average claim severities, if this permits more meaningful disclosure.

Under the guide, registrants would disclose whether they make provisions for inflation implicitly or explicitly. Those whose provision is implicit would disclose how they satisfy themselves that the provision is appropriate. Those who make explicit provision would describe their procedures briefly.

Disclosures Related to Discounting

The proposal asked for a statement of the difference (estimated, if necessary) between GAAP basis claims reserves on a discounted basis, in total and by statutory line of business. In general, commentators agreed that disclosure of the effects of discounting is appropriate. They did not believe, however, that disclosure of discounts deducted from reserves by line of business is necessary unless the discount of a particular line is material. Some expressed concerns that "grossing up" reserves to undiscounted amounts would be difficult for registrants who use discounted tables required by regulatory authorities.

Proposed Rule 12–19 of Regulation S–X would have required disaggregation of P/C reserve balances and the discounts deducted for the latest two year-ends by the lines of business used in reports to state regulators. This breakdown was considered a cost effective method to provide investors with an indication of the relative risks of the reserve portfolios of different P/C insurers. Commentators pointed out that foreign subsidiaries have no need to prepare reserve information on the basis of the lines of business used by insurance regulators in the United States. Other commentators mentioned that line of business classification is not strictly uniform from company to company. A number suggested that disaggregation by segment rather than by line of business should be permitted.

The Commission has, therefore, amended the proposal to take into account commentators concerns in several ways. The disclosures by statutory line of business are no longer required. Proposed Rule 12–19 has been eliminated. A column has been added to Rule 12–18 to provide for the disclosure of the aggregate discounts deducted from the reserves for the registrant and consolidated subsidiaries, for unconsolidated subsidiaries, and for 50%-or-less-owned equity investees. A footnote to the schedule requires disclosure of the rate, or range of rates, estimated if necessary, at which the discount was computed for each category. A provision calling for disclosure of the effects of discounting in the aggregate has been retained in Part 2(B)(5) of the Guide.

Disclosures About Differences Between GAAP and Regulatory Reserves

The proposal asked for a statement of the nature and amount of differences, if any, between GAAP basis claim reserves and statutory claim reserves, in total and by applicable statutory lines of business. Most commentators recommended omission of all proposed requirements to present information by statutory line of business, but believed a reconciliation of aggregate reserves would be appropriate. A few suggested a reconciliation by major lines of business. Some objected to the presentation of a reconciliation from statutory to GAAP even on an aggregate basis. They argued that the principal difference was salvage and subrogation and that the amounts were not material. An analyst commented that the proposed requirement would provide useful information that is unavailable elsewhere.

The Commission had been advised that the aggregate amount of the differences between reserves reported in GAAP basis financial statements and those in reports to state regulatory authorities using regulatory accounting principles is usually small and that they usually occur in only one or a few statutory lines of business. In order to permit users to judge when such differences indicate a possible need for further analysis, the Commission has determined to retain the provision for disclosure of the nature and aggregate amount of such differences for the parent and consolidated subsidiaries, for unconsolidated subsidiaries and for 50%-or-less-owned equity investees in the Guide. Disclosure of amounts which may be small in relation to aggregate reserve amounts is believed necessary because of the material effect on reported earnings which may result from a small change in reserve amounts.

Details of reconciliations may differ from one registrant to another depending on such factors as the need to make eliminations related to consolidation with life companies or other P/C companies and currency fluctuations among others. Each reconciling amount should be explained briefly.

Summary Financial Disclosures About P/C Activities

Proposed Rule 12–18 would have required disclosure of certain balance sheet and income statement items related to P/C operations (on a GAAP basis), by statutory line of business, for the parent and consolidated subsidiaries, for unconsolidated subsidiaries, and for 50%-or-less-owned equity investees.

Some commentators suggested elimination of statutory line of business disclosures and use of the same alignment of headings used in Rule 12–16 (which requires certain supplementary insurance information by segment). Others suggested that Rule 12–16 and proposed Rule 12–18 are redundant. These commentators may not have recognized that the schedule required in Rule 12–16 applies only to companies filing under Article 7 (Insurance Companies) of Regulation S–X; commercial and industrial companies that have insurance subsidiaries but file under Article 5 do not file that schedule. Some may not have realized that grouping data by segment could result in inclusion of non-property-casualty information.

The Commission continues to believe that when P/C loss reserves are significant (as defined in the rule), it is appropriate to require more detailed disclosure of certain P/C financial statement amounts in order to permit inter-enterprise comparison of trends and ratios. Therefore, when P/C related amounts are not stated separately in the financial statements of registrants engaged in diverse activities, certain

summary disclosures will be required in new Schedule 12–18. Those disclosures would be presented separately for the registrant and its consolidated subsidiaries, the registrant's unconsolidated subsidiaries, and the registrant's 50%-or-less-owned equity investees. A footnote has been added to the schedule to allow the omission of certain immaterial items as discussed in "Disclosure Threshold Criteria" above, and an exemption has been provided for certain entities which file with the Commission themselves.

Information From Reports Furnished to State Insurance Regulatory Authorities

Proposed Exhibit 29 of Item 601 of Regulation S-K would require registrants to present Schedules O and P[8] on a consolidated or combined basis for (a) the registrant and its consolidated subsidiaries, (b) unconsolidated subsidiaries and (c) 50%-or-less-owned equity basis investees (proportionate share only).

Commentators generally agreed that Schedules O and P could provide useful information to certain investors and analysts and they should be provided as an exhibit. The industry commentators indicated few difficulties in providing the information if certain immaterial entities did not have to be included. Accordingly, exemptions have been provided for immaterial entities and for certain entities which file with the Commission themselves (as discussed in "Disclosure Threshold Criteria" above).

Effective Date

The proposal indicated that the Commission anticipated that the final disclosure provisions would be effective for years ending after December 15, 1984. The Commission believes that it is important to have the new rules and guide in place and effective for 1984 year-end reporting because the disclosures are so important to investors. Furthermore, it believes that the changes made in response to commentators' concerns have significantly eased any reporting burdens, and therefore, that the December 15, 1984 effective date is appropriate.

Concerns about the effective date expressed by commentators concentrated on the difficulty of providing information from reports to state regulatory authorities (the exhibit required by § 229.610(29)) in greater detail or in a different format or basis. The final provisions were specifically changed to allow for providing the information on the same basis and in the same format. Further, the exhibit will not be required until years ending after December 15, 1985.

Codification Update

The "Codification of Financial Reporting Policies" announced in Financial Reporting Release No. 1 (April 15, 1982) [47 FR 21028] is updated to:

1. Add a new § 403.04 entitled "Disclosures Concerning Reserves for Unpaid Claims and Claim Adjustment Expenses of Property-Casualty Underwriters."

2. Include in § 403.04 the Sections of this release entitled "Disclosure Threshold Criteria," "Reconciliation of Beginning and Ending Claims Reserves," "Provision for Inflation," "Disclosures Relating to Discounting," "Disclosures about Differences between GAAP and Regulatory Reserves," "Summary Financial Disclosures about P/C Activities," and "Information from Reports Furnished to State Insurance Regulatory Authorities," numbered as specified below:

a. Disclosure Threshold Criteria

b. Reconciliation of Beginning and Ending Claim Reserves

c. Provision for Inflation

d. Disclosures Relating to Discounting

e. Disclosures about Differences between GAAP and Regulatory Reserves

f. Summary Financial Disclosures about P/C Activities

g. Information from Reports Furnished to State Insurance Regulatory Authorities

This codification is a separate publication issued by the Commission. It will not be published in the Federal Register/Code of Federal Regulations System.

Regulatory Flexibility Act Analysis

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 604(a), the Commission has prepared an analysis of the economic impact which the amendments herein will have on small entities. This analysis is attached to this release.

Text of Rules and Guide

List of Subjects in 17 CFR Parts 210, 229, 231 and 241

Accounting, Reporting and recordkeeping requirements, Securities.

The Commission hereby amends 17 CFR Chapter II of the Code of Federal Regulations as follows:

[8]Schedules O and P are two of the schedules required in reports to state regulatory authorities by P/C insurance companies.

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

Article 5—Commercial and Industrial Companies (17 CFR Part 210)

1. By revising paragraph (a)(3) and adding schedule XIV to paragraph (c) of § 210.5–04 (Rule 5–04 of Regulation S–X) as follows:

§ 210.5–04 What schedules are to be filed.

(a) * * *

(3) Schedules III, and XIV shall be filed as of the date and for the periods specified in the schedule.

* * * * *

(c) * * *

Schedule XIV—Supplemental Information Concerning Property-casualty Insurance Operations.

The schedule prescribed by § 210.12–18 shall be filed when a registrant, its subsidiaries or 50%-or-less-owned equity basis investees, have liabilities for property-casualty ("P/C") insurance claims. The required information shall be presented as of the same dates and for the same periods for which the information is reflected in the audited consolidated financial statements required by §§ 210.3–01 and 3–02. The schedule may be omitted if reserves for unpaid P/C claims and claims adjustment expenses of the registrant and its consolidated subsidiaries, its unconsolidated subsidiaries and its 50%-or-less-owned equity basis investees did not, in the aggregate, exceed one-half of common stockholders' equity of the registrant and its consolidated subsidiaries as of the beginning of the fiscal year. For purposes of this test only the proportionate share of the registrant and its other subsidiaries in the reserves for unpaid claims and claim adjustment expenses of 50%-or-less-owned equity basis investees taken in the aggregate after intercompany eliminations shall be taken into account.

Article 7—Insurance Companies (17 CFR Part 210)

2. By revising paragraph (a)(3) and adding schedule X to paragraph (c) of § 210.7–05 (Rule 7–05 of Regulations S–X) as follows:

§ 210.7–05 What schedules are to be filed.

(a) * * *

(3) Schedules III, V, and X shall be filed as of the dates and for the periods specified in the schedule.

* * * * *

(c) * * *

Schedule X—Supplemental Information Concerning Property-Casualty Insurance Operations.

The information required by § 210.12–18 shall be presented as of the same dates and for the same periods for which the information is reflected in the audited consolidated financial statements required by §§ 210.3–01 and 3–02. The schedule may be omitted if reserves for unpaid property-casualty claims and claim adjustment expenses of the registrant and its consolidated subsidiaries, its unconsolidated subsidiaries and its 50%-or-less-owned equity basis investees did not in the aggregate, exceed one-half of common stockholders' equity of the registrant and its consolidated subsidiaries as of the beginning of the fiscal year. For purposes of this test, only the proportionate share of the registrant and its other subsidiaries in the reserves for unpaid claims and claim adjustment expenses of 50%-or-less-owned equity investees taken in the aggregate after intercompany eliminations shall be taken into account. Article 12—Form and Content of Schedules (17 CFR 210

3. By adding § 210.12–18 as follows:

§ 210.12–18 Supplemental Information (For Property-Casualty Insurance Underwriters).

Affiliation with registrant	Deferred policy acquisition costs	Reserves for unpaid claims and claim adjustment expenses	Discount, if any, deducted in column C [4]	Unearned premiums	Earned premiums	Net investment income	Claims and claim adjustment expenses incurred related to		Amortization of deferred policy acquisition costs	Paid claims and claim adjustment expenses	Premiums written
							(1) Current year	(2) Prior years			
Column A	Column B	Column C	Column D	Column E	Column F	Column G	Column H		Column I	Column J	Column K
(a) Consolidated property-casualty entities [2]											
(b) Unconsolidated property-casualty subsidiaries [2] [3]											
(c) Proportionate share of registrant and its subsidiaries' 50%-or-less-owned property-casualty equity investees [2] [3]											

[1] Information included in audited financial statements, including other schedules, need not be repeated in this schedule. Columns B, C, D, and E are as of the balance sheet dates, columns F, G, H, I, J, and K are for the same periods for which income statements are presented in the registrant's audited consolidated financial statements.

[2] Present combined or consolidated amounts, as appropriate for each category, after intercompany eliminations.

[3] Information is not required here for 50%-or-less-owned equity investees that file similar information with th Commission as registrants in their own right, if that fact and the name of the affiliated registrant is stated. If ending reserves in any category (a), (b), or (c) above is less than 5% of the total reserves otherwise required to be reported in this schedule, that category may be omitted and that fact so noted. If the amount of the reserves attributable to 50%-or-less-owned equity investors that file this information as registrants in their own right exceeds 95% of the total category (c) reserves, information for the other 50%-or-less-owned equity investees need not be provided.

[4] Disclose in a footnote to this schedule the rate, or range of rates, estimated if necessary, at which the discount was computed for each category.

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S-K

4. By adding caption (29) to the Exhibit Table in paragraph (a) of § 229.601 (Item 601(a)) as follows:

§ 229.601 Exhibits.

* * * * * * *

EXHIBIT TABLE

	Securities Act forms											Exchange Act forms			
	F-1	F-2	F-3	S-1	S-2	S-3	S-8	S-11	S-14	S-15	S-18	10	8-K	10-Q	10-K
* * * * * * *															
(29) Information from reports furnished to state insurance regulatory authorities				X	X	X	X		X	X		X			X
* * * * * * *															

5. By adding to the description of exhibits in paragraph (b) of § 229.601 a description and instructions as follows:

§ 229.601 Exhibits.

* * * * *

(b) * * *.

(29) *Information from reports furnished to state insurance regulatory authorities.* (i) If reserves for unpaid property-casualty ("P/C") claims and claim adjustment expenses of the registrant and its consolidated subsidiaries, its unconsolidated subsidiaries and the proportionate share of the registrant and the other subsidiaries in the unpaid P/C claims and claim adjustment expenses of its 50%-or-less-owned equity investees, taken in the aggregate after intercompany eliminations, exceed one-half of the common stockholders' equity of the registrant and its consolidated subsidiaries as of the beginning of the latest fiscal year the following information should be supplied.

(ii) The information included in Schedules O and P of Annual Statements provided to state regulatory authorities by the registrant and/or its P/C insurance company affiliates for the latest year should be presented in the same format and on the same statutory

basis, on a combined or consolidated basis as appropriate, separately for each of the following:

(A) The registrant and its consolidated subsidiaries and

(B) The registrant's unconsolidated subsidiaries and

(C) Fifty-percent-or-less-owned equity investees of the registrant and its subsidiaries

(iii) The combined or consolidated Schedules O and P of 50%-or-less-owned equity investees may be omitted if they file the same information with the Commission as registrants in their own right, if that fact and the name and ownership percentage of such registrants is stated.

(iv) If ending reserves in category (A), (B), or the proportionate share of the registrant and its other subsidiaries in (C) above are less than 5% of the total ending reserves in (A), (B), and the proportionate share of (C), that category may be omitted and that fact so noted. If the amount of the reserves attributable to 50%-or-less-owned equity investees that file this information as registrants in their own right exceeds 95% of the total category (C) reserves, information for the other 50%-or-less-owned equity investees need not be provided.

(v) Schedules O and P information need not be included for entities that are not required to file Schedules O and P with insurance regulatory authorities. However, the nature and extent of any such exclusions should be clearly noted in the Exhibit.

(vi) Registrants whose fiscal year differs from the calendar year should present Schedules O and P as of the end of the calendar year that falls within their fiscal year.

(vii) The nature and amount of the difference between reserves for claims and claim adjustment expenses reflected on Schedules O and P and the aggregate P/C statutory reserves for claims and claim adjustment expenses as of the latest calendar year end should be disclosed in a note to those Schedules.

* * * * *

6. § 229.801 is amended by adding a new paragraph (f) which lists the title of Securities Act Industry Guide 6 as follows:

§ 229.801 Securities Act industry guides.

* * * * *

(f) *Guide 6.* Disclosures concerning unpaid claims and claim adjustment expenses of property-casualty insurance underwriters.

7. § 229.802 is amended by adding paragraph (d) which lists the title of Exchange Act Industry Guide 4 as follows:

§ 229.802 Exchange Act industry guides.

* * * * *

(d) *Guide 4.* Disclosures concerning unpaid claims and claim adjustment expenses of property-casualty underwriters.

PART 231—INTERPRETIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

8. By amending Part 231 by adding this release to the list of interpretive releases set forth thereunder.

9. By adding the Securities Act Industry Guide 6 [Disclosures Concerning Unpaid Claims and Claim Adjustment Expenses of Property-Casualty Insurance Underwriters].

Guide 6—Disclosures Concerning Unpaid Claims and Claim Adjustment Expenses of Property-Casualty Insurance Underwriters

1. *General Instructions:*

The Guide applies to the description of business portions of registration statements of companies with property-casualty ("P/C") insurance reserves for which financial statements are required.

The information should be furnished if reserves for upaid P/C claims and claim adjustment expenses of the registrant and its consolidated subsidiaries, its unconsolidated and its 50%-or-less-owned equity basis investees, taken in the aggregate after intercompany eliminations, exceed one-half of the common stockholders' equity of the registrant and its consolidated subsidiaries as of the beginning of the latest fiscal year. For purposes of this test, only the proportionate share of the registrant and its other subsidiaries in the unpaid claims and claim adjustment expenses of 50%-or-less-owned equity basis investees shall be taken into account.

Information should be presented separately for (a) the registrant and its consolidated subsidiaries, (b) unconsolidated subsidiaries and (c) 50%-or-less-owned equity investees. If ending reserves in category (a), (b), or the proportionate share of the registrant and its other subsidiaries in (c) above are less than 5% of the total ending reserves in (a), (b), and the proportionate share in (c), the information called for by Instruction 2B with respect to that category may be omitted.

Information furnished in accordance with this Guide should generally be presented in the form appearing below. However, an alternative presentation, such as inclusion of the information in Management's Discussion and Analysis, may be used if in management's opinion such presentation would be more meaningful to investors.

Except where noted, the information furnished pursuant to this Guide shall be for the latest annual period for which financial statements are required. However, information for any additional interim periods should be provided to the extent necessary to keep the annual information from being misleading, such as where a material change in the information presented or the trend evidenced thereby has occurred.

2. *Description of the Business.*

A. Discussion Topics.

The following should be among the matters discussed in the description of business.

(1) The nature of current year adjustments to loss reserves recorded in prior years.

(2) Reinsurance transactions (including "swaps" of reserves, portfolio loss transfers, etc.) which have a material effect on earnings or reserves.

(3) Significant reserving assumptions and recent changes therein.

(4) The nature of recent changes in the terms under which reinsurance is ceded to other insurers.

(5) Changes in the mix of business, including not not limited to changes in the location of business, geographic mix, and types of risks assumed.

(6) Changes in payment patterns due to portfolio loss transfers, structured settlements and other transactions and circumstances.

(7) Unusually large losses or gains.

(8) The effect of currency fluctuations.

B. Disclosures.

The following (all presented in accordance with generally accepted accounting principles) should be among the items included in the description of business.

(1) *Reconciliation of claims reserves.*

An analysis of changes in aggregate reserves for property casualty insurance claims and claim adjustment expenses for each of the latest three one-year period in the following tabular format:

(a) Amount of reserves for unpaid claims and claim adjustment expenses at the beginning of each year.

(b) Incurred claims and claim adjustment expenses:

(i) Provision for insured events of the current year

(ii) Increases (decreases) in provision for insured events of prior years

Total incurred claims and claim adjustment expenses

(c) Payments.

(i) Claims and claim adjustment expenses attributable to insured events of the current year

(ii) Claims and claim adjustment expenses attributable to insured events of prior years

(d) Other (provide an explanation of each material item)

(e) Amount of reserves for unpaid claims and claim adjustment expenses at the end of each year.

(2) *Loss reserve development.*

A table that presents

(a) Amounts of reserves for unpaid claims and claim adjustment expenses as of the end of each of the ten years prior to the latest fiscal year.

(b) The cumulative amount paid as of the end of each succeeding year with respect to each of the reserve amounts presented in response to (a) above.

(c) The retroactively reestimated liability for unpaid claims and claim adjustment expenses as of the end of each succeeding

year with respect to each of the reserve amounts presented in response to (a) above.

(d) The difference between the latest reestimated liability presented in response to (c) with respect to each of the year-ends reflected in (a) above and the liabilities set forth in (a).

The amounts presented in (b), (c), and (d) above may be in dollars or expressed as a percentage of the amounts in (a).

The registrant should include an explanation of the data which will disclose the effects of unusual circumstances, for example changes in reinsurance agreements, which might distort the data.

(3) If the registrant makes explicit provision for the effects of inflation or for the combined effects of a number of factors (including inflation) that are expected to cause future changes in claims severities, describe briefly registant's method of estimating the amount of that provision. An explicit provision is one in which the reserving system requires the estimation of a separate provision for inflation. The rates may be generated by the system or obtained from other appropriate sources. If the registrant makes implicit provision for the effects of inflation or for the combined effects of a number of factors (including inflation) that are expected to cause future changes in claims severities describe the circumstances on which management relies in concluding that the implicit provision is adequate. Provisions for inflation for this purpose may be taken to mean provision for any change in average claim severities if this permits more meaningful disclosure.

(4) State the amount of the difference, if any, between GAAP basis P/C reserves for claims and claim adjustment expenses for each of the groups mentioned in the next to last paragraph of Item 1 of this Guide and statutory P/C reserves for claims and claim adjustment expenses in total for each of those groups. Explain briefly the nature and amount of principal differences.

(5) State the amount (estimated if necessary) by which GAAP basis claim reserves have been discounted. State also the effect (estimated if necessary) on pre-tax income (loss) of discounts accrued and the effect of discounts amortized. Described briefly the principal types of business for which reserves are discounted.

PART 241—INTERPRETIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

10. By amending Part 241 by adding this release to the list of interpretive releases set forth thereunder.

11. By conforming Exchange Act Industry Guide 4 [Disclosures Concerning Unpaid Claims and Claim Adjustment Expenses of Property Casualty Underwriters] to Securities Act Industry Guide 6 as follows:

Guide 4. Disclosures Concerning Unpaid Claims and Claim Adjustment Expenses of Property Casualty Underwriters.

The Guide applies to the description of business portion of registration statements filed on Form 10 (Item 1) [17 CFR 249.210], in proxy and information statements relating to mergers, consolidations, acquisitions, and similar matters (Item 14 of Schedule 14A and Item 1 of Schedule 14C) [17 CFR 240.14a–101 and 240.14c–101], and in reports filed on Form 10–K (Item 1) [17 CFR 249.310].

[The balance of the Guide is identical to Securities Act Industry Guide 6.]

VII. Statutory Authority

The Commission is requiring the additional disclosure concerning property-casualty insurance claims reserves pursuant to the authority in Sections 6, 7, 8, 10, 19(a) and Schedule A (25) and (26) [15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77aa(25) and (26)] of the Securities Act of 1933; Sections 12, 13, 14, 15(d) and 23(a) [15 U.S.C. 78*l*, 78m, 78n, 78o(d), 78(a)w] of the Securities Exchange Act of 1934.

Dated: November 27, 1984.

By the Commission.

Shirley E. Hollis,

Acting Secretary.

Final Regulatory Flexibility Analysis

This final regulatory flexibility analysis, has been prepared in accordance with 5 U.S.C. 604(a). It relates to requirements for disclosure of information concerning management's historical ability to provide appropriate property-casualty ("P/C") insurance reserves for unpaid claims and claim adjustment expenses. The corresponding initial regulatory flexibility analysis ("IRFA") appears at 49 FR 6911 (Release No. 33–6513).

1. *Need for and Objectives of the Rule.*

The Commission believes that currently required disclosures with respect to the financial position and results of operations of P/C underwriters may not be adequate to permit users to evaluate reserve estimation practices and experience of registrants with significant P/C reserves.

The objective of the required disclosures is to provide investors with information about deficiencies and redundancies in previously estimated reserves and about results of P/C underwriting operations to permit better understanding of reserving practices and experience and a comparison of reserving experience between registrants.

2. *Issues Raised by Public Comments.*

Three industry commentators specifically addressed issues commented upon in the IRFA. One financial analyst expressed his agreement with the IRFA as a whole.

The industry commentators focussed on statements in the proposal to the effect that there would be no new recordkeeping requirements because the necessary data is already generated for use in reports to state regulators. They pointed out that:

—Preparing the proposed exhibits and schedules, in formats different from those used in statutory annual statements, would require a substantial amount of time, talent and expense.

—Foreign subsidiaries, in general, do not now report to anyone on the basis used by U.S. insurers to report to state regulatory authorities. It would be costly to develop new recordkeeping systems to comply with the proposed requirements, and foreign competitors, mutual companies and nonregistered insurers are unlikely to accept such costs.

Other comments indicate that the amount of data generated by requirements to present reserve deficiencies and redundancies by statutory lines of business would be excessive for average investors and too restricted in approach to satisfy the needs of financial analysts.

The Commission has considered the questions raised of cost involved in complying with the proposed disclosure requirements and has concluded that the costs of disaggregating financial statement amounts presented in accordance with generally accepted accounting principles ("GAAP") by the lines of business used in reporting to state regulators exceed the benefits to be derived from that presentation. Therefore disclosure requirements have been revised to eliminate the disaggregation of GAAP amounts by regulatory lines of business. The final rules require filing of information in the same format and on the same statutory basis as that filed with state regulatory authorities. An exemption from the requirement has been provided for those entities that are not required to file with state regulatory authorities.

3. *Significant Alternatives.*

Significant alternatives included exempting small entities from all or parts of the proposal. But, doing so would be inconsistent with the Commission's statutory mandate to ensure full disclosure of material facts concerning reporting companies. Furthermore, the Commission believes that the comparability of financial disclosures of the kind now being adopted is such an essential aspect of

financial reporting that an exemption or an alternate approach designed particularly for small entities would not be appropriate.

In the Commission's view, the fundamental performance standard for financial reporting is the presentation of all information material for rational investment decisions. The Commission has historically acted to require disclosures which appeared necessary for investor analysis of issuers' financial condition and operating performance when such information was not called for by generally accepted accounting principles.

[FR Doc. 84-31558 Filed 12-5-84; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS VINCENNES (CG 49) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, and Annex I, section 3(a), pertaining to the horizontal distance between the forward and aft masthead lights. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: October 2, 1984.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400. Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605 and Executive Order 11964, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS VINCENNES (CG 49) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, and Annex I, section 3(a), pertaining to the horizontal distance between the forward and aft masthead lights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special functions and purposes of the ship. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. Table Five of section 706.2 is amended by adding the following Navy ship to the list of vessels therein to indicate the certifications issued by the Secretary of the Navy:

TABLE 5

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	Aft masthead light not less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS VINCENNES	CG 49						X	X	38

(Executive Order 11964; 33 U.S.C. 1605)

Dated: October 2, 1984.

John Lehman,

Secretary of the Navy.

[FR Doc. 84-31844 Filed 12-5-84; 8:45 am]
BILLING CODE 3810-AE-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD 11-84-05]

Special Anchorage Areas; Dangling Rope Canyon and Hite in Lake Powell, UT

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This regulation changes the special anchorage area in Forbidding Canyon, Utah, to Dangling Rope Canyon, Utah, and establishes a new special anchorage area in Hite, Utah. This action is being taken to conform the anchorages to existing marinas and protect the safety of persons and property involved.

EFFECTIVE DATE: The amendment is effective January 7, 1985.

FOR FURTHER INFORMATION CONTACT: Lieutenant Louis S. Stanton, Marine Safety Division, Eleventh Coast Guard District, 400 Oceangate, Long Beach, CA 90822. Phone Number: (213) 590-2301.

SUPPLEMENTARY INFORMATION: On September 24, 1984 the Coast Guard published a notice of proposed rulemaking in the Federal Register (49 FR 37472). Interested persons were requested to submit comments and no comments were received.

Drafting Information

The drafters of this regulation are Lieutenant L.S. Stanton, project officer, and Lieutenant C.M. McNally, project attorney, Eleventh Coast Guard District Legal Office.

Economic Assessment and Certification

This regulation is considered to be non-major under executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26,

1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. Neither the relocating of the Forbidding Canyon anchorage to Dangling Rope Canyon nor establishing an anchorage at Hite will adversely affect any known commercial enterprise. Each measure is designed to make the location of the anchorage in question conform to the actual location of an existing marina.

Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 110.

Anchorage grounds.

Final Regulation

PART 110—[AMENDED]

In consideration of the foregoing, § 110.127a of Title 33, Code of Federal Regulations is amended as follows:

1. By revising paragraph (d) and adding paragraph (f) to read as follows:

§ 110.127a [Amended]

* * * * *

(d) *Dangling Rope Canyon, Utah.* That portion of Dangling Rope Canyon, Lake Powell, enclosed by the shoreline and a line connecting the following points, excluding a 200-foot-wide fairway, extending southerly from the marina, as established by the Superintendent, Glen Canyon National Recreation Area:

Latitude	Longitude
"a" 37°06'48" N	111°05'00" W.
"b" 37°07'15" N	111°05'03" W.
"c" 37°07'19" N	111°04'49" W.
"d" 37°08'08" N	111°04'00" W.
"e" 37°07'30" N	111°04'30" W.
"f" 37°07'20" N	111°04'15" W.

* * * * *

(f) *Hite, Utah.* That portion of Lake Powell enclosed by the shore and by lines connecting the following two sets of points, excluding a 200-foot-wide fairway extending westerly from the launching ramp on the far shore, as established by the Superintendent, Glen Canyon National Recreation area:

Latitude	Longitude
East Shore	
"a" 37°51'40" N	110°23'45" W.
"b" 37°51'40" N	110°24'05" W.
"c" 37°52'30" N	110°24'00" W.
"d" 37°52'30" N	110°23'35" W.
North Wash	
"a" 37°52'00" N	110°24'45" W.
"b" 37°52'40" N	110°24'45" W.

(33 U.S.C. 2030, 2035, and 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g))

Dated: December 3, 1984.

F.P. Schubert,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 84-31855 Filed 12-5-84; 8:45 am]

BILLING CODE 4910-14-M.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

45 CFR Part 96

Low Income Home Energy Assistance; Announcement of FY 1985 State Median Income

AGENCY: Social Security Administration, HHS.

ACTION: Rule related notice.

SUMMARY: This notice states the median income of four-person households for each State and the District of Columbia for FY 1985. This listing of median incomes concerns maximum income for the households to which the States may make home energy assistance payments.

FOR FURTHER INFORMATION CONTACT: Barbara Levering (202) 245–2637.

SUPPLEMENTARY INFORMATION: Under the provisions of section 2603(7) of Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) we are announcing the median income of four-person households in each State, the District of Columbia, and the entire U.S., for the period of October 1, 1984 through September 30, 1985. The purpose of this announcement is to provide information on one of the income criteria for eligibility under the Low Income Home Energy Assistance Program (LIHEAP). Section 2605(b)(2)(B)(ii) of Pub. L. 97–35 provides that 60 percent of the median income for a State, as annually established by the Secretary of Health and Human Services, is one of the income eligibility criteria under LIHEAP.

The Low Income Home Energy Assistance Program is reauthorized through the end of fiscal year 1986 by the provisions of title VI of "The Human Services Reauthorization Act"—Pub. L. 98–558—enacted on October 30, 1984. Under this enacted legislation, the current income eligibility provisions relating to median income remain unchanged.

Estimates of the median income of four-person households for each State and the District of Columbia for fiscal year 1985 are developed by the Bureau of the Census. In developing the median incomes, the Bureau of the Census uses three sources of data: (1) The March 1983 Current Population Survey; (2) the 1980 Census of Population; and (3) estimates of per capita income from the Bureau of Economic Analysis. Our methodology for adjusting median income to households of different sizes is specified in 45 CFR 96.85 (which was published in the **Federal Register** on July 2, 1984 at 49 FR 27145).

The State-by-State listing of median income and the 60 percent of median income requirement for a four-person household in that state for fiscal year 1985 is attached.

Dated: November 27, 1984.

Martha A. McSteen,

Acting Commissioner of Social Security.

MEDIAN INCOME FOR FOUR-PERSON HOUSEHOLDS: FISCAL YEAR 1985

State	Median income [1]	60 percent of median income [2]
Alabama	$24,181	$14,509
Alaska	31,823	19,094
Arizona	29,835	17,901
Arkansas	20,710	12,426
California	29,885	17,931
Colorado	30,663	18,398
Connecticut	35,361	21,217
Delaware	30,498	18,299
District of Columbia	26,897	16,138
Florida	25,745	15,447
Georgia	26,935	16,161
Hawaii	30,019	18,011
Idaho	23,529	14,117
Illinois	29,758	17,855
Indiana	26,123	15,674
Iowa	26,129	15,677
Kansas	23,956	14,374
Kentucky	23,732	14,239
Louisiana	27,165	16,299
Maine	23,036	13,822
Maryland	32,456	19,474
Massachusetts	30,327	18,196
Michigan	28,125	16,875
Minnesota	28,666	17,200
Mississippi	22,247	13,348
Missouri	26,035	15,621
Montana	24,965	14,979
Nebraska	25,372	15,223
Nevada	28,411	17,047
New Hampshire	28,810	17,286
New Jersey	32,781	19,669

MEDIAN INCOME FOR FOUR-PERSON HOUSEHOLDS: FISCAL YEAR 1985—Continued

State	Median income [1]	60 percent of median income [2]
New Mexico	23,642	14,185
New York	28,730	17,238
North Carolina	24,085	14,451
North Dakota	26,361	15,817
Ohio	27,100	16,260
Oklahoma	27,461	16,477
Oregon	25,988	15,593
Pennsylvania	27,209	16,325
Rhode Island	28,170	16,902
South Carolina	23,490	14,094
South Dakota	22,009	13,205
Tennessee	23,875	14,325
Texas	28,581	17,149
Utah	25,877	15,526
Vermont	23,797	14,278
Virginia	28,528	17,117
Washington	29,972	17,983
West Virginia	22,425	13,455
Wisconsin	27,873	16,724
Wyoming	29,582	17,749

[1] Developed by the bureau of the Census from the March 1983 Current Population Survey, 1980 Census of Population, and per capita income estimates from the Bureau of Economic Analysis.

[2] Prepared by the Social Security Administration, Office of Family Assistance.

Note.—The median income for a four-person household in the 50 States and the District of Columbia applicable to the period October 1, 1984 through September 30, 1985 is $27,619.

[FR Doc. 84-31697 Filed 12-5-84; 8:45 am]

BILLING CODE 4190-11-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 84-553]

Delegating Authority to the Office of General Counsel To Issue Written Determinations Regarding the Interception of Phone Conversations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted an *Order* which delegates authority to the Office of General Counsel to issue written determinations regarding the interception of telephone calls as required by GSA regulations. These new rules will facilitate the issuance of written determinations, and ensure compliance with GSA's regulations.

EFFECTIVE DATE: December 31, 1984.

FOR FURTHER INFORMATION CONTACT: Joseph M. McBride, Legal Counsel Division, Office of General Counsel (202) 632-6990.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 0

Organization and functions (government agencies).

Order

In the matter of amendment of Part 0 of the Commission's rules and regulations to delegate authority to the Office of General Counsel to issue written determinations regarding the interception of telephone conversations.

Adopted: November 19, 1984.
Released: November 23, 1984.

By the Commission.

1. The General Services Administration's (GSA's) regulations generally prohibit the consensual listening-in or recording of telephone conversations on the Federal Telecommunications System or any other telephone system approved in accordance with the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 481(a) (1) and (3), except under six enumerated circumstances. For example, GSA's regulations permit the interception of telephone conversations for law enforcement, counter-intelligence, public safety and service monitoring purposes, to aid a handicapped employee whenever certain requirements are met, and whenever the consent of all parties has been obtained for each specific instance of interception. In many of these instances, however, GSA's regulations also require that the agency head or his designee either issue a written determination approving the interception or be informed of any proposed interception on the part of any official or employee. *See* 5 CFR 101-37.311-3 (c), (d), and (f); 5 CFR 101-37.311-4(a).

2. The purpose of this order is to amend Commission rules to delegate authority to the Office of General Counsel to issue written determinations regarding the interception of telephone conversations. The delegation of authority to the Office of General Counsel to issue such written determinations will enable that Office to exercise its expertise in these matters and will facilitate the issuance of written determinations. Moreover, through such oversight the General Counsel's Office can ensure compliance with GSA's regulations, in particular the responsibilities imposed upon the agency by § 101-37.311-4.

3. Authority for this delegation of authority is contained in section 5(c)(1) of the Communications Act of 1934, as amended.

4. Accordingly, it is ordered that the amendments set forth in attached Appendix are effective December 31, 1984.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 0—[AMENDED]

Appendix

Part O of the Commission's Rules and Regulations is hereby amended as follows:

1. Section 0.41 is amended by the addition of the following paragraph (n):

§ 0.41 Functions of the Office.

* * * * *

The Office of the General Counsel has the following duties and responsibilities:

* * * * *

(n) To issue written determinations on behalf of the Chairman, and otherwise act as the Chairman's designee on matters regarding the interception of telephone conversations, as required by the General Services Administration's regulations. 47 CFR 101-37.311 *et seq.*

* * * * *

2. Section 0.251 is amended by the addition of the following paragraph (h):

§ 0.251 Authority delegated.

* * * * *

(h) The General Counsel is delegated authority to issue written determinations on behalf of the Chairman, and otherwise act as the Chairman's designee on matters regarding the interception of telephone conversations, as required by the General Services Administration's regulations. 47 CFR 101-37.311 *et seq.*

[FR Doc. 84-31742 Filed 12-5-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-72; RM-4644]

FM Broadcast Station in Houston, AK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 232A to Houston, Alaska, in response to a petition filed by Evangelistic Alaskan Missionary Fellowship.

EFFECTIVE DATE: February 4, 1985.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations. (Houston, Alaska) (MM Docket 84-72, RM-4644).

Adopted: November 16, 1984.
Released: November 29, 1984.

By the Chief, Policy and Rules Division.

1. In response to a petition filed by the Evangelistic Alaskan Missionary Fellowship ("petitioner"), the Commission adopted the *Notice of Proposed Rule Making*, 49 FR 5630, published February 14, 1984, which proposed the assignment of Channel 237A to Houston, Alaska. Petitioner filed comments in support of the proposal.

2. The *Notice* proposed Channel 237A for assignment to Houston. However, that assignment would be short-spaced to a recent assignment of Channel 239 at Palmer, Alaska (Docket 84-15). A staff study indicates that Channel 232A can be assigned to Houston in compliance with the minimum distance separation requirements. The petitioner has indicated its willingness to apply for Channel 232A.

3. In view of the interest expressed by the petitioner in providing Houston with its first local FM service, we believe that the assignment would be in the public interest. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective February 4, 1985, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended as follows:

City	Channel No.
Houston, Alaska	232A

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

5. For further information concerning this proceeding, contact Montrose H. Tyree.

(Secs. 4, 303, 48 stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-31802 Filed 12-5-84; 8:45 am]

BILLING CODE 6712-10-M

47 CFR Part 73

[MM Docket No. 84-107; RM-4609]

FM Broadcast Station in Greenwood, and Barling, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 233A to Barling, Arkansas, in response to a petition filed by New Life Broadcasting. The assignment could provide a first broadcast service for Barling.

EFFECTIVE DATE: February 4, 1985.

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

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: .

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations.[1] (Greenwood, and Barling, Arkansas) (MM Docket, No. 84-107, RM-4609, RM-4817).

Adopted: November 15, 1984.
Released: November 29, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 49 FR 5775, published February 15, 1984, issued in response to a petition filed by New Life Broadcasting ("petitioner"), proposing the assignment of 285A to Greenwood, Arkansas, as that community's second FM service. Petitioner filed a counterproposal requesting the assignment of Channel 285A to Barling, Arkansas,[2] and stated that it could locate a transmitter site that meets the spacing requirements. Petitioner also states that Barling is more in need of a channel as it has no local aural service while Greenwood has both an AM and an FM station. No other comments were received.

2. A staff study indicates that Channel 285A could be assigned to Barling with a site restriction 5.4 miles south of the community. This would also meet the spacing requirements to an application filed by KCIZ, Channel 285A, Springdale, Arkansas, to relocate its transmitter. However, it would not provide the 16 kilometer buffer zone for Station KMJX, Channel 286, Conway, Arkansas.[3] Although Channel 285A can be assigned to Barling consistent with the decision in Dkt. 80-90, we have determined that another channel (233A) is available for assignment without a site restriction.

3. In view of the above considerations, we believe the public interest would be served by the assignment of Channel 233A since it could provide for a first FM broadcast facility to Barling.

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(C)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective February 4, 1985, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended as follows:

City	Channel No.
Barling, Arkansas	233A

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

6. For further information concerning the above, contact Kathleen Scheuerle, Mass Media Bureau (202) 634-6350.

(Secs. 4, 303, 48 stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-31803 Filed Filed-12-6-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-516; RM-4695]

FM Broadcast Station in Corcoran, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 272A to Corcoran, California, as its first FM allocation, at the request of Leroy Demery.

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

[2] Petitioner originally requested assignment of Channel 285A to Barling, Arkansas, but by its own admission, at that time, did not have an adequate transmitter site to serve Barling with a 70 dBu signal. Thus it suggested the assignment of Channel 285A to Greenwood or Fort Chaffee, Arkansas, either of which they apply for.

[3] Existing Class C stations with less than a 300 meter antenna height are now permitted a 16 kilometer buffer zone. However, this requirement does not apply to proceedings initiated before March 1, 1984. See BC Docket 80-90, 94 F.C.C. 2d 152 (1983), *recons.* 49 FR 10460, published March 20, 1984.

EFFECTIVE DATE: February 4, 1985.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (Corcoran, California) (MM Docket 84–516, RM–4695).

Adopted: November 15, 1984.
Released: November 29, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 49 FR 24391, published June 13, 1984, proposing the assignment of Channel 272A to Corcoran, California, as its first FM allocation. The *Notice* was issued in response to a petition filed by Leroy Demery ("petitioner"). Supporting comments were filed by the petitioner reaffirming his intention to apply for the channel, if assigned.

2. The Commission believes that the public interest would be served by the assignment of Channel 272A to Corcoran, California, in order to provide that community with its first FM allocation. Channel 272A can be assigned to Corcoran in compliance with the minimum distance separation requirements of § 73.207 of the Rules.

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective February 4, 1985, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the following community:

City	Channel No.
Corcoran, California	272A

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

5. For further information concerning the above, contact Montrose H. Tyree (202) 634–6530.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–31806 Filed 12–5–84; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 83–1134; RM–4527]

FM Broadcast Station in Norway, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 232A to Norway, Michigan, as that community's first FM assignment, in response to an expression of interest filed by James J. McClusky.

EFFECTIVE DATE: February 4, 1985.

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

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b) table of assignments, FM broadcast stations. (Norway, Michigan) (MM Docket No. 83–1134, RM–4527).

Adopted: November 16, 1984.
Released: November 29, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 48 FR 50578, published November 2, 1983, proposing the assignment of Channel 232A to Norway, Michigan, as that community's first FM assignment. The *Notice* was adopted in response to a petition filed by Robert A. Sherman ("petitioner"). Petitioner has filed comments withdrawing his interest in the proposed assignment. However, James J. McClusky has filed comments expressing his intention to apply for the channel, if assigned. No comments in opposition or other expressions of interest in the proposal were received.

2. The channel can be assigned in compliance with the Commission's minimum distance separation and other technical requirements. It is noted that the assignment will infringe upon the 16 kilometer buffer of Station WDOR–FM, Channel 230, Sturgeon Bay, Wisconsin. However, as the petition for rule making was filed prior to March 1, 1984, the date on which the buffer zone was established, it is not required that such protection be afforded. See, *Memorandum Opinion and Order*, BC Docket 80–90, 49 FR 10260, published March 20, 1984, and Public Notice, *Implementation of BC Docket 80–90, The Commission Does Not Contemplate a General Freeze*, Mimeo No. 1306, December 9, 1983.

3. Canadian concurrence in the assignment was requested as Norway, Michigan is located within 320 kilometers (200 miles) of the U.S.-Canadian border. That concurrence has been received.

4. We find that the public interest would be served by the assignment of Channel 232A to Norway, Michigan in order to provide that community with its first FM assignment. Accordingly, pursuant to the authority found in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective February 4, 1985, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the community listed below, to read as follows:

City	Channel No.
Norway, Michigan	232A

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

6. For further information concerning this proceeding, contact D. David Weston, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–31801 Filed 12–5–84; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 84–277; RM 4630]

FM Broadcast Station in Eveleth, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 250 to Eveleth, Minnesota, and modifies the license of Station WEVE–FM to specify the use of Channel 250 in lieu of Channel 261A, in response to a

petition filed by Iron Range Broadcasting, Inc.

EFFECTIVE DATE: February 4, 1985.

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

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b) table of assignments, FM broadcast stations. (Eveleth, Minnesota) (MM Docket No. 84–277, RM–4630).

Adopted: November 16, 1984.
Released: November 29, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 49 FR 12284, published March 29, 1984, proposing the substitution of Class C Channel 250 for Channel 261A at Eveleth, Minnesota, and modification of the license for Station WEVE–FM, Channel 261A, to specify operation on Channel 250. The *Notice* was issued in response to a petition filed by Iron Range Broadcasting, Inc. ("petitioner"), licensee of Station WEVE–FM Channel 261A, Eveleth, Minnesota. Supporting comments were filed by petitioner reaffirming its intention to file for the channel, if assigned. No oppositions to the proposal were received.

2. The substitution on Class C Channel 250 for 261A can be made in conformity with the minimum distance separation requirements of § 73.207 of the Commission's Rules with a site restriction 10.5 miles southeast of Eveleth, Minnesota. As proposed in the *Notice* and since no other comments have been received expressing an interest in the use of the new channel, we are herein modifying the license of Station WEVE–FM to specify operation on Channel 250 in lieu of Channel 261A. See, *Cheyenne, Wyoming*, 62 FCC 2d 63 (1976).

3. We believe the public interest would be served by the substitution of Class C Channel 250 of Channel 261A at Eveleth, Minnesota, since it could provide service to an expanded coverage area in that region. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective February 4, 1985, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with respect to the community listed below as follows:

City	Channel No.
Eveleth, Minnesota	250

4. It is further ordered, pursuant to the authority contained in section 316 of the Communications Act of 1934, as amended, that the license of Station WEVE–FM, Eveleth, Minnesota, is modified to specify operation on Channel 250, subject to the following conditions:

(a) The licensee shall file with the Commission a minor change application for a construction permit (Form 301), specifying the new facilities.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

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

6. For further information concerning this proceeding, contact D. David Weston, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–31804 Filed 12–5–84; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 84–376; RM–4633]

FM Broadcast Stations in Abilene and Tye, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein (1) assigns FM Channel 292A to Abilene, Texas, in response to a petition filed by James F. Sayre; and (2) reassigns FM Channel 257A from Abilene to Tye, Texas, to reflect its actual use in that community.

EFFECTIVE DATE: February 4, 1985.

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

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations. (Abilene and Tye, Texas) (MM Docket No. 84–376 RM–4633).

Adopted: November 15, 1984.
Released: November 29, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 49 FR 18139, published April 27, 1984, proposing the assignment of FM Channel 292A to Abilene, Texas, and the reassignment of FM Channel 257A from Abilene to Tye, Texas, to reflect its actual use in that community. The *Notice* was adopted in response to a petition filed by James F. Sayre ("petitioner"). Petitioner failed to file timely comments but did file supporting comments reaffirming its intention to apply for the channel, if assigned.[1] No oppositions or other comments expressing an interest in the proposal were received.

2. Petitioner's comments, although untimely, reflect its present intention to apply for the proposed channel. Requiring this intention to be expressed in a new petition for rulemaking, rather than accepting the comments in this proceeding, would serve no useful purpose particularly since ample opportunity to comment has already been afforded and no other party has expressed an interest in or opposition to the proposed assignment. The public interest favors prompt institution of needed services, a goal best achieved here by accepting petitioner's late filed comments as a statement of continuing interest permitting us to make the requested assignment.

3. In view of the above, we believe that the public interest would be served by the assignment of FM Channel 292A to Abilene, Texas, since it could provide that community with its fourth FM broadcast service. The assignment can be made in compliance with the minimum distance separation requirements of § 73.207 of the

[1] The comment deadline was June 15, 1984. Comments were filed on August 5, 1984. Petitioner's consultant states that during the comment period petitioner's original consultant left the "communications field" and it had only recently become aware that supporting comments had not been filed.

Commission's Rules. Further, as stated in the *Notice*, we are also reassigning FM Channel 257A from Abilene, Texas, to Tye, Texas, to reflect its actual usage in that community.

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective February 4, 1985, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended as follows:

City	Channel No.
Abilene, Texas	264, 286, 292A, 300
Tye, Texas	257A

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

6. For further information concerning the above, contact D. David Weston, Mass Media Bureau, (202) 634–6530).

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–31805 Filed 12–5–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 84–110; RM–3046; FCC 84–549]

Remote Control Operation of AM, FM, and TV Broadcast Transmitters

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends the FCC rules regulating the operation of AM, FM, and TV broadcast transmitters. The existing separate rules for each of the three types of broadcast stations are being removed in their entirety and a new simplified rule with uniform provisions for all stations replaces the removed rules. This action is necessary so that broadcast stations can use new and innovative electronics technology and to remove technical and operating rules that no longer serve regulatory purposes.

EFFECTIVE DATE: December 1, 1984.

FOR FURTHER INFORMATION CONTACT: John W. Reiser, Mass Media Bureau, (202) 632–9660.

Lists of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of Part 73 concerning remote control operation of AM, FM, and TV broadcast transmitters (MM Docket No. 84–110, RM–3046).

Adopted: November 19, 1984.
Released: November 21, 1984.

By the Commission:

Introduction

1. This proceeding was initiated by a *Notice of Proposed Rule Making* adopted February 3, 1984, and published in the **Federal Register** at 49 FR 3221. The *Notice* was in response to a petition filed by George E. Molnar, Jr., supported by eight other parties of interest, seeking amendments that would modify the procedures under which AM, FM, and TV broadcast stations operate their transmitting systems by remote control.

Comments

2. The *Notice* proposed and invited comments on rule amendments which, if adopted, would make substantive changes in both the equipment requirements and operating procedures applicable to broadcast remote control operation. Eleven formal and two informal comments were filed. One reply comment was filed. A list of the parties filing pleadings is contained in Appendix A. All parties except Mr. Alvin C. Saltzman favored the deregulatory objective of the proposed rule amendments. Many, however, objected to one or more of the specific provisions of the proposed rules.

3. Nearly all respondents stated that the primary difficulty with remote control operation under the present rules is the fail-safe requirement. Currently, remote control operation of the transmitter must immediately cease if the control circuit is interrupted. Stations apparently experience occasional loss of service due to short term disruptions in control circuits.

4. While many comments were made suggesting adjustments or clarifications of certain specific provisions in the proposed rules, two significant new issues were raised in the comments. The National Association of Broadcasters (NAB) stated that the current remote control rules are unnecessarily complex and suggested that revised rules need only contain two regulatory provisions: (1) Permit the use of remote control for broadcast facilities, and (2) restrict required control functions to those mandated by law, national security, or public safety. The Association of Federal Communications Consulting Engineers (AFCCE) suggested that termination of operation is not necessary if an AM station fails to switch operating modes and does not cause interference. A nondirectional station that operates at its authorized reduced nighttime power during daytime hours is an example of this type of situation.

Discussion

5. The present remote control rules were derived from the transmitter duty operator rules which are, in turn, based upon section 318 of the Communications Act of 1934, as amended. That statute requires that all broadcast stations be operated under the control of a licensed operator. The Act does not specify the duty location of the operator nor the necessary degree of control of either the transmitter or other station technical functions. However, the Commission's rules now require a licensed operator to be on duty at the transmitter site or at a control point shown on the station license. Also, each remote control point used must: (1) Have equipment permitting the operator to determine the station's operating power and other transmitter conditions, (2) permit certain adjustments, (3) be inaccessible to unauthorized persons, and (4) not permit the transmitter to turn on inadvertently without operator supervision. The existing rules also require stations to have an operator in attendance at the actual transmitter site whenever the control or metering circuits between the transmitter and remote control location are disrupted or do not function correctly.

6. The present rules were written at a time when the available broadcast technology required that the duty operator make frequent observations and transmitter adjustments. Also, the Commission considered it essential to be able to immediately contact the duty operator during all hours of operation. Revision of the remote control rules must address the current validity of these concepts.

7. The Commission shares the concern of the licensees in that short-term losses of control or telemetry should not be cause for immediate termination of operation. Accordingly, the new rules will permit continued operation following a loss of transmitter control, pending repair of the control circuits, as long as the station continues to operate properly. Loss of telemetry, on the other hand, means that the transmitter parameters cannot be monitored remotely. Therefore, the amended rules will require termination of use of remote control within three hours after detection of the telemetry failure. Although CBS recommended six hours, the majority of the commenters on this

subject concurred with the proposed three hour period.

8. The considerable variation in the several classes of broadcast stations leads to difficulty in writing technical rules that would be practical for every licensee. Indeed, a review of the comments clearly indicates that the simplest approach is the best in the interest of both broadcasters and the public. Remote control technology has far outstripped the simplistic "on-off, raise-lower, read meter" concept upon which the original remote control rules were based, and the rules should reflect those advances, as well as permit use of future developments.

Conclusions

9. The Communications Act requires that a licensed operator have supervisory control over the station's transmitter during all periods of operation. However, that operator need only be able to terminate the station's operation should it be the source of harmful interference or be operating inconsistently with law or treaty. Meters, alarms or automatic controls could be used to facilitate this supervisory control. Therefore, the amended rules are devoid of "how to" or methodology provisions. Rather, the rules place responsibility on each licensee to assure compliance with the station authorization. The existing rules already provide tolerances for those operating parameters considered necessary for correct broadcast station operation.

10. The Commission, continues to believe that it must be able to contact stations during operation. Therefore, the use of remote control at sites other than at the main studio or transmitter address must be identified to the Commission if the station cannot be contacted during operation at either the studio or transmitter locations.

11. We agree with AFCCE's comments that a station need not terminate operation in cases where an inability to change operating modes will not cause impermissible interference. The amended rules will permit continued operation in a mode having lesser radiation at all bearings and elevations than that authorized following a temporary failure in mode switching functions.

12. The Commission has consistently held in previous proceedings that licensees should have flexibility in operating their stations.[1] Consequently, we have chosen an approach that meets the basic requirements of the Communications Act while allowing licensees maximum flexibility in meeting those requirements. In general, licensees may operate their stations by remote control using any method that assures that: (1) An operator is on duty, (2) the transmitting system operates properly, and (3) the Commission can contact station personnel during hours of operation.

13. Accordingly, it is ordered that Part 73 of the Commission's rules is amended as set forth in the attached Appendix B effective December 1, 1984.

14. It is further ordered that the Secretary shall cause a copy of this *Report and Order* to be furnished to the Small Business Administration.

15. It is further ordered that this proceeding is terminated.

Regulatory Flexibility Analysis

I. *Need and purpose of the rule.* The amended rules remove separate and diverse rules for AM, FM, educational FM, and TV broadcast stations, and replace the removed rules with a common rule applicable to all classes of broadcast stations. Licensees will have complete freedom to choose remote control equipment that meets their individual needs.

II. *Legal basis.* The Rule amendments made by this *Report and Order* are authorized under sections 303(f) and 303(r) of the Communications Act of 1934, as amended, in order that stations operate in a manner consistent with the terms of their authorizations and without causing harmful interference to other radio communications services.

III. *Description, potential impact, and number of small entities affected.* This action would simplify the technical equipment and operating requirements for all AM, FM, and TV broadcast stations that operate their transmitting facilities by remote control. Nearly 6,000 stations will be affected. Further, approximately twenty manufacturers of broadcast transmitting equipment will be able to market remote control devices using advanced technology that the present rules constrain or prohibit.

IV. *Recording, record keeping, and other compliance requirements.* The amended rules impose no record keeping requirements, nor do they require any additional application or notification procedures.

V. *Federal rules which overlap, duplicate, or conflict with this rule.* None.

VI. *Significant alternatives not adopted.* The rules hereby amended incorporate all significant suggestions submitted in response to the *Notice of Proposed Rule Making* and resolve all issues of concern.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Commenters

Association of Federal Communications Consulting Engineers Broadcast Licensees
CBS, Inc.
John Davis, Broadcast Consulting Engineer
National Association of Broadcasters
National Radio Broadcasters Association
Nebraska Educational Television System
Jim Paffenbarger, Station WUOM
Practical Engineering
Alvin C. Saltzman
Sterling Recreation Organization Co.
Arthur Vrooman, Stations WJAC–AM–FM–TV
Edward Y. Wright, Station WRVO

Reply commenters

National Association of Broadcasters

Appendix B

PART 73—[AMENDED]

The following amendments are made to Title 47, Part 73 of the Code of Federal Regulations:

§ 73.66 [Removed]

1. 47 CFR 73.66 is removed in its entirety.

§ 73.67 [Removed]

2. 47 CFR 73.67 is removed in its entirety.

§ 73.274 [Removed]

3. 47 CFR 73.274 is removed in its entirety.

§ 73.275 [Removed]

4. 47 CFR 73.275 is removed in its entirety.

§ 73.574 [Removed]

5. 47 CFR 73.574 is removed in its entirety.

§ 73.575 [Removed]

6. 47 CFR 73.575 is removed in its entirety.

[1] Refer to the deregulation of the licensing requirements for radio operators, (See *Report and Order* in Docket 20817 at 46 FR 35450) and deletion of the technical log keeping requirements (See *Report and Order* in Docket 82–536, at 48 FR 28457).

§ 73.676 [Removed]

7. 47 CFR 73.676 is removed in its entirety.

§ 73.677 [Removed]

8. 47 CFR 73.677 is removed in its entirety.

§ 73.3548 [Removed]

9. 47 CFR 73.3548 is removed in its entirety.

10. In 47 CFR, new § 73.1400 is added to read as follows:

§73.1400 Remote control authorizations.

(a) An AM, FM, or TV station transmission system may be operated by remote control using the procedures described in § 73.1410.

(b) No authorization from the FCC is required to operate the transmission system of an AM station operating with a nondirectional antenna, FM station, or TV station by remote control. Authority to operate an AM station using a directional antenna system by remote control is obtained using the following procedures:

(1) An application for a construction permit to erect a new directional antenna or make modifications in an existing directional antenna, subject to the sampling system requirements of § 73.68, may request remote control authorization on the permit application FCC Form 301 (FCC Form 340 for noncommercial educational stations).

(2) A licensee or permittee having a sampling system in compliance with the provisions of § 73.68(a) must request remote control authorization on FCC Form 301–A, and submit information showing that the directional antenna sampling system has been constructed according to the specifications of § 73.68(a).

(3) A licensee or permittee of a station not having an approved directional sampling system in compliance with the provisions of § 73.68(a) must request remote control authorization on FCC Form 301–A, and submit information showing that the directional antenna is in proper adjustment and further showing the stability of the antenna system during the 1-year period specified in Section II of Form 301–A.

(c) Whenever a remote control point is established at a location other than at the main studio or transmitter, notification of that remote location must be sent to the FCC in Washington, D.C., within 3 days of initial use of that point. This notification is not required if responsible station personnel may be contacted at the transmitter or studio site during hours of operation when the remote control operator is elsewhere.

11. In 47 CFR, new § 73.1410 is added to read as follows:

§ 73.1410 Remote control operation.

(a) Broadcast stations operated by remote control must provide at remote control points sufficient control and operating parameter monitoring capability to allow technical operation in compliance with the Rules applicable to that station and the terms of the station authorization. AM stations that are required to change modes of operation during the broadcast day must provide sufficient redundency to assure that such mode changes actually occur.

(b) The remote control system must be designed, installed, and protected so that the transmitter can be activated or controlled only by licensed transmitter operators authorized by the licensee.

(c) The remote control and monitoring equipment must be calibrated and tested as often as necessary to ensure proper operation.

(d) The remote control system must be designed so that malfunctions in the circuits between the control point and transmitter will not cause the transmitter to be inadvertently activated or to change operating modes or output power.

(e) Whenever a malfunction causes loss of accurate indications of the transmitter operating parameters, use of remote control must be discontinued within 3 hours after the malfunction is first detected. If the station is found to be operating beyond the terms of the station authorization and such malfunction cannot be corrected by remote control, station operation must be immediately terminated.

(f) AM stations may use amplitude or phase modulation of the carrier wave for remote control telemetry and alarm purposes. FM stations may use aural subcarriers and TV stations may use either aural subcarriers or signals within the vertical blanking interval for telemetry and alarm purposes. Use of such remote control signals must be in accordance with the technical standards for the particular class of station.

§ 73.51 [Amended]

12. 47 CFR 73.51 is amended by changing the reference to rule "73.57" in paragraph (d)(5) to read "73.1410."

§ 73.68 [Amended]

13. 47 CFR 73.68 is amended by removing paragraph (b)(4) and redesignating paragraph (b)(5) as (b)(4).

§ 73.1225 [Amended]

14. 47 CFR 73.1225 is amended by removing subparagraph (c)(1)(iv)(A) and redesignating paragraphs (c)(1)(iv) (B) through (D) as (c)(1)(iv) (A) through (C) respectively.

15. 47 CFR 73.1560 is amended by revising the heading, redesignating existing paragraph (a) as paragraph (a)(1), and adding new paragraph (a)(2) to read as follows:

§ 73.1560 Operating power and mode tolerances.

(a) *AM stations.* (1) * * *

(2) Whenever the transmitter of an AM station cannot be placed into the specified operating mode at the time required, transmissions of the station must be immediately terminated. However, if the radiated field at any bearing or elevation does not exceed that permitted for that time of day, operation in the mode with the lesser radiated field may continue under the notification procedures of paragraph (d) of this section.

* * * * *

§ 73.1570 [Amended]

16. 47 CFR 73.1570 is amended by removing the words "§ 73.67(b) or" from paragraph (b)(1)(ii).

§ 73.1690 [Amended]

17. 47 CFR 73.1690 is amended by revising the words "See § 73.3548" in paragraph (d)(2) to read "See § 73.1400."

Index—[Amended]

18. The alphabetical index to 47 CFR Part 73 is amended by removing all references to rule sections numbered 73.66, 73.67, 73.274, 73.275, 73.574, 73.575, 73.676, 73.677, and 73.3548; and the following listings are added in alphabetical sequence:

Authorization, Remote control	73.1400
Mode tolerances, Operating power and	73.1560
Operating power and mode tolerances	73.1560
Power and mode tolerances, Operating	73.1560
Remote control authorization	73.1400
Remote control operation	73.1410

[FR Doc. 84–31743 Filed 12–5–84; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 258

[Docket No. 41033-4133]

Fishermen's Protective Act Procedures; Fees

Correction

In FR Doc. 84-29354 beginning on page 44474 in the issue of Wednesday, November 7, 1984, make the following correction: On page 44474, in the third column, in § 258.5(b), in the third line, "September 30, 1984" should read "September 30, 1985".

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 49, No. 236
Thursday, December 6, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 434

[Doc. No. 1447S]

Tobacco (Dollar Plan) Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to revise and reissue the Tobacco (Dollar Plan) Crop Insurance Regulations (7 CFR Part 434), effective for the 1985 and succeeding crop years to provide for: (1) Changing to a mandatory "Actual Production History" (APH) basis by removing the Premium Adjustment Table and providing for cancellation for not furnishing records; (2) adding as a cause of loss the unavoidable failure of irrigation water supply; (3) changing the method of computing indemnities when acreage, share or practice is underreported; (4) changing the definition of unit to encompass the entire ASCS farm serial number; and (5) deleting Appendix A. The intended effect of this rule is to comply with the provisions of Departmental Regulation 1512-1 with regard to review of regulations issued by FCIC for need, currency, clarity, and effectiveness. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than January 7, 1985, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512-1 (December 15, 1983). This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is August 1, 1989.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Progam to which this proposed rule apply are: Title—Crop Insurance; Number 10.450.

This program 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 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

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.

Other than minor changes in language and format, the principal changes in the tobacco policy are:

1. *Section 1.a.*—Add the failure of the irrigation water supply because of an unavoidable cause as an insurable cause of loss. This clarifies intent since it is implied as a cause of loss in Section 2.e.(2).

2. *Section 5.a.*—Remove the Premium Adjustment Table. The crop will be insured on an actual production history (APH) basis. Coverages will therefore reflect the actual production history of the crop on the unit. Insureds with good loss experience who are now receiving a premium discount are protected since they will retain any discount under the present schedule through the 1989 crop year or until their loss experience causes them to lose the advantage, whichever is earlier.

3. *Section 5.*—Remove the provisions for the transfer of insurance experience and for premium computation when participation has not been continuous. Deletion of the premium adjustment table eliminates the need for these provisions.

4. *Section 9.d.*—Effective for 1986 and succeeding crop years, allow the guarantee only on the acerage, share, or practice reported but credit production on the acreage, share, or practice actually planted if the acreage, share or practice reported results in a premium less than the acreage, share or practice actually planted. When acres are underreported, the production from all acres will be applied against the reported acres in calculating indemnities. This change will reduce the indemnities when acres are underreported and will reduce the complexity of calculations.

5. *Section 15.c.*—Add a clause to cancel the contract if production history is not furnished by the cancellation date. An exception will be allowed if the insured can show, prior to the cancellation date, that records are unavailable due to conditions beyond the insured's control. This change is required by the change to mandatory APH.

6. *Section 17.c.*—Change the definition for the term "County" to be consistent with other marketing quota crop policies.

7. *Section 17.h.*—Add a definition for the term "Loss ratio" to clarify its use in Section 5.

8. *Section 17.o.*—Change the definition of the term "Unit" to conform to a single ASCS farm serial number. No furtner division will be allowed. This change will reduce the problem of transferring production from one unit to another.

9. In addition to the policy changes FCIC also proposes to eliminate the codification of Appendix A. Federal

crop insurance for tobacco has been expanded into almost all tobacco production counties. The FCIC service offices will be able to advise a producer if tobacco insurance if offered in any county.

FCIC is soliciting comments on this proposed rule for 30 days after publication in the **Federal Register**. All written comments made pursuant to this action will be available for public inspection in the Office of the Manager during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 434

Crop Insurance, Tobacco (Dollar Plan).

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to revise and reissue the Tobacco (Dollar Plan) Crop Insurance Regulations (7 CFR Part 434), effective for the 1985 and succeeding crop years, to read as follows:

PART 434—TOBACCO (DOLLAR PLAN) CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1985 and Succeeding Crop Years

Sec.

434.1 Availability of the dollar plan of tobacco crop insurance.
434.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
434.3 OMB control numbers.
434.4 Creditors.
434.5 Good faith reliance on misrepresentation.
434.6 The contract.
434.7 The application and policy.

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516)

Subpart—Regulations for the 1985 and Succeeding Crop Years

§ 434.1 Availability of the dollar plan of tobacco crop insurance.

Insurance shall be offered under the provisions of this subpart on tobacco in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 434.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for tobacco which will be included in the actuarial table on file in service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 434.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR 434) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

§ 434.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 434.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the tobacco insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation: (1) Is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 434.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the tobacco crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the service offices.

§ 434.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the tobacco crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1985 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a tobacco contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1985 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Tobacco (Dollar Plan) Insurance Policy for the 1985 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporaton

Dollar Plan of Tobacco Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE. We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake;
(7) Volcanic eruption;
(8) Failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(7).

b. We will not insure against any loss of production due to:

(1) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good tabacco farming practices;

(3) The impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured will be tobacco of the type shown as insurable by the actuarial table, which is grown on insured acreage and for which an amount of insurance and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year will be an insurable type of tobacco planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share will be your share as landlord, owner-operator, or tenant in the insured tobacco at the time of planting.

d. We do not insure any acreage:

(1) If the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) On which the tobacco was destroyed for the purpose of conforming with any other program administered by the United States Department of Agriculture;

(3) Which is destroyed, it is practical to replant to tobacco, and such acreage was not replanted;

(4) Initially planted after the final planting date contained in the actuarial table, unless you agree in writing on our form to coverage reduction;

(5) Planted to tobacco of a discount variety under provisions of the tobacco price support program;

(6) Planted to a type or variety of tobacco not established as adapted to the area or excluded by the actuarial table; or

(7) Planted for experimental purposes.

e. If insurance is provided for an irrigated practice:

(1) You must report as irrigated only the acreage for which you have adequate facilities and water to carry out a good tobacco irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good tobacco irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, will be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities will not be considered as a failure of the water supply from an unavoidable cause.

Insurance will not attach on an irrigated basis on acreage otherwise insurable on such basis unless it is designated as irrigated at the time the acreage is reported.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and practice. You must report on our form:

a. All the acreage of insurable types of tobacco in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting;

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any tobacco planted in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Amounts of insurance and coverage levels.

a. The amounts of insurance and coverage levels are contained in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level on or before the closing date for submitting applications for the crop year as established by the actuarial table.

d. In addition to the provisions contained in section 16, if for any crop year the support price per pound is reduced 10 percent or more below the support price per pound for the previous crop year, the dollar amounts of insurance per acre for the current crop year will be adjusted by multiplying the support price per pound (rounded to the nearest cent, less four cents per pound for warehouse charges) for the current crop year by the amount in pounds per acre shown by the actuarial table for this purpose. If a tobacco price support program is not in effect for the kind of tobacco which includes the insured type for any crop year, the amounts in pounds per acre shown in the actuarial table will be multiplied by the market price for that crop year to determine the amounts of insurance per acre for such crop year.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the amount of insurance, times the premium rate, times the insured acreage, times your share at the time of planting.

b. Interest will accrue at the rate of one and one-half percent (1-½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1983 crop year under the terms of the Experience Table contained in tobacco policy for the 1984 crop year, you will continue to receive the benefit of that reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1989 crop year;

(2) The premium reduction will not increase because of favorable experience;

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the 1984 policy;

(4) Once the loss ratio exceeds .80, no further premium reduction will be applicable; and

(5) Participation must be continuous.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches when the tobacco is planted and ends at the earliest of:

a. Total destruction of the tobacco;

b. Weighing-in at the tobacco warehouse;

c. Removal of the tobacco from the unit (except for curing, grading, packing or immediate delivery to the tobacco warehouse);

d. Final adjustment of a loss; or

e. The following dates immediately after the normal harvest period:

(1) Type 11 and 12..... November 30;
(2) Type 13..... October 31;
(3) Type 14..... September 30;
(4) Type 36..... January 31;
(5) Type 31 and 35..... February 28;
(6) All other types..... March 31.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the tobacco on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use if given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the tobacco and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice must be given. A representative sample of the unharvested tobacco (at least 10 feet wide and the entire length of the field) must remain unharvested for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) Notice must be given immediately if any tobacco is destroyed or damaged by fire during the insurance period.

(5) Where tobacco is not to be sold through auction warehouses and an indemnity is to be claimed, notice must be given to allow us sufficient time to inspect the cured tobacco prior to its sale or other disposition.

(6) Notice must be given upon completion of harvest of any unit of tobacco of types 11, 12, 13, or 14 on which an indemnity is to be claimed unless notice has already been given under this section.

(7) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the tobacco on the unit;

(b) The date marketing or other disposal of the insured tobacco on the unit is completed; or

(c) The calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the tobacco which is not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the tobacco on the unit;

(2) The date marketing or other disposal of the insured tobacco on the unit is completed; or

(3) The calendar date for the end of the insurance period.

b. We will not pay any indemnity unless you:

(1) Establish the total production of tobacco on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the amount of insurance;

(2) Subtracting therefrom the value of the total production of tobacco to be counted (see section 9e); and

(3) Multiplying the remainder by your share.

d. If the information reported by you under section 3 of the policy:

(1) In the 1985 crop year results in a lower premium than the actual premium determined to be due, the indemnity will be reduced proportionately.

(2) In the 1986 and succeeding crop years results in a lower premium than the premium determined to be due, the production guarantee on the unit will be computed on the information reported and not on the actual information determined. All production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. The value of the total production to be counted for a unit will include the value of all harvested and appraised production.

(1) The value of production to count will include:

(a) The gross returns (less four cents per pound for warehouse charges) from tobacco sold on the warehouse floor;

(b) The fair market value of the tobacco sold other than on the warehouse floor;

(c) The fair market value of the tobacco harvested and not sold;

(d) The fair market value of any unharvested tobacco as if such tobacco were harvested and cured; and

(e) The current year's support price per pound (less four cents per pound for warehouse charges) for appraisals made by us for poor farming practices or uninsured causes of loss. (If a price support program is not in effect, such appraised production will be valued at the market price for the current crop year.)

(2) To enable us to determine the fair market value of tobacco not sold through auction warehouses, we must be given the opportunity to inspect such tobacco before it is sold, contracted to be sold, or otherwise disposed of and, if the best offer you receive for any such tobacco is considered by us to be inadequate, to obtain additional offers on your behalf.

(3) The stalks on any insured acreage of tobacco types 11, 12, 13, or 14 must not be destroyed until we give written consent. For any such acreage on which the stalks have been destroyed prior to such consent, we may make an appraisal on such acreage of not less than the amount of insurance per acre.

(4) The value of appraised production to be counted will include:

(a) The value of unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good tobacco farming practices;

(b) Not less than the amount of insurance for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Not less than 35 percent of the amount of insurance for all other unharvested acreage.

(5) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of tobacco becomes general in the county;

(b) Harvested; or

(C) Further damaged by an insured cause before the acreage is put to another use.

(6) The amount of production of any unharvested tobacco may be determined on the basis of field appraisals conducted after the end of the normal harvest period.

(7) If you have elected to exclude hail and fire as insured causes of loss and the tobacco is damaged by hail or fire, appraisals will be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(8) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You must not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We will pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no instance will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the tobacco is planted for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our

form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all tobacco produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will be canceled if you do not furnish satisfactory records of the previous year's production to us on or before the cancellation date. If the insured, prior to the cancellation date, shows to our satisfaction, that records are unavailable due to conditions beyond the insured's control, such as fire, flood, or other natural disaster, the Field Actuarial Office may assign a yield for that year. The assigned yield will not exceed the ten-year average.

d. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity will be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date both such other payment and set off are approved.

e. The cancellation and termination dates are:

State and county	Cancellation and termination dates
Alabama; Florida; Georgia; Surry, Wilkes, Caldwell, Burke and Cleveland Counties, North Carolina and all North Carolina counties east thereof; and South Carolina.	March 31.
All other North Carolina counties and all other States.	April 15.

f. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

g. The contract will terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any of the terms and provisions of the contract from year to year. All contract changes will be available at your service office by December 31 preceding the cancellation date. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of dollar tobacco crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the amounts of insurance, coverage levels, premium rates, practices, insurable and uninsurable acreage, and related information regarding tobacco insurance in the county.

b. "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

c. "County" means the county shown on the application and:

(1) Any additional land located in a local producing area bordering on the county, as shown by the actuarial table; and

(2) Any land identified by an ASCS farm serial number for the county even though physically located in another county.

d. "Crop year" means the period within which the tobacco is normally grown and will be designated by the calendar year in which the tobacco is normally harvested.

e. "Harvest" means:

(1) The completion of cutting or priming of tobacco on any acreage from which at least 20 percent of the amount of tobacco in pounds per acre shown in the actuarial table for such purpose is cut or primed.

f. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

g. "Insured" means the person who submitted the application accepted by us.

h. "Loss ratio" means the ratio of indemnity(ies) to premium(s).

i. "Market Price" means the price contained in the actuarial table and for tobacco:

(1) Types 11, 12, 13, 14, 21, 22, 23, 31, 35, 36, and 37 is the average auction price for the applicable type (less four cents per pound for warehouse charges) in the belt or area; and

(2) Types 54 and 55 is the average price for the applicable type in the belt or area.

j. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, A State, a political subdivision of a State, or any agency thereof.

k. "Planting" means transplanting the tobacco plant from the bed to the field.

l. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

m. "Support price per pound" means the average price support level per pound for the insured type of tobacco as announced by the United States Department of Agriculture under the tobacco price support program. For any crop year in which a price support for the insured type is not in effect, the market price for that crop year will be used.

n. "Tenant" means a person who rents land from another person for a share of the tobacco or a share of the proceeds therefrom.

o. "Unit" means all insurable acreage of an indurable type of tobacco in the county in which you have an insured share on the date of planting for the crop year and which is identified by a single ASCS Farm Serial Number at the time insurance first attaches under this policy for the crop year. Units will be determined when the acreage is reported. We may reject or modify any ASCS reconstitution for the purpose of unit definition if the reconstitution was in whole or part to defeat the purpose of the Federal Crop Insurance Program or to gain disproportionate advantage under this policy. Errors in reporting units may be corrected by us when adjusting a loss.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Approved by the Board of Directors on August 16, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by: Edward Hews.

Dated: November 30, 1984.

Edward Hews,

Acting Manager.

FR Doc. 84-31812 Filed 12-5-84; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 447

[Doc. No. 1442S]

Popcorn Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to revise and reissue the Popcorn Crop Insurance Regulation (7 CFR Part 447), effective for the 1985 and succeeding crop years to provide for: (1) Changing to a mandatory "Actual Production History" (APH) basis by removing the Premium Adjustment Table and providing for cancellation for not furnishing records; (2) adding as a cause of loss the unavoidable failure of irrigation water supply; (3) changing the method of computing indemnities when acreage, share or practice is underreported; (4) changing the method of crediting the replanting payment; and (5) deleting Appendix A. The intended effect of this rule is to comply with the provisions of Departmental Regulation 1512–1 with regard to review of regulations issued by FCIC for need, currency, clarity, and effectiveness. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than January 7, 1985, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512–1 (December 15, 1983). This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is August 1, 1989.

Merritt W. Sprague, Manager, FCIC, has determined that this action: (1) Is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), because it will not result in: (a) An annual effect on the economy of $100 milion or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this proposed rule apply are: Title—Crop Insurance; Number 10.450.

This program 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 exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

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

Other than minor changes in language and format, the principal changes in the popcorn policy are:

1. *Section 1.a.*—Add the failure of irrigation water supply because of unavoidable cause as an insurable cause of loss. This clarifies intent since it is implied as a cause of loss in Section 2.e.(2).

2. *Section 5.a.*—Remove the Premium Adjustment Table. The crop will be insured on an actual production history (APH) basis. Coverages will therefore reflect the actual production history of the crop on the unit. Insureds with good loss experience who are now receiving a premium discount are protected since they will retain any discount under the present schedule through the 1989 crop year or until their loss experience causes them to lose the advantage, whichever is earlier.

3. *Section 5.c.*—Remove the provisions for the transfer of insurance experience and for premium computation when participation has not been continuous. Deletion of the Premium Adjustment Table eliminates the need for these provisions.

4. *Section 6*—Specify that the replanting payment will only be applied to payment of the premium if the billing date has passed. In cases when the billing date for a crop has passed on the date the replanting payment is made the replanting payment will be applied to payment of the billed premium. This is a change from the previous practice of applying the replanting payment to the outstanding premium in all cases.

5. *Section 9.d.*—Effective for the 1986 and succeeding crop years allow the guarantee only on the acreage, share, or practice reported but credit production on the acreage, share, or practice actually planted if the acreage, share or practice reported results in a premium less than the acreage, share or practice actually planted. When acres are underreported, the production from all acres will be applied against the reported acres in calculating indemnities. This change will reduce the indemnities when acres are underreported and will reduce the complexity of calculations.

6. *Section 9*—Delete the requirement that a replanting payment be considered an indemnity. This change allows an insured to collect a replanting payment in addition to an indemnity equal to the total liability for the unit in the event of a total loss. Previously, the total of any replanting payment and indemnity could not exceed the FCIC liability on the unit in the event of partial loss.

7. *Section 15.c.*—Add a clause to cancel the contract if production history is not furnished by the cancellation date. An exception will be allowed if the insured can show, prior to the cancellation date, that records are unavailable due to conditions beyond the insured's control. This clause is required by the change to mandatory APH.

8. In addition to the policy changes FCIC also proposes to eliminate the codification of Appendix A. The FCIC service offices will be able to advise a producer if insurance is offered in any county.

FCIC is soliciting comments on this proposed rule for 30 days after publication in the **Federal Register.** All written comments made pursuant to this action will be available for public inspection in the Office of the Manager during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 447

Crops insurance; Popcorn.

Proposed Rule

PART 447—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to revise and reissue the Popcorn Crop Insurance Regulations (7 CFR Part 447), effective for the 1985 and succeeding crop years, to read as follows:

PART 447—POPCORN CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1985 and Succeeding Crop Years

Sec.
447.1 Availability of popcorn crop insurance.
447.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities will be computed.
447.3 OMB control numbers.
447.4 Creditors.
447.5 Good faith reliance on misrepresentation.
447.6 The contract.
447.7 The application and policy.

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1985 and Succeeding Crop Years

§ 447.1 Availability of popcorn crop insurance.

Insurance shall be offered under the provisions of this subpart on popcorn in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 447.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for popcorn which will be included in the actuarial table on file in service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 447.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 447) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

§ 447.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 447.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the popcorn insurance contract, whenever: (a) An insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation: (1) Is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds that: (1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice; (2) said insured person relied thereon in good faith; and (3) to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 447.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the popcorn crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 447.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the popcorn crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the Federal Register upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1985 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a popcorn contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1985 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Popcorn Insurance Policy for the 1985 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Popcorn Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake;
(7) Volcanic eruption; or
(8) Failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(6).

b. We will not insure against any loss of production due to:

(1) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good popcorn farming practices or the grower provisions of the popcorn contract;

(3) The impoundment of water by any governmental, public or private dam or reservoir project;

(4) Damage resulting from frost or freeze after the date designated by the actuarial table; or

(5) Any cause not specified in subsection 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured will be popcorn which is planted for harvest, which is grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year will be popcorn planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share will be your share as landlord, owner-operator, or tenant in the insured popcorn at the time of planting.

d. We no not insure any acreage:

(1) Of popcorn not grown under a contract executed with a processor or excluded from the processor contract for, or during, the crop year (The contract must be executed and effective before you report your acreage);

(2) Which is destroyed, it is practical to replant to popcorn, and such acreage is not replanted;

(3) If the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(4) Which is irrigated and an irrigated practice is not provided by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(5) Initially planted after the final planting date contained in the actuarial table, unless you agree, in writing, on our form to coverage reduction;

(6) Of volunteer popcorn;

(7) Planted to a type or variety of popcorn not established as adapted to the area or excluded by the actuarial table;

(8) Planted with a crop other than popcorn; or

(9) Planted for the development or production of hybrid seed or planted for experimental purposes.

e. If insurance is provided for an irrigated practice:

(1) You must report as irrigated only the acreage for which you have adequate facilities and water to carry out a good popcorn irrigation practice at time of planting; and

(2) Any loss of production caused by failure to carry out a good popcorn irrigation practice, except failure of the water supply from an unavoidable cause occuring after the beginning of planting, will be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities will not be considered as a failure of the water supply from an unavoidable cause.

f. We may limit the insured acreage to any acreage limitations established under any Act of Congress, if we advise you of the limit prior to planting.

g. An instrument in the form of a "lease" under which you retain possession of the land on which the popcorn is grown and which provides for delivery of the popcorn under certain conditions and at a stipulated price will, for the purpose of this contract, be treated as a contract under which you have the share in the popcorn.

3. Report of acreage, share, and practice.

You must report on our form:

a. All the acreage of popcorn planted in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting;

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any popcorn planted in the county. This report must be submitted annually before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities will be contained in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and price election before the closing date for submitting applications for the crop year, as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

b. Interest will accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. If you are eligible for a premium reduction in excess of 5 percent based on insuring experience through the 1983 crop year under the terms of the Experience Table contained in the policy for the 1984 crop year, ou will continue to receive the benefit of that reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1989 crop year;

(2) The premium reduction will not increase because of favorable experience;

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the 1984 policy;

(4) Once the loss ratio exceeds .80, no further premium reduction will be applicable; and

(5) Participation must be continuous.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you, or from a replanting payment if the billing date has passed on the date you are paid the replanting payment, or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches when the popcorn is planted and ends at the earliest of:

a. Total destruction of the popcorn;

b. Harvest;

c. Final adjustment of a loss; or

d. December 10 of the calendar year in which the popcorn is normally harvested.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) You want our consent to replant popcorn damaged due to any insured cause (To qualify for a replanting payment, the acreage replanted must be at least the lesser of 10 acres or 10 percent of the insured acreage on the unit);

(b) During the period before harvest, the popcorn on any unit is damaged and you decide not to further care for it or harvest any part of it;

(c) You want our consent to put the acreage to another use; or

(d) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the popcorn and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage has been replanted or put to another use.

(2) You must give us notice of probable loss at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice must be given. A representative sample of the unharvested popcorn (at least 10 feed wide and the entire length of the field) must remain unharvested for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of: (a) Total destruction of the popcorn on the unit; (b) Harvest of the unit; or (c) December 10 of the crop year.

b. You may not destroy or replant any of the popcorn on which a replanting payment will be claimed until we give consent.

c. You must obtain written consent from us before you destroy any of the popcorn which is not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the popcorn on the unit:

(2) Harvest of the unit; or

(3) December 10 of the crop year.

b. We will not pay any indemnity unless you:

(1) Establish the total production of the popcorn on the unit and that any loss of production has been directly caused by one

or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of popcorn to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you under section 3 of the policy;

(1) In the 1985 crop year results in a lower premium than the actual premium determined to be due, the indemnity will be reduced proportionately.

(2) In the 1986 and succeeding crop years results in a lower premium than the premium determined to be due, the production guarantee on the unit will be computed on the information reported and not on the actual information determined. All production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. The total production (pound) to be counted for a unit will include all harvested and appraised production.

(1) Mature popcorn production:

(a) Which otherwise is not eligible for quality adjustment will be reduced .12 percent for each .1 percentage point of moisture in excess of 15.0 percent; or

(b) Which, due to insurable causes, is not of merchantable popcorn quality and is rejected by the processor, will be adjusted by:

(i) Dividing the value per pound of the damaged popcorn by the contract price per pound for undamaged popcorn; and

(ii) Multiplying the result by the number of pounds of such popcorn.

(2) Any production from yellow or white dent corn will be counted as popcorn on a weight basis.

(3) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good popcorn farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause; and

(c) Any appraised production on unharvested acreage.

(4) Any appraisal we have made on insured acreage and given written consent to be put to another use will be considered as production unless such acreage is:

(a) Not put to another use before harvest of popcorn becomes general in the country;

(b) Harvested; or

(c) Further damaged by an insured cause before the acreage is put to another use.

(5) The amount of production of any unharvested popcorn may be determined on the basis of field appraisals conducted after the end of the insurance period.

(6) If you have elected to exclude hail and fire as insured causes of loss and the popcorn is damaged by hail or fire, appraisals will be made in accordance with Form FCI–78 "Request to Exclude Hail and Fire".

(7) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. A replanting payment may be made on any insured popcorn replanted after we have given consent and the acreage replanted is at least the lesser of 10 acres or 10 percent of the insured acreage for the unit.

(1) No replanting payment will be made on acreage:

(a) On which our appraisal exceeds 90 percent of the guarantee;

(b) Initially planted prior to the date determined to be reasonable; or

(c) On which a replanting payment has been made during the current crop year.

(2) The replanting payment per acre will be your actual cost per acre for replanting, but will not exceed 150 pounds multiplied by the price election, multiplied by you share.

If the information reported by you results in a lower premium than the actual premium determined by us, the replanting payment will be reduced proportionately.

g. You must not abandon any acreage to us.

h. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

i. We will pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no instance will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

j. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the crop is planted for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

k. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire from the policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such insurance. For the purpose of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due to us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance will be effective as of the beginning of the crop year.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. [Recovery of loss from a third party.]

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for two years after the time of loss, records of the harvest, storage, shipment, sale, or other disposition of all of the popcorn produced on each unit including separate records showing the same information for production for any uninsured acreage. Any persons designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract; cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice to the other on or before the cancellation date preceding such crop year.

c. This contract will be canceled if you do not furnish satisfactory records of the previous year's production to us on or before the cancellation date. If the insured, prior to the cancellation date, shows, to our satisfaction, that records are unavailable due to conditions beyond the insured's control, such as fire, flood or other natural disaster, the Field Actuarial Office may assign a yield for that year. The assigned yield will not exceed the ten-year average.

d. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date for the policy on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity will be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date both such payment and set off are approved.

e. The cancellation and termination date is April 15.

f. If you die or are judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or

dissolution. If such event occurs after insurance attaches, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

g. The contract will terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any of the terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of popcorn crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding popcorn insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

c. "Crop year" means the period within which the popcorn is normally grown and will be designated by the calendar year in which the popcorn is normally harvested.

d. "Harvest" means the completion of removing the grain from the stalk either by hand or machine.

e. "Insurable acreage" means the land classified as insurable by us and shown as such in the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

h. "Replanting" means performing the cultural practices necessary to replant insured acreage to popcorn.

i. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

j. "Tenant" means a person who rents land from another person for a share of the popcorn or a share of the proceeds therefrom.

k. "Unit" means all insurable acreage of popcorn in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the popcorn on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement with us. We will determine units as herein defined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with appeal regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Approved by the Board of Directors on August 16, 1984.

Dated: November 30, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Edward Hews,

Acting Manager.

[FR Doc. 84-31809 Filed 12-5-84; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 75

[Airspace Docket No. 84-ANM-28]

Proposed Alteration and Establishment of Jet Routes, Aspen, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend segments of Jet Routes J-60, J-80 and J-28 and establish Jet Route J-206. This action is proposed due to the commissioning of the Red Table, CO, very high frequency omni-directional radio range distance measuring equipment (VOR/DME).

DATES: Comments must be received on or before January 21, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Northwest Mountain Region, Attention: Manager, Air Traffic Division, Docket No. 84-ANM-28, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, WA 98168.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Burton Chandler, Airspace and Air Traffic Rules Branch (ATO-230), Airspace—Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84-ANM-28." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available

for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to amend segments of Jet Routes J–60, J–80, J–28 and to establish new J–206. The FAA has commissioned the Red Table VOR/DME near Aspen, CO. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

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

List of Subjects in 14 CFR Part 75

Jet routes, aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as follows:

J–60 [Amended]

By removing the words "Hanksville, UT; Grand Junction, CO;" and substituting the words "Hanksville, UT; Red Table, CO; Grand Junction, CO;"

J–60 [Amended]

By removing the words "Grand Junction, CO; Denver, CO;" and substituting the words "Grand Junction, CO; Red Table, CO; Denver, CO;"

J–28 [Amended]

By removing the words "From Pueblo, CO, via Garden City, KS," and substituting the words "From Milford, UT, via Hanksville, UT; Gunnison, CO; Pueblo, CO, via Garden City, KS,"

J–206 [New]

From Alamosa, CO; via Gunnison, CO; Red Table, CO; to Rock Springs, WY.

(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 November 29, 1984.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 84–31842 Filed 12–5–84; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 610 and 630

[Docket No. 84N–0051]

General Biological Product Standards; Cell Lines Used for Manufacturing Biological Products; Additional Standards for Viral Vaccines

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend its regulations to establish general requirements for cell lines used for manufacturing any biological product for human use. The proposed regulations will standardize information required to be submitted to FDA in support of license applications regarding cell lines developed using new technologies, such as hybridoma technology or recombinant deoxyribonuclei acid (DNA) technology. FDA also is deleting certain requirements regarding human diploid cell lines used for manufacturing Poliovirus Vaccine, Live, Oral.

DATES: Comments by February 4, 1985. FDA is proposing that any final rule based on this proposal be effective 30 days after the date of its publication in the **Federal Register**.

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

FOR FURTHER INFORMATION CONTACT: Michael L. Hooton, Center for Drugs and Biologics (HFN–368), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1306.

SUPPLEMENTARY INFORMATION: Certain cells that are capable of in vitro growth provide suitable substrates in which viruses intended for production of viral vaccines are cultivated. These cell substrates include: (1) Primary cell cultures of avian and mammalian species that can be subcultivated for only a limited number of population doublings, and (2) human diploid cell lines. Diploid cell lines can be subcultivated for a moderate number of population doublings while retaining their original diploid chromosome number throughout. FDA approved the use of human diploid cell lines for the cultivation of virus on October 16, 1971 (see 36 FR 20160). Human diploid cell lines that are capable of propagation of viruses in vitro are now being used extensively worldwide for producting viral vaccines. Viral vaccines that are produced in human diploid cell lines that are licensed now in the United States include Adenovirus Vaccine, Live, Oral, Type 4; Adenovirus Vaccine, Live, Oral, Type 7; Rubella Virus Vaccine, Live; and Rabies Vaccine. Other viral vaccines produced in cell lines from human and nonhuman primates and other mammalian species are being investigated and developed.

FDA's general biologic regulations in 21 CFR Parts 600, 601, and 610 do not contain general standards that apply to all cell lines used to produce viral vaccines and other biological products. FDA's only regulations concerning cell lines are included in the regulations for one product, Poliovirus Vaccine, Live, Oral (21 CFR 630.12(b) and 630.13(c)), published in the **Federal Register** of October 16, 1971.

To assist manufacturers in developing and investigating biological products produced from cell lines, FDA announced the availability of a document entitled "Points to Consider in the Characterization of Cell Lines Used to Produce Biologicals" (see 49 FR 23456). The points to consider document may also be used by manufacturers who are preparing to submit to FDA under 21 CFR Part 601 applications for a license for a new biological product produced

from cell lines. Manufacturers submit such applications for new biological products produced in cell lines to the Office of Biologics Research and Review (OBRR), Center for Drugs and Biologics (HFN–800), 8800 Rockville Pike, Bethesda, MD 20205. In the application, the manufacturer would describe its test procedures for identifying the cell lines, test procedures for determining the purity and stability of the cell lines, and acceptance criteria for the cell lines.

To promote uniformity and standardize the information concerning cell lines that each manufacturer is required to submit to FDA to obtain approval for new products or to obtain approval of new procedures to make currently marketed products, the agency is proposing to amend the biologics regulations in 21 CFR Part 610 by adding to § 610.18 new paragraph (c) *Cell lines used for manufacturing biological products.* The new paragraph would apply to all biological products obtained from cell lines. FDA is proposing that all such cell lines be: (1) Identified by history, (2) described with respect to cytogenetic characteristics and tumorigenic potential, (3) characterized with respect to in vitro growth characteristics and life potential, and (4) tested for the presence of detectable microbial agents. FDA advises that requirements or tests for cell lines other than those in proposed paragraph (c) may be required, as necessary, by the Director, OBRR, to ensure the safety, purity, and potency of a product.

The current regulation in § 630.12(b) for a human cell line requires that the cell line be free from oncogenic (tumorigenic) properties. In proposed § 610.18(c)(1)(ii), FDA is proposing that the manufacturer describe in its application the tumorigenic potential of a cell line to provide FDA flexibility to either (1) review and, if appropriate, approve the manufacturer of products produced using tumor cells (e.g., hybridoma technology) or (2) as a requisite for approval, require testing of products for tumorigenicity. As an example, for monoclonal antiobodies produced by hybridoma technology, FDA would not require tests on certain cell lines for tumorigenic potential or chromosomal abnormalities, because hybridomas, as a class, are tumorigenic and are chromosomally abnormal.

FDA also is proposing certain conforming amendments to the biologics regulations to provide consistency with proposed new paragraph (c) in § 610.18. Accordingly, FDA is proposing the following amendments:

FDA is proposing to amend § 610.18 by adding new paragraph (d) to reference the recordkeeping requirements related to cultures, including cell lines.

FDA is proposing to amend § 630.10(a) to revise the phrase "a strain of human cells cultures found by the Director, Office of Biologics Research and Review, to meet the requirements of § 630.12(b)" to read "a cell line found by the Director, Office of Biologics Research and Review, to meet the requirements under § 610.18(c)". The proposed language identifies new § 610.18(c) as the regulation that specifies the general requirements for cell lines.

FDA is proposing to establish a new title for, and revise, § 630.12(b). FDA is proposing to remove § 630.12 (b)(1) and (b)(2) because these current requirements would be replaced by new requirements in proposed § 630.18(c) that would apply to all biological products, including Poliovirus Vaccine, Live, Oral. FDA is proposing that the only current requirement remaining in revised § 630.12(b) would be the field studies requirement for Poliovirus Vaccine, Live, Oral, that now is in § 630.12(b)(3).

FDA is proposing to amend § 630.13(b) to change the term "line cells" to read "cell lines" to be consistent with current terminology.

FDA is proposing to amend § 630.13 by removing paragraph (c) concerning the requirements for virus propagated in human cell cultures for use in the manufacture of poliovirus vaccine. The specific requirements for Poliovirus Vaccine, Live, Oral, under existing § 630.13(c) would no longer be necessary, because proposed § 610.18(c) includes general requirements for characterizing and testing cell lines that would apply to all biological products, including Poliovirus Vaccine, Live, Oral.

These proposed amendments do not affect the specific suitability criteria under Part 630 for primary cell cultures of avian and mammalian species used for the production of viral vaccines.

The agency has determined pursuant to 21 CFR 25.24(d)(10) (proposed December 11, 1979; 44 FR 71742) that this proposed 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.

Paperwork Reduction Act of 1980

Section 610.18 contains information collection requirements already submitted to and approved by the Office of Management and Budget (OMB) under section 3507 of the Paperwork Reduction Act of 1980. The recordkeeping requirements in § 610.18 express the recordkeeping requirements in §§ 211.188 and 211.194 (OMB approval number 0910–0139), as those requirements apply to cultures. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to FDA's Docket Management Branch (**ADDRESS** above) and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., Rm. 3208, Washington, DC 20503, Attn: Bruce Artim.

The agency has examined the economic impact of this proposed rule and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). Specifically, the proposed rule would delete specific requirements for one product and replace these requirements with general suitability criteria that would apply to any biological product derived from cell lines. Therefore, the agency concludes that the proposed rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act.

List of Subjects

21 CFR Part 610

Biologics, Labeling.

21 CFR Part 630

Biologics.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 701, 52 Stat. 1040–1042 as amended, 1055–1056 as amended (21 U.S.C. 321, 371)), the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 610 and 630 be amended as follows:

PART 610—GENERAL BIOLOGICAL PRODUCT STANDARDS

1. In Part 610 by adding new § 610.18(c) to read as follows:

§ 610.18 Cultures.

* * * * *

(c) *Cell lines used for manufacturing biological products*—(1) *General requirements.* Cell lines used for manufacturing biological products shall be: (i) Identified by history; (ii) described with respect to cytogenetic characteristics and tumorigenicity; (iii)

characterized with respect to in vitro growth characteristics and life potential; and (iv) tested for the presence of detectable microbial agents.

(2) *Tests.* Tests that are necessary to assure the safety, purity, and potency of a product may be required by the Director, Office of Biologics Research and Review.

(d) *Records.* The records appropriate for cultures under this section shall be prepared and maintained as required by the applicable provisions of §§ 211.188 and 211.194 of this chapter.

(Approved by the Office of Management and Budget under control number 0910–0139)

PART 630—ADDITIONAL STANDARDS FOR VIRAL VACCINES

2. In Part 630:

a. By revising § 630.10(a) to read as follows:

§ 630.10 Poliovirus Vaccine, Live, Oral.

(a) *Proper name and definition.* The proper name of this product shall be "Poliovirus Vaccine, Live, Oral," followed by a designation of the type. The vaccine shall be a preparation of one or more live, attenuated polioviruses grown in monkey cell cultures or a cell line found by the Director, Office of Biologics Research and Review, to meet the requirements under § 610.18(c). The vaccine shall be prepared in a form suitable for oral administration.

* * * * *

b. By revising § 630.12(b) to read as follows:

§ 630.12 Animal source; quarantine; personnel.

* * * * *

(b) *Field studies.* Cell lines used for the manufacture of Poliovirus Vaccine, Live, Oral, shall be shown to be capable of producing a vaccine which, by experience in at least 10,000 persons, has been found to be safe and antigenic. The field studies shall be conducted so that at least 5,000 of the persons when given vaccine reside in areas where health-related statistics regularly are compiled in accordance with procedures, such as those used by the National Center for Health Statistics. Information that identifies each person receiving vaccine shall be furnished to the Director, Office of Biologics Research and Review.

* * * * *

c. By revising § 630.13(b)(1) to read as follows:

§ 630.13 Manufacture of Poliovirus Vaccine, Live, Oral.

* * * * *

(b) * * *

(1) *Continuous cell lines.* When primary monkey kidney cell cultures are used in the manufacture of poliovirus vaccine, continuous cell lines shall not be introduced or propagated in vaccine-manufacturing areas.

* * * * *

d. In § 630.13 *Manufacture of Poliovirus Vaccine, Live, Oral* by removing paragraph (c).

Interested persons may, on or before February 4, 1985, submit to the Dockets Management Branch (**ADDRESS** above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m., and 4 p.m., Monday through Friday.

Dated: November 19, 1984.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

[FR Doc. 84–31797 Filed 12–5–84; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Ch. II

43 CFR Ch. II

Intent To Propose Rulemaking To Require the Designation of a Single Payor for Each Federal and Indian Lease

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of intent to propose rulemaking and request for comments.

SUMMARY: The Department of the Interior is considering the establishment of a single payor requirement for each Federal and Indian lease. This notice of intent to propose rulemaking is to fulfill a specific recommendation by the Secretary's advisory committee on minerals accountability to reconsider the single payor approach. A similar proposal was previously considered in June 1982, but was deferred due to the transitional nature of the Department's Royalty Management Program at that time.

The Department's Royalty Management Program is now stabilized, and the establishment of a single payor requirement is again being considered. Prior to publishing such a proposed rulemaking, however, the Department wishes to receive public comment on the concept. Areas for which specific comments are requested are described in the supplementary information section below.

Designation of a single payor would reduce the number of payors that would be making payments to the MMS therefore reducing the workload.

DATES: Written comments and recommendations must be received on or before January 7, 1985.

ADDRESS: Written comments may be mailed or delivered to: Mr. Orie L. Kelm, Chief, Office of Royalty Regulations, Development and Review, Royalty Management Program, Minerals Management Service, 12203 Sunrise Valley Drive, MS 660, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: Mr. Orie L. Kelm (703) 860–7511 or (FTS) 928–7511.

SUPPLEMENTARY INFORMATION: On June 22, 1982 (47 FR 26856), a notice of intent to propose rulemaking concerning the establishment of an operator of record and single payor plan requirement for each Federal and Indian lease was published in the **Federal Register.**

Due to the then transitional nature of the Department's Royalty and Lease Management Program, a determination was made not to proceed with a proposed rulemaking at that time.

Changed circumstances now dictate reconsideration of the single payor concept. The changed circumstances include: a specific recommendation by the Secretary's Advisory Committee on Minerals Accountability to reconsider the single payor approach for all Federal and Indian leases; evidence that the single payor approach is utilized effectively by a number of energy-producing states in their minerals management activities; and an increasing emphasis on the part of the Department to reduce reporting burden and information collection activities for royalty payors, operators, and lessees on Federal and Indian leases.

Under the concept now being proposed, a single payor would be established for each Federal onshore, Outer Continental Shelf, or Indian mineral lease from the date of first production in paying quantities of minerals extracted from that lease. The single payor would be responsible for maintaining all lease production and sales records, and for the payment of

rentals and royalties to the appropriate agency of the Department of the Interior.

The Department particularly desires to receive comments and suggestions from the minerals industry on the impact of the single payor requirement on each Federal and Indian lease, unit, or communitization agreement. Since the single payor concept could be applied to existing producing leases, or just prospectively to new producing leases, comments on the following two issues would be of special interest.

1. If this lease procedure were to be applied prospectively to all leases that begin production after the effective date of the rulemaking, what impact would it have on: (a) Industry royalty and production accounting practices now in effect either as an increase in workload or a reduction in workload; and (b) any additional cost associated with the procedure either in terms of additional personnel, accounting services, or computer time and service needed to implement the regulation.

2. If the procedure were to be applied to all Federal and Indian leases now in production as well as to those coming into production on or after the date of the rulemaking, what would be the impact on the following areas: (a) Conversion of existing industry royalty and production accounting systems to accommodate the change in procedure; (b) the amount of time necessary to convert to the new system required under the single payor procedure; and (c) the cost expressed in dollars of the conversion process broken down as a one-time cost and continuing cost as the result of the new requirement.

In addition to the foregoing, comments are solicited concerning any legal implications which the implementation of the proposed requirement might have.

The Department also wishes to receive comments on the implementation of the single payor concept from those States that share in Federal mineral revenue and from Indian tribes for whom the Department performs lease management and royalty management functions.

The MMS will assume the responsibility for comprising comments and distributing them to other affected agencies within the Department of the Interior.

Dated: November 28, 1984.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 84-31675 Filed 12-5-84; 8:45 am]

BILLING CODE 4310-MR-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 83

[PR Docket No. 84-1237; FCC 84-581]

VHF Port Operations and Bridge-to-Bridge Channels

AGENCY: Federal Communications Commission.

ACTION: Proposed rules.

SUMMARY: This document proposes to: (1) Allow Government stations to use five VHF port operations channels which are presently allocated to the non-Government Maritime Mobile Service, and (2) require that all VHF marine radios automatically reduce power to one watt when tuned to the bridge-to-bridge channel. The first action was requested by the U.S. Coast Guard to facilitate the handling, movement, and safety of ships in port. The three port operations frequencies already available for Government use are insufficient to meet the operational requirements of Government stations. The second change was requested by the National Transportation Safety Board. It is necessary because the existing rule requiring ship station operators to reduce power when using the bridge-to-bridge channel is frequently violated. The intended effect of these two changes is to improve the safety of ships.

DATES: Comments must be received on or before January 7, 1985, and reply comments must be received on or before January 22, 1985.

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

FOR FURTHER INFORMATION CONTACT: Maureen Cesaitis, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 2

Frequency allocations.

47 CFR Part 83

Communications equipment, marine safety, radio, ship stations, telephone, bridge-to-bridge.

Notice of Proposed Rule Making

In the matter of amendment of Parts 2 and 83 of the rules to allow Government stations to use five additional port operations channels, and to require VHF marine radio stations to automatically reduce power to one watt when tuned to the bridge-to-bridge channel (PR Docket No. 84-1237).

Adopted: November 21, 1984.

Released: November 29, 1984.

By the Commission.

1. The Commission proposes to amend its rules governing the use of VHF marine radios. The first change would allow U.S. Government stations to use five "port operations" channels which are presently allocated exclusively for non-Government use. Port operations channels are used in the movement, handling and safety of ships in or near ports, locks and waterways. The second change concerns the "navigational" (or "bridge-to-bridge") channel which is used by vessels to communicate with other vessels at close range for navigational purposes.

2. The Government, which includes the U.S. Coast Guard (USCG) is currently authorized to use three non-Government VHF marine channels for port operations communications [1]. In its letter of April 10, 1984, the USCG states that these three VHF marine channels are the highest priority port operations channels and are therefore often occupied. The delays caused to USCG operations when these channels are in use pose a danger to marine safety. The USCG is also hampered in its mission to provide port security and safety.

3. The Vessel Bridge-to-Bridge Radiotelephone Act requires that certain classes of vessels [2] be equipped with a radio station on the bridge so that one vessel can communicate with another vessel at close range concerning pertinent navigational matters. Because the transmission is from the navigational bridge of one vessel to the navigational bridge of the other vessel, these communications are known as bridge-to-bridge. In the southern Louisiana section of the Mississippi River, the bridge-to-bridge channel is VHF marine Channel 67 (156.375 MHz). In the remaining U.S. navigable waters, Channel 13 (156.650 MHz) is used for this purpose.

4. *Port operations channels.* In its request, USCG states that "Adequate and effective port operations communications are necessary for safe and efficient traffic operations in waterways." Because these functions are the responsibility of both Government and non-Government stations, the USCG maintains that the channels used for this purpose should be available to all the participants, not just to the non-Government stations. Under

[1] 47 CFR 2.106, Footnote US77.

[2] Power-driven vessels of 300 gross tons and upwards, vessels of 100 gross tons and upwards carrying passenger(s) for hire, towing vessels of 26 feet or more in length, and dredges or floating plants likely to affect navigation are subject to the Vessel Bridge-to-Bridge Radiotelephone Act of 1972, as amended. (85 Stat. 164; 33 U.S.C. 1201-1208).

the current provisions, the USCG reports that it is often necessary to delay port operations communications with Government and non-Government ships because the only channels available are occupied. "Delays such as these and the restrictions caused by an inadequate number of VHF channels present a continuing potential danger to marine safety." [3] The Commission is proposing to amend its rules to allow Government stations to use the following additional VHF port operations channels: Channel 5 (156.250 MHz), Channel 65 (156.275 MHz), Channel 66 (156.325 MHz), Channel 73 (156.675 MHz), and Channel 74 (156.725 MHz).

5. *Bridge-to-bridge communications.* Part 83 of the rules states that bridge-to-bridge communications should not exceed one watt, except under special circumstances[4]. Use of higher power by any one vessel results in a ripple effect as vessels operating on low power cannot "capture" an FM receiver when another transmitter operates on high power on the same frequency. Ironically, because bridge-to-bridge communications are generally at close range, there is no significant improvement in communications.

6. Because of violations of the present rule, the National Transportation Safety Board (NTSB) recommended that a power-limiting device be requried on all vessels equipped with a bridge-to-bridge channel[5]. The Commission is proposing that all VHF marine radios type accepted for bridge-to-bridge communications and manufactured 18 months after adoption of the new rules be incapable of violating the one watt power limitation rule when switched to Channel 13. For uses specified in Section 83.251(c) and Subpart BB a manual override switch must be provided which when held by the operator will permit full carrier power operation. Equipment manufactured prior to the cut-off-date may remain in use for up to ten (10) years, even if it is sold or transferred to another vessel. Additionally, violations of the one watt rule will now be subject to a $500 fine, instead of the previous $200 fine.

7. The lower Mississippi River uses VHF Channel 67 instead of 13 because the numerous surrounding rivers and waterways which use Channel 13 would interfere with its use on the lower Mississippi. We believe that, because the lower Mississippi is heavily travelled and has experienced frequent abuse of the one watt power limitation, Channel 67 should also be included in this NPRM. Although this would mean that throughout the U.S. waterways, except in the lower section of the Mississippi, commercial VHF intership Channel 67 would have an automatic one watt reduction with manual override, it should not cause any hardship to commercial communications. Our rules already require vessels to use the minimum power necessary to transmit their signal. Compulsorily fitted vessels, which have the capability to reduce power to one watt or less, will have already discovered that use of the 25 watt maximum is rarely necessary. Because there are twelve other commercial VHF channels available in most navigable U.S. waters, the one watt limitation on Channel 67, if included, should have minimal impact. We are soliciting specific comments on the inclusion of Channel 67. If the comments do not offer sufficient reason to exclude Channel 67, it will be included in the Report and Order.

8. In order to provide marine radio manufacturers with enough time to make design changes, to terminate production, and to dispose of stocked equipment which will not comply with the new rule, we are proposing that the new rule not become effective until 18 montsh after it is adopted. Because the technical change required is so minor, we do not anticipate that it will affect the parts manufactures have on order or in stock. However, we are seeking comments and suggestions on how to build the new equipment to minimize cost and specific comments on the estimated cost of the change.

9. Not all marine radios are capable of conducting bridge-to-bridge operations. VHF marine radios have a life expectancy of seven years. The ten year leeway is being proposed to reduce the impact on pleasure boaters and infrequent radio users. However, the number of grandfathered radios in use will necessarily decline over the ten years and the incidences of high power use on the bridge-to-bridge should decline proportionately. Violators of this existing one watt restriction should be more easily detected.

10. Accordingly, we propose to amend Part 2 of the rules to allow Government stations to communicate on five additional port operations channels, and Part 83 to require that radios manufactured 18 months after release of the Report and Order in this proceeding automatically reduce power on navigational Channel 13 to one watt or less and provide a manual override for full carrier power, and to prohibit use of obsolete marine radios (those which do not automatically reduce power) after ten years. We are also proposing to make several minor editoral amendments to Part 83. This notice is issued under the authority contained in Sections 4(i) and 303(c) and (r) of the Communications Act of 1934, as amended 47 U.S.C. 154(i) and 303(c) and (r).

11. Under procedures set out in § 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before January 7, 1985, and reply comments on or before January 22, 1985. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

12. In accordance with the provisions of Section 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

13. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the

[3] USCG letter of 10 April 1984, 5740/3, Serial 746-3.

[4] 47 CFR 83.251(c).

[5] NTSB's recommendations stemmed from its investigation of the collision of the U.S. tank ship Pisces and the Greek bulk carrier Trademaster on the lower Mississippi River on December 27, 1980.

Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of the oral presentations, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

Regulatory Flexibility Initial Analysis

14. *Reason for Action* The one watt rule is regularly violated when not constantly enforced. Its purpose is to maximize use of the bridge-to-bridge channel to increase the safety of vessels navigating within close range.

15. *The Objective* The Commission proposes to require that all VHF marine radios manufactured after a specific date automatically meet the one watt limitation on the bridge-to-bridge channels. Radios will have a manual override which when held by the operator will permit full carrier power on Channel 13. All radios used after a second date (ten years later) must automatically reduce power to one watt.

16. *Legal basis* Legal action as proposed is a furtherance of Section 303 of the Communications Act of 1934, as amended, which charges the Commission to make such rules as may be necessary to serve public necessity.

17. *Description, potential impact and number of small entities affected* The new rule would apply to all VHF marine radios manufactured and used after certain dates. Radios manufactured prior to the first date would be exempted from the new rule, even if sold or transferred, for up to ten years. The cost increase is one of the questions raised in this NPRM. VHF marine radios have enjoyed a significant price reduction in the last few years. Since some radios already meet the proposed requirement, it is unlikely that conforming the remaining radios would be costly. The number of vessels required to comply with bridge-to-bridge regulations is about 13,000. The life expectancy of a VHF marine radio is 7 years.

18. *Recording, record keeping and other compliance requirements* None.

19. *Federal rules which overlap, duplicate or conflict with this rule* The Safety of Life at Sea (SOLAS) Convention requires ships subject to the SOLAS to have VHF radiotelephone transmitters with a carrier power of at least 8 watts. The SOLAS requirement is contained Section 83.853(c) of the Commission's rules. To sail in foreign waters, a VHF equipped vessel would have to be equipped with a radio which met the 8 watt minimum requirement by use of a manual override which when held by the operator in the activated position would permit operation at the higher carrier power on Channels 13 and 67.

20. *Any significant alternative minimizing impact on small entities and consistent with stated objective* None.

21. Pursuant to Section 605 of the Regulatory Flexibility Act of 1980, U.S.C. 605, the Commission certifies that the proposal concerning port operations channels will not have a significant impact on a substantial number of small businesses.

22. Regarding questions on matters covered in this document contact Maureen Cesaitis (202) 632–7175.

23. It is ordered, that a copy of this Notice of Proposed Rule Making shall be sent to the Chief Counsel for Advocacy of the Small Business Adminisration.

(Secs. 4,303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 2 and 83 of Chapter I of Title 47 of Code of Federal Regulations are proposed to be amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. Footnote US 77 of section 2.106 is amended by adding paragraph (f) to read as follows:

§ 2.106 Table of frequency allocations.

* * * * *

US 77 * * *

(f) In addition to the three frequencies listed in paragraphs (a) and (b) of this section, Government stations may use the following frequencies for port operations to communicate with vessels if the three channels listed above are occupied or otherwise unavailable: 156.25, 156.275, 156.325, 156.675, and 156.725 MHz.

* * * * *

PART 83—STATIONS ON SHIPBORAD IN THE MARITIME SERVICES

§ 83.104 [Amended]

1. Section 83.104 is amended by removing footnote 1 to paragraph (a)(4).

2. Section 83.134 is amended by adding new paragraph (e), revising paragraph (f) and footnotes 1 through 3, and removing footnotes 4 and 5.

§ 83.134 Transmitter power.

* * * * *

(e) Marine utility ship station transmitters and portable ship station transmitters using F3 emission in the band 156–162 MHz must not exceed a carrier power of 10 watts. Portable ship station transmitters type accepted to operate in the band 156–162 MHz manufactured after [18 months after release of the Report and Order in the proceeding] must automatically reduce the carrier power to one watt or less when tuned to the frequency 156.650 MHz.

(f) Ship station transmitters using F3 emission in the band 156.162 MHz must:

(1) have a carrier power of at least 8 watts and not more than 25 watts, which for type acceptance purposes shall be determined at a primary supply voltage of 13.6 volts DC, ± 1% for equipment designed to employ a conventional 12 volt lead acid storage battery as a source of primary power;

(2) be capable of reducing the carrier power to one watt or less.[1] [2]

(3) automatically reduce the carrier power to one watt or less when tuned to the frequency 156.650 MHz.[1] [2] [3] A manual override switch must be provided which when held by the operator will permit full carrier power operation on Channel 13.

3. Section 83.351 is amended by adding a sentence to paragraph (b)(36) to read as follows:

§ 83.351 Frequencies available.

* * * * *

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[1] Full duplex transmitters used only on public correspondence duplex channels and only as additional equipment to a VHF ship station in the Great Lakes and equipped with a transmitter which otherwise meets existing rules, statutes, and international agreements, are not required to reduce to one watt.

[2] If a remote control unit is used with a station transmitter manufactured prior to September 1, 1979, or installed prior to March 1, 1980, the remote control unit need not have the capability of reducing its output power to one watt or less. However, this provision does not waive the requirement to limit transmissions on Channels 13 and 67 to an output power of one watt, or the requirement to use minimum output power of one watt whenever possible.

[3] Applicable to transmitters manufactured after [18 months after release of the Report and Order in this proceeding].

(b) * * *

(36) * * * A power not to exceed one watt must be used except under emergency conditions.

* * * * *

§ 83.709 [Amended]

4. Section 83.709 is amended by removing paragraph (a), and redesignating paragraphs (b) and (c) as (a) and (b).

5. Section 83.713 paragraphs (b), (d) and (e) are removed, paragraph (c) is redesignated as (b), and paragraph (a) is revised to read as follows:

§ 83.713 Bridge-to-bridge transmitter.

(a) The transmitter referred to in § 83.709 shall be capable of effective transmission of F3 emission on the navigational frequencies 156.375 MHz and 156.650 MHz.

* * * * * *

6. Section 83.715 is amended by removing the note and its designator in paragraph (c)(7)(iv) and removing paragraph (d) and revising the introductory text of paragraph (c) to read as follows:

§ 83.715 Bridge-to-bridge receiver.

* * * * *

(c) The recommended technical requirements for the bridge-to-bridge receiver are the following:

* * * * *

[FR Doc. 84-31756 Filed 12-5-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Parts 2 and 18

[Gen. Docket No. 20718; FCC 84-578]

Revision of Rules Governing Industrial, Scientific, and Medical Equipment

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The FCC proposes to amend Part 2, Subparts I and J, on the marketing rules and equipment authorization procedures, and Part 18 of its Rules (which applies to industrial, scientific, and medical (ISM) equipment) to eliminate any administrative provisions which have become obsolete or an unnecessary burden to the public and to provide technical standards for four new ISM frequency bands. The intended effect is to provide a more efficient equipment authorization program for ISM devices, more comprehensive regulations and additional ISM frequencies.

DATES: Comments must be submitted on/or before January 7, 1985 and reply comments on or before January 22, 1985.

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

FOR FURTHER INFORMATION CONTACT: Liliane M. Volcy, Office of Science and Technology, Washington, D.C. 20554, (202) 653-8247.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 2

Reporting requirements, Labeling, Imports.

47 CFR Part 18

Business and industry, Household appliances, Medical devices, Radio, Scientific equipment, Reporting requirements.

The collection of information requirement contained in this proposed rule has been submitted to OMB for review under section 3504(h)f of the Paperwork Reduction Act. Persons wishing to comment on this collection of information requirement should direct their comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for Federal Communications Commission.

Third Notice of Proposed Rule Making

In the matter of overall revision of Part 18 governing Industrial, Scientific, and Medical equipment; GEN Docket No. 20718.

Adopted: November 21, 1984.
Released: November 29, 1984.

By the Commission:

Introduction

1. Notice is hereby given of the Commission's intent to amend its Rules concerning the operation of industrial, scientific, and medical (ISM) equipment. The purpose of this proceeding is to eliminate burdensome and obsolete rules governing ISM equipment and to simplify the applicable authorization and administrative requirements under Parts 2 and 18.

2. Under §§ 2.1 and 18.3 of the Rules, ISM equipment is defined as "any device operating above 10 kHz using radio waves for industrial, scientific, and medical or any other purposes including the transfer of energy by radio and which are neither used nor intended for radio communication". This definition includes a diversity of equipment using quite different methods of generating radio frequency (RF) energy at any frequency and power level for scientific, industrial as well as residential applications. Examples are microwave ovens, industrial heaters, glue machines used in factories, X-Ray equipment, ultrasonic room humidifiers, RF stabilized arc welders, induction cooking ranges, electrosurgical units, and particle accelerators.

Background

3. About 35 years ago, the Commission promulgated rules under Part 18, to control the interference potential of ISM equipment to radiocommunication services. Typical ISM equipment, at that time, included large industrial, scientific or medical machines generating high power and operating on any very low frequency, whose operation therefore, was a source of interference to established services. The standards adopted by the Commission were, in essence, suited for classical ISM equipment (relatively high powered industrial, scientific, and medical). These standards were later applied to consumer products, such as microwave ovens, but due to the proliferation of such equipment might not be appropriate in the coming years to protect authorized and licensed services.

4. In an attempt to review the administrative and technical requirements, especially for proliferating consumer devices, in view of technological advancement, the Commission, six years ago, initiated this rulemaking. The major steps in that proceeding were two notices of proposed rule making.[1] The first *Notice* basically proposed revised radiation limits and new administrative provisions whereas the second one recommended more detailed methods of measurements. Respondents favored amendments to the administrative provisions but opposed the proposed emission limits because they were judged to be too severe and unprecedented in view of the low number of interference cases in the United States from the operation of ISM equipment. Major manufacturers and operators of large industrial machinery also commented on the economic impact of implementing such technical standards. They argued that extensive and costly modifications in the design of their products would have to be undertaken to meet the new requirements, thereby increasing not only their selling price but also their maintenance cost.

[1] *Notice of Proposed Rule Making*, 43 FR 46326, October 6, 1978. *Second Notice of Proposed Rule Making*, 44 FR 9771, February 15, 1979.

5. The CISPR and CCIR IWP ¼,[2] two major international organizations concerned with technical standards, have recognized the possible inadequacy of the technical standards for certain ISM equipment in the future and are revising them, as a result of Resolution 63 of the 1979 Geneva World Administrative Radio Conference (WARC). Studies by CCIR are still in progress. International standards are expected to be recommended to member countries of the CCIR when the project is completed. Another consequence of the Final Acts of the 1979 WARC was the addition of four bands in the table of allocations for ISM equipment. These bands have already been recognized in Part 2 of the Commission's Rules through the *Report & Order* in Docket No. 80–739, 49 FR 2357, January 19, 1984.[3] The use of these supplemental frequencies should be consistent with the recommendations of CCIR.

6. In previous actions in this docket, technical standards were adopted to provide for the operation of induction cooking ranges and the burdensome administrative requirement of filing FCC application Form 724 was deleted.[4] Furthermore, on August 5, 1983, the Commission released an *Order Granting Limited Waiver*, FCC 83–361, to exempt RF lighting devices from the recertification requirement of § 18.142(c). This waiver authorizes the limited manufacture and marketing of RF lighting devices provided they meet the same technical standards as computing devices under Subpart J of Part 15. A companion *Notice of Inquiry* in General Docket No. 83–806, 48 FR 37235, August 17, 1983, was released on the same date by the Commission requesting comments on the suitability of the computing devices technical rules for RF lighting devices.

Reasons for further NPRM

7. As a consequence of the proliferation of ISM equipment, particularly for consumer use, in the thirty years since it was adopted, certain deficiencies have developed in Part 18. The text and the equipment authorization requirements have become both intricate and, to some extent, confusing. The rules are lengthy, sometimes contradictory, and difficult for the public to understand. As already mentioned above, the technical standards in Part 18 were originally adopted primarily for large industrial, scientific, and medical machines. These standards may, therefore, not always be suitable for more recent consumer devices which, for the most part, operate under similar conditions to medical diathermy equipment.

8. We are, therefore, issuing a third Notice of Proposed Rule Making to address these problems and, to the extent possible, offer solutions to them. We base this *Notice* on comments received from the public regarding proposed changes to the administrative requirements in the two Notices in this Docket and that simpler equipment authorization procedures, such as verification and notification, have recently been established by the Commission. These procedures were instituted to facilitate the marketing of certain consumer RF devices, such as television receivers and low power transmitters, and were not incorporated in Part 18; they should be implemented into Part 18 to relieve the public of certain burdensome administrative requirements.[5] For further details on the diverse equipment authorization procedures (certification, type approval, etc.) implemented by the Commission, see Part 2, Subpart J of the Rules, 47 CFR 2.901 *et seq.*

Technical Standards

9. The general technical standards for ISM equipment are currently under review by the Commission's staff as well as CCIR IWP ¼ and CISPR in the hope of better understanding the interference potential of ISM equipment and possibly establishing more uniform limits. Because of the complexity and the time involved in reanalyzing the limits for ISM equipment, we propose that the present limits be retained, pending further development in our studies. Action to revise the technical standards at this time is thus held in abeyance. However, there are three technical issues which we feel should be addressed in this proceeding: temporary requirements for RF lighting devices, the addition of four new ISM bands, and the consolidation on the methods of measurements.

10. RF lighting devices may be marketed under a waiver of the three-year re-certification requirement of § 18.142(c), provided they meet the same technical standards as computing devices. Most manufacturers, in their comments in General Docket 83–806, which deals with the revision of the technical standards on RF lighting devices, support the regulations established by the Commission in the *Order Granting Limited Waiver*. We are, in this proceeding, proposing to delete the three-year re-certification requirement wherever it appears at the present time in Part 18. Consequently, we are herein also proposing that RF lighting devices, marketed under the new rules, should temporarily continue to meet the technical standards established for computing devices under Part 15, Subpart J of the Rules, pending further action in Docket 83–806.

11. We propose to implement into Part 18 the four new ISM frequencies adopted in the *Report & Order* in Docket 80–739. Operation on these new ISM frequencies, will be subject to the present technical standards. Comments are requested on the suitability of adopting the current Part 18 technical requirements for these new ISM bands.

12. The current measurement procedures for ISM equipment are specified in Part 18 as well as various bulletins. We propose to consolidate all of the several procedures into a single document and establish a basic method of measurement, to the extent possible. Furthermore, we believe that revising the measurement procedures is necessary in order to reflect the development in measuring techniques and instrumentation in the past decades and better assist the public. The new methods, contained in Appendix B of this document, give basically additional guidelines to the public and are based on the practices of the FCC laboratory. The major change in these methods is the permissible alternate use by the public of an attenuation law factor of 1/d (where d is the distance at which the field strength is being measured) to the extrapolation methods utilized by the Commission. These procedures should be followed, to the extent practicable, by the public when testing is required or requested by the Commission.

Equipment Authorization Program

13. The complexity of the current equipment authorization program for ISM equipment does not allow for the

[2] CISPR is the French acronym for the International Special Committee on Radio Interference (under the International Electrotechnical Commission). CISPR Publication 11 contains the technical standards on ISM equipment. CCIR is the French acronym for the International Radio Consulative Committee. CCIR IWP ¼ is a study group in charge of developing technical standards for ISM equipment.

[3] The four new ISM bands which have been allocated worldwide are the following: 6.78 MHz ±15.0 kHz, 61.25 GHz ±250.0 MHz, 122.5 Ghz ±5.0 GHz, and 245.00 GHz ±1.0 GHz.

[4] *Docket 20718. First Report & Order*, 44 FR 48178, August 17, 1979 (adopting regulations for induction cooking ranges). *Second Report & Order*, 48 FR 51302, November 8, 1983 (deleting the requirement for filing FCC Form 724).

[5] Verification was implemented through the *Report & Order* in General Docket 80–284, 46 FR 23240, April 24, 1981, (dealing with the methods of measurements for computing devices). Notification was adopted in the *Report & Order* in General Docket 82–242, 48 FR 3614, January 26, 1983, but actually put in effect through the *Report 7 Order* in General Docket 83–10, 49 FR 3991, February 1, 1984.

best possible service to the public. We note that the primary difficulties in comprehending Part 18 are due to (a) inconsistent definitions of terms used to specify an equipment authorization program, and (b) the multiple authorization programs used for the same type of equipment. The following three equipment authorization procedures are currently used to regulate ISM equipment: (1) Type approval, (2) on-site certification, and (3) prototype certification. However, the term "certification" under Part 18 does not represent the same type of procedure as in Part 2, Subpart J of the Rules.

14. Under type approval, a grant of equipment authorization is issued by the Commission based on examination and measurement of one or more sample units at its laboratory. Although this procedure is permitted for the majority of ISM equipment, it is, in practice, applied mostly to consumer products. Type approval is impractical for equipment too large to be shipped to the FCC laboratory or equipment for which operating conditions may not be simulated at the FCC laboratory (this represents the majority of classical ISM equipment). It should be reserved for devices which are difficult to test but which can still be evaluated at an open field test site or equivalent. For the moment, only domestic microwave ovens seem to merit type approval as an equipment authorization procedure because of the difficulty in evaluating such devices. The major problem in testing microwave ovens is the maintenance of, and lack of suppliers for, the aging measuring instrumentation. New methods of measurements for domestic microwave ovens are currently being developed at the FCC laboratory.

15. On-site certification requires that a qualified party test a device at the user's premises, that measurements be made occasionally to assure continued compliance and that records of the test results be kept. No samples of units need to be submitted to the Commission, unless requested. Records are to be presented to the Commission only upon request. On-site certification has the same intent as verification, except that it does not attach to subsequent models and testing must be made at the installation. On-site certification is usually applied to one-of-a-kind equipment. We propose that on-site certification be changed to verification for one-of-a-kind equipment; we also propose to delete the requirement in § 18.117 for industrial heating equipment specifically, to affix or post a copy of the certificate to the equipment or in a location readily available to representatives of the Commission. We also propose to add ultrasonic devices generating less than 500 watts and operating below 90 kHz to the verification category. Ultrasonic equipment generating less than 500 watts and operating at a frequency below 90 kHz is exempt, under the provisions of § 18.71, from type approval or certification. This implies that such ultrasonic equipment is in fact subject to verification and it should thus be stated in the rules. The term verification is not expressed in the rules because such an equipment authorization program was not in effect at the time § 18.71 was promulgated.

16. Prototype certification is similar to certification as defined under Part 2, Subpart J. A grant of equipment authorization is issued by the Commission based on representation and test data submitted by the applicant. The Commission may require the applicant to submit one or more samples of units for further testing. Certification attaches to all subsequently produced units which are identical. However, certification should not be instituted for all ISM equipment, in view of the low number of interference cases from ISM equipment. Such action would be unduly restrictive and should be limited to ISM equipment most capable of causing interference, that is, consumer products. Certification for classical ISM equipment would still require manufacturers to file very extensive and detailed reports of measurements. Notification, which imposes the same conditions as certification except for the requirement to present the Commission with test data, would be more adequate for classical ISM equipment because of their minimal interference potential, as a marketing prerequisite. Notification would still provide the Commission with enough information on a particular system, and would reduce the amount of paperwork and time involved in filing for equipment authorization. Under notification and certification, devices would still have to be tested as a condition for obtaining a grant of equipment authorization from the FCC.

17. In summary, we are proposing the following equipment authorization program for ISM equipment:

(1) Notification for all ISM equipment, unless otherwise specified below:

(2) Certification for consumer ISM equipment;

(3) Verification for ultrasonic equipment generating less than 500 Watts and operating below 90 kHz, and for one-of-a-kind equipment;

(4) Continuation of type approval for domestic microwave ovens.

Other Burdensome and Obsolete Rules

18. This section deals with all other regulations which we believe burdensome and obsolete and which have not been covered above. We shall address basically questions on the marketing rules under Part 2 and the operating conditions under Part 18 concerning licensing, labeling, etc.

A. Part 2

19. Section 2.809 permits the marketing of certain ISM devices before obtaining an equipment authorization from the Commission. However, the equipment may not be operated until authorization from the Commission is received. Since we propose to adopt such procedures as verification and notification for most of the equipment covered under the exemption, § 2.809 can be deleted from the rules without any counteractive effects such as marketing delay. The processing time at the FCC laboratory for an application for notification is currently estimated to be approximately one month. This would not cause any major delay in the marketing of equipment covered under § 2.809. Sections 2.1037 and 2.1039 discuss the procedures for prototype certification and on-site certification, and should be deleted from the rules, in view of the changes proposed above for the equipment authorization program.

B. Part 18

20. When the rules for ISM equipment were first implemented, only licensed services were allowed by the Commission. Section 18.21 of Part 18 assumes that ISM equipment, in order to be operated without a license, should meet the technical standards set forth and that operation under any other terms should be licensed. However, licensing of ISM devices, if necessary, can only be made under Part 5 of the Rules on an experimental basis. Furthermore, the Commission has never issued a license for ISM equipment for non-experiment purposes. From this fact, one can conclude that the contents of Section 18.21 specifying the conditions for licensed operation are obsolete. The provisions of all other sections (§§ 18.22 through 18.29) of Part 18 dealing with the licensed operation of ISM equipment also are considered obsolete.

21. The major burden under Part 18 is the three-year re-certification requirement under § 18.142(c) for

equipment operating on non-ISM frequencies. Such a regulation was implemented in order to enforce the rules more intensively and to insure continuing compliance. However, this requirement has had an unnecessarily adverse economic impact on many manufacturers and has impeded application processing by the Commission.

22. Under § 18.125 which specifies the procedures for applying for prototype certification for industrial ISM equipment, paragraph (c) allows the manufacturer to label the equipment. Since most manufacturers choose not to attach this optional label on their devices, it seems that such a regulation is ineffective and can be deleted. However, this does not prohibit a manufacturer/vendor from labeling his equipment if he desires.

Restructure of Part 18

23. The structure of Part 18 has become cumbersome and intricate and should be reviewed. Part 18 is currently divided into 9 Subparts of which two are reserved. Subpart A deals with general conditions of operation and definitions. The remaining subparts are structured in accordance with the different types of ISM equipment and discuss technical standards and measurement techniques. In order to simplify the structure of Part 18, we propose to revise it by taking into consideration, to the extent possible, the key elements involved in establishing rules. Part 18 would, therefore, be divided into only 3 subparts as follows: (1) The general operating conditions and administrative provisions, (2) the applications and authorizations, and (3) the technical standards. The text would thus be shortened considerably, about 40%, by avoiding repetition especially when discussing administrative provisions. This would diminish the cost of publishing the rules by a considerable amount.

24. The methods of measurements would be published separately in the form of a bulletin, entitled MP–5 "Methods of Measurements for Industrial, Scientific, and Medical Equipment." OCE Bulletin 20, dealing with the methods of measurements on microwave ovens is being incorporated in MP–5. See Appendix B of this document.

Enforcement

25. By extending the use of certification, notification, and verification, as defined under Part 2, to ISM equipment we are facilitating the authorization program. Since the Commission will not be testing most pieces of equipment prior to their authorization through the program, we are planning to implement a sampling program to assure continued compliance. The sampling program which was discussed in the *Report & Order* in General Docket No. 83–10, released January 26, 1984, 49 FR 3991, February 1, 1984, will be used to determine continued compliance with the appropriate regulations. When non-compliance is found, the Commission, under authority of the Communications Act of 1934, 47 U.S.C. 501 to 503, may issue monetary forfeiture and prosecute violators of these regulations. We expect to enforce the rules rigorously to deter the entry of non-complying equipment into the marketplace.

Procedural Matters

26. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.* the Commission issues the following initial regulatory flexibility analysis:

I. Reason for Action

The administrative rules governing ISM equipment have become complex and too difficult to implement for certain devices.

II. The Objective

The objective is to reduce the amount of time needed for an applicant to obtain an equipment authorization while, at the same time, allowing the Commission some flexibility with its staff resources. A sampling program will also be instituted to strengthen the equipment authorization program.

III. Legal Basis

Action proposed is in accordance with sections 4(i), 302(a), 303(g), and 303(r) of the Communications Act of 1934, as amended.

IV. Entities Affected: Nature of Economic Impact; Significant Alternatives

The proposed changes in the regulations would affect a number of entities both large and small. An estimate of the number of such entities affected is not obtainable. ISM equipment suppliers, importers and manufacturers will not have to file large volumes of paperwork formerly required for certain devices and could begin marketing equipment at an earlier date. Equipment testing laboratories should experience no effect as we shall still require ISM equipment to be tested to show compliance with the regulations, as a marketing prerequisite. It is therefore felt that any impact from this proceeding would be beneficial to those affected.

V. Recording, Record-Keeping and Other Compliance Requirements

The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will decrease burden hours imposed on the public.

27. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time that a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's Rules 47 CFR 1.1231.

28. Pursuant to the applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before January 7, 1985, and reply comments on or before January 22, 1985. All relevant and timely comments will be considered before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and five copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should

be sent to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554. For further information on this proceeding, contact Liliane M. Volcy, Office of Science & Technology, (202) 653–8247.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

PART 2—[AMENDED]

A. 47 CFR Part 2 of the Rules is amended as follows:

§§ 2.809, 2.1037, and 2.1039 [Removed]

1. Sections 2.809, 2.1037 and 2.1039 are removed.

2. Paragraph (b) of § 2.1033 is revised to read as follows:

§ 2.1033 Application for certification.

* * * * *

(b) The application shall be accompanied by the report of measurements, and such other attachments as specified in the rules governing that particular equipment.

* * * * *

B. 47 CFR Part 18 is revised to read as follows:

PART 18—INDUSTRIAL, SCIENTIFIC, AND MEDICAL EQUIPMENT

Subpart A—General Information

Sec.

18.101 Basis and purpose.
18.103 Organization and applicability of the rules.
18.105 Other applicable rules.
18.107 Definitions.
18.109 General technical requirements.
18.111 General operating conditions.
18.113 Inspection by Commission representatives.
18.115 Elimination and investigation of harmful interference.
18.117 Report of interference investigation.
18.119 Importation.

Subpart B—Application and Authorizations

18.201 Scope.
18.203 Equipment authorization.
18.205 Description of measurement facilities.
18.207 Technical report.
18.209 Identification of authorized equipment.
18.211 Information to the user.

Subpart C—Technical Standards

Sec.

18.301 Operating frequencies.
18.303 Prohibited frequency bands.
18.305 Radiation limits.
18.307 Conduction limits.
18.309 RF lighting devices.
18.311 Methods of measurements.

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Subpart A—General Information

§ 18.101 Basis and purpose.

The rules in this part, in accordance with the applicable treaties and agreements to which the United States is a party, are promulgated under section 302 of the Communications Act of 1934, as amended, vesting the Federal Communications Commission with authority to regulate industrial, scientific, and medical equipment that emits electromagnetic energy on frequencies within the radio frequency spectrum in order to prevent any substantial amount of interference to authorized radio communication services. This part sets forth the conditions under which the equipment in question may be operated.

§ 18.103 Organization and applicability of the rules.

The rules in this part are divided into the following subparts:

(a) Subpart A contains general information and definitions for use in this part.

(b) Subpart B describes the procedures and requirements for authorization to market or operate ISM equipment under this part.

(c) Subpart C contains the technical standards for industrial, scientific, and medical equipment.

§ 18.105 Other applicable rules.

Other Commission rules parts of importance that should be referred to with respect to authorizations and operations of industrial, scientific, and medical equipment include the following:

(a) Part 0 describes the Commission's organization and delegations of authority. This part also lists available Commission publications, standards and procedures for access to Commission records, and location of Commission field offices.

(b) Part 1 contains the rules of practice and procedure for adjudicatory proceedings including hearing proceedings; procedures for reconsideration and review of the Commission's actions; provisions concerning violation notices and for forfeiture proceedings; and the requirements for environmental impact statements.

(c) Part 2 contains special requirements in international regulations, agreements, treaties, and the table of frequency allocations. This part also contains standards and procedures concerning the marketing, the equipment authorization, and the importation of radio frequency devices into the United States.

§ 18.107 Definitions.

(a) *Radio frequency (RF) energy.* Electromagnetic energy at any frequency in the radio spectrum between 10kHz and 3,000,000MHz.

(b) *Harmful interference.* Any emission, radiation or induction which endangers the functioning of a radionavigation service or other safety services or seriously degrades, obstructs or repeatedly interrupts a radio communication service operating in accordance with this chapter.

(c) *Industrial, scientific, and medical (ISM) equipment.* Devices operating above 10kHz which use radio waves for industrial, scientific, and medical or any other purposes including the transfer of energy by radio and which are neither used nor intended to be used for radio communication.

(d) *ISM frequency.* A frequency assigned by this part for the use of ISM equipment. A specified tolerance is associated with each ISM frequency (See § 18.301).

(e) *Marketing.* As used in this part, marketing shall include sale or lease, offer for sale or lease, advertising for sale or lease, the import or shipment or other distribution for the purpose of sale or lease or offer for sale or lease. (See Subpart I of Part 2 of this Chapter).

Note.—In the foregoing, sale (or lease) shall mean sale (or lease) to the user or a vendor who in turn sells (or leases) to the user. Sale shall not be construed to apply to devices sold to a second party for manufacture or fabrication into a device which is subsequently sold (or leased) to ths user.

(f) Industrial heating equipment shall include any apparatus which utilizes a radio frequency oscillator or any other type of radio frequency generator and transmits radio frequency energy used for or in connection with industrial heating operations utilized in a manufacturing or production process.

(g) Medical diathermy equipment shall include any apparatus (other than surgical diathermy apparatus designed for intermittent operation with low power) which utilizes a radio frequency oscillator or any other type of radio frequency energy used for therapeutic purposes.

(h) Ultrasonic equipment shall include any apparatus which generates radio

frequency energy and utilizes that energy to excite or drive an electromechanical transducer for the production of sonic or ultrasonic mechanical energy for industrial, scientific, medical or other noncommunication purposes.

(i) General ISM equiment shall include apparatus other than that defined in or excepted by paragraphs (f), (g), and (h) of this section in which radio frequency energy is applied to materials to produce physical, biological, or chemical effects such as heating, ionization of gases, mechanical vibrations, hair removal and acceleration of charged particles which do not involve communications or the use of radio receiving equipment.

(j) Consumer ISM equipment shall include any apparatus used or intended to be used by the general public in a residential environment.

§ 18.109 General technical requirements.

ISM equipment shall be designed and constructed in accordance with good engineering practice with sufficient shielding and filtering to provide adequate suppression of emissions on frequencies outside the frequency bands specified in § 18.301.

§ 18.111 General operating conditions.

(a) Persons operating ISM equipment, for which a grant of equipment authorization is required under this part, shall not be deemed to have any vested or recognizable right to the continued use of any given frequency, by virtue of any prior equipment authorization.

(b) Subject to the exceptions in paragraphs (c) and (d) of this section and irrespective of whether the equipment otherwise complies with the rules in this part, the operator of ISM equipment that causes harmful interference to any authorized radio service shall promptly take whatever steps may be necessary to eliminate the interference.

(c) The provisions of paragraph (b) of this section shall not apply in the case of interference to an authorized radio station or a radiocommunication device operating on an ISM frequency (including tolerance).

(d) The provisions of paragraph (b) of this section shall not apply in the case of interference to a receiver arising from direct intermediate frequency pickup by the receiver of the fundamental frequency emissions of ISM equipment operating on an ISM frequency (including tolerance) and otherwise complying with the requirements of this part.

§ 18.113 Inspection by Commission representatives.

Upon request by a representative of the Commission the manufacturer, owner or operator of any piece of ISM equipment shall make the equipment available for inspection and promptly furnish the Commission with such information as may be required to indicate the capability of the equipment with regard to compliance with this Part.

§ 18.115 Elimination and investigation of harmful interference.

(a) The operator of ISM equipment that causes harmful interference to radio services shall promptly take appropriate measures to correct the problem.

(b) If the operator of ISM equipment is notified by the Commission's Engineer in Charge (EIC) that operation of such equipment is endangering the functioning of a radionavigation or safety service, he or she shall immediately cease operating the equipment. Operation may be resumed on a temporary basis only for the purpose of eliminating the harmful interference. Operation may be resumed on a regular basis only after the harmful interference has been eliminated and approval from the Commission obtained.

(c) When notified by the EIC that a particular installation is causing harmful interference, the operator or manufacturer shall arrange for an engineer skilled in interference measurements and control techniques to make an investigation to ensure that the harmful interference has been eliminated. The Commission may require the engineer making the investigation to furnish proof of his or her qualifications.

(d) The results of the investigation required by paragraph (c) of this section shall be reported to the EIC of the local district office.

§ 18.117 Report of interference investigation.

(a) An interim report on the investigation and of the corrective measures that were taken shall be filed with the Engineer in Charge of the local FCC office within 30 days of notification of harmful interference. The final report shall be filed with the Engineer in Charge within 60 days of notification.

(b) The date for filing the final report may be extended by the Engineer in Charge when additional time is required to put into effect the corrective measures or to complete the investigation. The request for extension of time shall be accompanied by a progress report showing what has been accomplished to date.

§ 18.119 Importation.

ISM equipment shall be refused entry or withdrawal for consumption into the Customs territory of the United States, unless accompanied by a copy of FCC Form 740, in accordance with the provisions of Subpart K, Part 2 of this chapter.

Subpart B—Applications and Authorizations

§ 18.201 Scope.

This subpart contains the procedures and requirements for authorization to market or operate ISM equipment under this part.

§ 18.203 Equipment authorization.

(a) ISM equipment, unless otherwise specified, shall be subject to notification in accordance with the relevant sections in Subpart J, Part 2 of this chapter.

(b) ISM equipment for use by the general public shall be subject to certification prior to use or marketing. An application for certification on FCC Form 731 shall be filed with the Commission, pursuant to the relevant sections in Subpart J, Part 2 of this Chapter and shall also be accompanied by:

(1) A description of measurement facilities pursuant to Section 18.205 or have such information on file with the laboratory of the Commission.

(2) A technical report pursuant to § 18.207.

(3) A report of measurements pursuant to §§ 18.207 and 18.311.

(c) One-of-a-kind ISM equipment and ultrasonic equipment generating less than 500 watts and operating below 90 kHz shall be subject to verification in accordance with the relevant sections in Subpart J, Part 2 of this chapter.

(d) Domestic microwave ovens shall be type approved before use or marketing. An application for type approval on FCC Form 731 shall be filed with the Commission, pursuant to the relevant sections in Subpart J, Part 2 of the Rules.

§ 18.205 Description of measurement facilities.

(a) Any party making measurements to be filed for a device subject to certification under this part, shall submit a description of the measurement facilities to the Commission.

(b) The description shall include the following information:

(1) Location of test site.

(2) Physical description of the test site accompanied by photographs 8" x 10" in size. Photographs smaller than 8" x 10" will be acceptable if mounted on paper 8" x 10" and of sufficient clarity.

(3) Scaled drawing showing the dimensions of the site, the physical layout of supporting structures and all structures within 5 times the distance between the measuring set and the device under test.

(4) Description of structures used to support the device being measured and the test instrumentation.

(5) List of measuring equipment used and information concerning the calibration of the measuring equipment, i.e. when the equipment was last calibrated and frequency of calibration.

(6) A statement indicating whether this facility is available to do measurement work for others on a contract basis.

(c) This information shall be kept current at all times.

Note.—OST Bulletin 55, "Characteristics of Open Field Test Sites", provides further guidance on open field test sites and site attenuation.

§ 18.207 Technical report.

When required by the Commission a technical report shall include as a minimum the following information:

(a) A copy of the installation and operating instructions furnished to the user. A draft copy of such instructions may be submitted with the application, provided a copy of the actual document to be furnished to the user is submitted as soon as it is available, but no longer than 60 days after the grant of the application.

(b) A statement of the rated technical parameters that includes:

(1) A block and schematic diagram of the circuitry.

(2) Nominal operating frequency.

(3) Maximum RF energy generated.

(4) Electrical power requirements of equipment.

(5) Any other pertinent operating characteristics.

(c) A report of measurements, including a list of the measuring equipment used and a statement of the date when the measuring equipment was last calibrated and when the measurements were made. See also § 18.311.

(d) The frequency range that was investigated in obtaining the report of measurements.

§ 18.209 Identification of authorized equipment.

(a) Each device for which a grant of equipment authorization is issued under this part shall be identified and labeled pursuant to the applicable provisions of Subpart J of Part 2 of this chapter.

(b) Changes in the identification of authorized equipment may be made pursuant to § 2.933 of Part 2 of this chapter.

§ 18.211 Information to the user.

Information shall be provided to the user in the instruction manual for any type of ISM equipment about:

(a) The interference potential of the device or system

(b) Maintenance of the system

(c) Simple measures that can be taken by the user to correct the interference.

Subpart C—Technical Standards

§ 18.301 Operating frequencies.

ISM equipment may be operated on any frequency above 10 kHz except as indicated in § 18.303. The following frequency bands, in accordance with § 2.106 of the Rules, are allocated exclusively for use by ISM equipment:

ISM frequency	Tolerance	Notes
6.78 MHz	±15.0 kHz	(1)
13.56 MHz	±7.0 kHz	(1)
27.12 MHz	±160.0 kHz	(1)
40.68 MHz	±20.0 kHz	(2)
915 MHz	±13.0 MHz	(3)
2,450 MHz	±50.0 MHz	(1)
5,800 MHz	±75.0 MHz	(1)
24,125 MHz	±125.0 MHz	(1)
61.25 GHz	±250.0 MHz	(3)
122.50 GHz	±5.0 GHz	(1)
245.00 GHz	±1.0 GHz	(1)

[1] Frequencies allocated worldwide.
[2] Frequencies allocated worldwide except in the United Kingdom and Italy.
[3] Frequencies allocated in North and South America only (ITU Region 2).

§ 18.303 Prohibited frequency bands.

Operation of ISM equipment on the following frequency bands, which are allocated for safety, search and rescue operations, is prohibited: 490–510 kHz, 2170–2194 kHz, 8354–8374 kHz, 121.5 MHz, 156.8 MHz and 243 MHz.

§ 18.305 Radiation limits.

(a) ISM equipment operating on a frequency specified in § 18.301 is permitted unlimited radiated energy in the band specified for that frequency.

(b) Radiated emissions from ISM equipment that lie outside the bands specified in § 18.301 shall not exceed the following limits:

Equipment	Operating frequency	Power (watts)	Field strength uV/m	Distance (meters)
General	Any ISM frequency	Below 500	25	300
		On or above 500	$25\sqrt{\text{power}}$ [1]	300
	Any non-ISM frequency	Below 500	15	300
		On or above 500	$15\sqrt{\text{power}}$ [1]	300
Industrial heaters and RF stabilized arc welders	Above 5,725 MHz	Any	10	1,600
	Above 5,725 MHz	Any	[4]	[4]
Medical diathermy	Any ISM frequency	Any	25	300
	Any non-ISM frequency	Any	15	300
Ultrasonic	Below 490 kHz	Below 500	$\frac{2,400}{F(kHz)}$	300
		On or above 500	$\frac{2,400}{F(kHz)}\sqrt{\text{power}}$ [2]	300
	490 to 1,600 kHz	Any	$\frac{24,000}{F\ (kHz)}$	30
	Non-ISM frequencies above 1,600 kHz	Any	15	30
Induction cooking ranges [3]	Below 90 kHz	Any	1,500	30
	On or above 90 KHz	Any	300	30

[1] Field strength may not exceed 10 uV/m at 1600 meters. Equipment used predominantly in residential areas and operating below 1000 MHz are not permitted the increase in field strength.
[2] Field strength may not exceed 10 uV/m at 1600 meters. Equipment used predominantly in residential areas are not permitted the increase in field strength.
[3] Induction cooking ranges manufactured prior to February 1, 1980, shall be subject to the radiation limits for general ISM equipment.

§ 18.307 Conduction limits.

Conduction limits shall be applied to ultrasonic equipment and induction cooking ranges as follows:

(a) *Ultrasonic equipment.*

When measured both grounded and ungrounded, the conducted RF voltage from ultrasonic equipment shall not exceed the following:

Frequency (kHz)	Conducted RF voltage (microvolts)
On or below 490 kHz	1,000
Above 490 kHz	200

NOTE: Methods of making conducted interference measurements are described in "Electromagnetic Interference Characteristics, Requirements for Equipment", MIL-STD-461A, "Electromagnetic Interference Characteristics, Measurement of", MIL-STD-462, and "Definitions and Systems of Units, Electromagnetic Interference Technology". These documents are available from the Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120.

(b) *Induction cooking ranges.*

Induction cooking ranges manufactured after February 1, 1980, shall limit the conducted RF voltage fed back into the power lines to the following:

Frequency of emissions (kHz)	Conducted RF Voltage Limit (millivolts)
10–100	[1]10–1
100–500	1
500–30,000	0.25

[1] Linear interpolation.

Measurements of conducted RF voltage shall be made using a 5 microhenry 50 ohm LISN (Line Impedance Stabilization Network).

§ 18.309 RF lighting devices.

RF lighting devices, pending further action in General Docket 83–806, shall meet the requirements specified below, as a marketing prerequisite:

(a) RF lighting equipment marketed for use in industrial, commercial, and business environments, shall be subject to the radiation and conduction limits set forth for Class A computing devices under §§ 15.810 and 15.812 of Part 15, Subpart J of this Chapter.

(b) Consumer RF lighting equipment or RF lighting devices marketed for use in residential areas shall be subject to the radiation and conduction limits set forth for Class B computing devices under §§ 15.830 and 15.832 of Part 15, Subpart J of this Chapter.

§ 18.311 Methods of measurements.

(a) ISM equipment measured for compliance with the specifications of this part, unless otherwise specified, shall be tested in accordance with FCC MP–5 "Methods of Measurements for ISM equipment".

(b) RF lighting devices shall be measured for compliance, to the extent possible, in accordance with FCC MP–4 "Methods of Measurements of Radio Noise Emissions from Computing Devices".

Note.—This appendix will not appear in the Code of Federal Regulations.

Appendix B—Methods of Measurements for Industrial, Scientific, and Medical Equipment

Preface

This document sets fourth uniform methods of measurements of radio noise emitted from ISM equipment, as defined in § 18.107 of the FCC Rules. The technical specifications for ISM equipment are contained in Part 18 of the FCC Rules. Methods of measurements of radiated, powerline conducted radio noise, frequency and power output (when applicable) are covered herein. Applicants for both notification and certification should employ these methods. Testing of ISM equipment by the FCC will be conducted in accordance with these methods of measurements, to the extent possible. This document has been spearated in two parts; Part I deals with the methods of measurements for all types of ISM equipment and Part II, notwithstanding the requirements in Part I, discusses the measurement procedure for microwave ovens.

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Part I—General Procedure

1.0 Definitions

The definitions in Parts 2 and 18 of the FCC Rules and the following shall apply to use of this standard.

1.1 Ambient level

The magnitude of radiated or conducted signals and noise existing at a specific test location and time.

1.2 Emission

Electromagnetic energy produced by a device which is radiated into space or conducted along wires and is capable of being measured.

1.3 Radio noise

An electromagnetic noise that may be superimposed upon a wanted signal and is within the radio frequency range. Any unwanted disturbance within the radio frequency band, such as undesired electric waves in any transmission channel or device.

1.4 Radiated radio noise

Radio noise radiated into space. Such noise may include both radiation and induction components of the field.

1.5 Conducted radio noise

Radio noise propagated from the device back into the public electrical power network via the supply cord.

1.6 Equipment under test (EUT)

A representative piece of ISM equipment being tested or evaluated.

1.7 Ground plane

A conducting surface used to provide uniform reflection of an impinging electromagnetic wave. Also, the common reference point for electrical potentials.

2.0 General test conditions

2.1 Test sites

An environment which assures valid, repeatable results shall be used. A measurement is valid to the extent that it is a true representation of the characteristic being measured, and when the same measurement of the characteristics procedure yields repeatable results. Measurements should be made on an open field, however, alternatives are permitted (See 2.1.2 and 2.1.3). A description of the test facility used for equipment subject to certification or when required by the Commission, shall be filed, pursuant to § 18.205 of the FCC Rules (47 CFR § 18.205).

2.1.1 Open field sites

Measurements of radiated noise should be made in an open, flat area characteristic of cleared, level terrain. For details on how to set up a suitable site, see FCC Bulletin OST 55: *Characteristics of Open Field Test Sites*, available from the FCC Consumers Assistance Office, Washington, D.C. 20554. Measurements made by the Commission will be performed on an open field site.

2.1.2 Testing at the user's premises, factory, or other facilities

Testing at the user's premises, factory or other facilities is permitted only for ISM

equipment which, due to operating conditions, may not be tested on an open field site.

2.1.3 Testing in a shielded enclosure

Radiation measurements made in a shielded enclosure are suitable only for determining the frequency profile of an EUT; they are not suitable for determining the actual levels of the emissions unless it can be shown that the results of tests made in the enclosure are correlatable to those made at an open field site. Conducted radio measurements made in a shielded enclosure are acceptable and, in fact, preferable.

2.2 Measuring instrumentation

Radiated and conducted measurements shall be made with a radio noise meter that conforms with the American National Standard Specifications for Electromagnetic Interference and Field Strength Instrumentation 10 kHz to 1 GHz, C63.2 (1980). Alternatively, a spectrum analyzer may be used, provided the results obtained can be accurately reproduced with a suitable radio noise meter and that it is used, when necessasary, with appropriate accessories to insure sufficient sensitivity and overload protection. Other instruments may be used for certain restricted and specialized measurements when data so measured are correlatable to that achieved with C63.2 instrumentation.

Note.—Accessories needed would depend upon the measurement situation and could include preamplifiers for sensitivity improvement, filters and/or attenuators from overload protection, and additional quasi-peak detection circuitry. Overload is defined as harmonic distortion, intermodulation, or gain compression of spectrum analyzer input signals. Precautions may have to be taken to insure that the spectrum analyzer operates linearly before taking final measurements. Consult user's manual for instructions and guidance. Application notes on the use of spectrum analyzer and other instruments are also available from several manufacturers.

2.2.1 Calibration of measuring instrumentation

The calibration of the measuring instrumentation, including any accessories that may affect such calibration, shall be checked frequently enough to assure its accuracy. Adjustment shall be made and correction factors applied in accordance with instructions contained in the manual for the measuring instrument.

2.2.2 Detector function selection and bandwidth

For radio noise meters or spectrum analyzers which include weighting circuits, the detector function selector shall be set to average. When correlation can be shown between average and some other detector function for a particular piece of equipment, that detector function may be used.

The 6 dB bandwith of the measuring instrument shall not be less than:

—3 kHz for measurements below 450 kHz

—10 kHz for measurements from 450 kHz to 30 MHz

—100 kHz for measurements from 30 to 1000 MHz

—1 MHz for measurements above 1000 MHz

Post detector video filters may be used in the case of peak reading spectrum analyzers if correlation can be shown to an average reading or quasi-peak radio noise meter. Alternatively, field strength meters and spectrum analyzers without weighting circuits may be employed, provided measurements are made on the peak basis and recorded as observed. For pulsed, broadband emissions the measured data shall be corrected for pulse desensitization factor. With this correction applied to peak indications, if the duty cycle is known or can be measured, average values of desensitization correction factor for a given emission, it may be necessary to vary the above specified minimum bandwidth of the measuring instrument.

Notes.—1. The above specified bandwidths have tolerances as prescribed in ANSI standard C63.2—1980.

2. If bandwidths greater than those specified in 2.2.2 are used, higher readings may result for EUT's with broadband emanations.

3. Data taken when measuring instrumentation employing logarithmic amplifiers when using the average function will represent the average of the logarithm of the voltage level. If the emanation observed is pulsed, broadband observed values will be materially lower than the true average of voltage. Instrument overload is likely to occur with linear RF systems if the emission pulse duty cycle is less than that for which the measuring instrumentation is rated.

2.2.3 Units of measurements

Measurements of radiated emissions shall be reported in terms of microvolts per meter at a specified distance. The indicated readings on the spectrum analyzer or the radio noise meter shall be converted to microvolts per meter by use of appropriate conversion factors. Measurements of conducted emissions shall be reported in terms of microvolts.

2.2.4 Antennas

The following antennas shall be used for measuring the field strength:

Frequency range	Type of antenna
Below 30 MHz	Shielded loop.
30 to 1,000 MHz	Calibrated tuned half-wave dipole or other comparable linearly polarized antenna.
Above 1 GHz	Broadband linearly polarized horn antenna.

2.2.5 Antenna height variation

The measurement antenna must be varied in height above ground to obtain the maximum signal strength. In the frequency range:

—Below 30 MHz. The antenna height shall be set at around 2 meters and minor variations in height scans shall be made. Care should be taken to assure that nulls are not created.

—30 to 1000 MHz. For measurement distances up to and including 10 meters, the antenna heights shall be varied from 1 to 4 meters. Beyond 10 meters, the height shall be varied from 2 to 6 meters.

—Above 1000 MHz. No specific height but antenna orientation and variations in height shall be such that nulls are not created.

These height scans apply for both horizontal and vertical polarization, except that for vertical polarization the minimum height should be increased so that the lowest point of the bottom end of the dipole (or other antenna), at any frequency, clears the site ground surface by approximately 25 cm.

2.2.6 Antenna-to-test unit distance

Measurements shall be made at the distance at which the limits are specified, to the extent possible.

A sufficient number of measurements shall be made in the vicinity of the EUT to enable plotting of the polar radiation pattern and to assure the correct determination of the major lobes. Where conditions permit, these measurements shall be made at intervals of no more than 20 degrees in azimuth directions and at distances not exceeding the one at which the emission limit is specified.

The field strength measurements for the maximum field strength at the distance at which the limit is specified, shall be made along the radial corresponding to the lobe of maximum radiation as determined from the polar radiation pattern. Sufficient measurements shall be made along radials extending through all lobes which are within 15 dB of the apparent maximum lobe. Where possible, field strength measurements shall be made along each radial at several intervals and an average curve shall be drawn for measured field strength in uV/m versus distance in meters. Where necessary, the average curve shall be extended to show the extrapolated field strength at the distance at which the emission limit is specified.

The Commission as an alternative shall accept measurements at a closer fixed distance for equipment subject to certification or notification from the public, provided 1/d is used as an attenuation law factor. Where d is the distance at which the field strength is being measured.

2.3 Frequency range to be scanned

Measurements of radiated energy shall be made from the lowest generated frequency to the tenth harmonic or highest generated frequency. For conducted emissions, when required, measurements shall be made from 10 kHz to 30 MHz.

2.4 Preliminary testing and monitoring

Preliminary radiated measurements should be made inside, preferably in an enclosure, at a closer distance than specified for compliance to determine the emission characteristics of the EUT. If a spectrum analyzer is not used, radio noise measurements should be monitored using either a headset or loudspeaker as an aid in detecting ambient signals and selecting problem frequencies. Precautions shall be taken to ascertain that the use of a headset or speaker does not affect the radio noise meter indication during testing.

2.5 Data-reporting format

The measurement results expressed in accordance with 2.2.3, and specific limits

where applicable, shall be presented in tabular and/or graphical forms showing level vs. frequency. Instrumentation, instrument and bandwidth settings, detector function, EUT arrangements, sample calculation with all conversion factors and all other pertinent details shall be included along with the measurement results.

3.0 Radiation hazard test

For ISM equipment operating on higher frequencies (above 900 MHz), in particular microwave ovens and medical diathermy equipment, radiation leakage should be measured in accordance with the current Bureau of Radiological Health standard, employing an electromagnetic radiation monitor (the FCC laboratory shall use a Narda Model 8100 or equivalent). This test is made primarily to assure that personnel will not be exposed to radiation hazard in testing the equipment. Equipment submitted to the FCC which have radiation leakage apparently in excess of BRH limit will be reported to BRH for their evaluation.

4.0 Frequency measurements

For ISM equipment designed to operate on one of the ISM frequencies, the maximum frequency deviation due to the load and normal operating conditions shall be measured and reported. These measurements may be performed indoors. The load effect on frequency variation is determined by finding the extreme values of frequency obtainable by adjustment of applicator spacings, external control settings, and varying loads, for each combination of applicators.

After a five-minute no-load warm-up from a cold start at room temperature without any applicators connected), determine the maximum deviations from the ISM frequency (both above and below) by making measurements with different combinations of applicators, applicator spacings, control settings, and load.

Using that combination of applicators and load spacing which produces the maximum observable power output into the load, operate the equipment from a cold start at room temperature for a period of six hours (two hours for portable equipment). Measure the frequency at the beginning of the run and at frequent intervals until its completion.

After making the last measurement, once again adjust the controls of the equipment, vary the load, and change the applicator spacing, to find the combination that yields the worst deviation from the ISM frequency.

For medical diathermy equipment the maximum and minimum frequency measured mst be within 70% of the frequency tolerance listed in Section 18.301 of the Rules.

5.0 Radiated test procedure

On an approved test site, the EUT shall be placed on a rotatable platform, fed with power and control circuits via underground cable. The turntable on which the EUT is to be mounted shall be substantially non-metallic and 50 cm above ground level. If the equipment is designed to be operated on a table, a wooden support shall be placed on the platform such that the EUT sits on a surface 1 meter above ground, with the applicator leads (if any) fully extended in front of the equipment. If for practical reasons, it is not feasible to use a rotatable platform, the EUT may be located in a fixed position, with the measurement installation moved around the equipment to locate and measure the maximum level of radiation.

When the EUT is fitted with a special grounding terminal, this shall be connected to earth ground by a lead as short as possible. When no grounding terminal is provided, the EUT shall be tested as normally connected; that is, any grounding is obtained through the mains supply. When the EUT is supplied with a flexible power cable, as mush of this as possible shall be on the ground.

For the fundamental frequency and all other frequencies having significant strength, that is within 20 dB of the limits, measurements shall be made with and without a load, rotating the platform to determine the orientation giving the maximum observable value. This must be done for both horizontal and vertical polarization of the receiving antenna. All recorded levels within 20 dB of the limits specified shall be reported.

For radiation measurements for medical diathermy equipment operating above 900 MHz, the procedures in Part II shall be followed.

Part II—Microwave Ovens

Microwave ovens shall be type approved by the Commission. Testing at the FCC laboratory shall be done in accordance with the following methods, nothwithstanding the applicable sections in Part I of this document.

6.0 Load

For all measurements the energy developed by the oven is absorbed by a dummy load consisting of a quantity of tap water in a breaker. The "Nalgene" Cat. No. 1201–1000 polypropylene beaker or any other beaker of similar dimensions or other low-loss material shall be used as the container. If the oven is provided with a shelf or other utensil support, test shall be made with this initial normal position. For ovens rated at 1000 watts or less power output, the beaker shall contain quantities of water as listed in the following subparagraphs. For ovens rated at more than 1000 watts output, each quantity shall be increased by 50% for each 500 watts or fraction thereof in excess of 1000 watts. Additional beakers are used if necessary.

6.1 Load for power output measurement

This load consists of 1000 milliliters of water in the beaker, located in the center of the oven.

6.2 Load for frequency measurement

This load consists of 1000 milliliters of water in the beaker, located in the center of the oven.

6.3 Load for measurement of radiation on second and third harmonic

Two loads, one of 700 and the other of 300 milliliters, of water are used. Each load is tested both with the beaker located in the center of the oven and with it in the right front corner.

6.4 Load for all other measurements

This load consist of 700 milliliters of water, with the beaker located in the center of the oven.

7.0 Power output measurement

The power output is measured by the calorimetric method, using the load specified in Section 6.1, computing the power output from the observed temperature rise of the load over a period of time. The measured value of power output is used to determine the allowable out-of-band field strength under the terms specified in Section 18.305 of the Rules. The ac power input to the oven is also measured to determine if the oven is operating in accordance with the manufacturer's specifications.

8.0 Frequency measurements

The maximum and minimum frequency measured must within 70% of the frequency tolerance listed in Section 18.301 of the Rules.

For pulsed ovens, frequency measurements are made by beating a transfer oscillator against the fundamental emission of the oven and measuring the frequency of the oscillator with a suitable frequency counter. Ordinary frequency counters cannot be used to measure the oven frequency directly in a pulsed oven. Continuous-wave ovens are measured either by the transfer oscillator method or by direct measurement with a frequency counter. Measurements are made of:

(a) The variation of frequency with time, using the load specified in Section 6.2, starting with the oven and load at room temperature and continuing until the load quantity has been reduced by evaporation to approximately 20% of the orignial quantity. This test is made with nominal rated ac supply voltage.

(b) The variation of frequency for line voltage variation from 80% to 125% of nominal rated voltage, starting with the oven warm from at least 10 minutes use, with a load as specified in Section 6.2, and with this load at room temperature at the beginning of the test.

9.0 Measurement of radiated emissions

Initial measurements are made near the oven with the measuring antenna 3 meters from the nearest part of the oven. The dummy load specified in Section 6.3 or 6.4 is used, as applicable. The oven is rotated about its vertical axis on the turntable, and the polarization and height of the receiving antenna are varied to obtain the highest field strength on the particular frequency under observation. Measurements at the 3 meter distance are made in a large room or outdoors; with the equipment and antenna located so as to minimize effects due to reflections from the building structure or other items in the field. For measurements above 1GHz and at 3 meters, an antenna of small aperture (i.e., a small horn, without its reflector) is used, because the field over the area of a large antenna would be non-uniform, and such an antenna would not have the gain normally expected.

At each test frequency, the reading of the field strength meter is observed during the heating cycle as the following factors are varied:

(a) Oven orientation
(b) Antenna orientation
(c) Antenna polarization

(d) At the second and third harmonics only, the two load sizes and load locations specified in Section 6.3

(e) For ovens employing mode stirrers, the test should include several cycles of stirrer rotation

At the second and third harmonics, the recorded data should include the highest reading observed for each load size and load location. At other frequencies, the highest reading observed should be recorded.

When measuring sidebands close to the fundamental (near the edges of the ISM band frequency limits) great care must be taken to avoid errors caused by overload from the emission at the fundamental frequency. A tunable filter can be usefully employed to reduce the level of the fundamental relative to that of the particular sideband if overload occurs. Overload can be detected by observing the relative change in indicated signal level for different values of input attenuator, either internal or external to the field intensity meter.

Since most microwave field strength meters have relatively little rejection at the image frequency, care should be taken to assure that apparent spurious emissions in the vicinity of the image frequency are really present. A tunable filter or band-pass filter can be used to attenuate the fundamental frequency as for the sidebands.

9.1 Computations to determine compliance

The measured field strength at 3 meters is converted to the field at 300 meters using the formula:

$$E_{300m} = K \times E_{3m}$$

where K is given by:

Frequency	K
1,830MHz	0.0046
2,745 MHz	.0070
3,660 MHz	.0090
4,575 MHz and above	.0100

For frequencies between those given in the table, the value of K is determined by linear interpolation.

The values of K given above were determined from measurements at the FCC laboratory test site. Over level terrain and limiting the height of the measuring antenna to 4 meters (12 feet), the measured values of K given above show good agreement with theory.

In the absence of actual measured values of attenuation at another site, the field may be extrapolated to 300 meters using inverse linear variation of field with distance to give conservative results.

While it is very unusual for microwave ovens to have strong radiated fields below 1 GHz, if the field strength values observed at 3 meters are strong enough to warrant concern over their values as extrapolated to 300 meters, it is suggested that additional measurements be made outdoors on an unobstructed level site at 30 meters or greater distance. This would eliminate any questions as to reflections from nearby objects or antenna aperture effects which might occur at these frequencies in measurements at 3 meters.

[FR Doc. 84-31755 Filed 12-5-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 79-145; FCC 84-548]

Television Waveform Standards Concerning Horizontal and Vertical Blanking Intervals

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes Rule changes: (1) To remove the maximum horizontal and vertical blanking interval standards from the Rules; and (2) to make these standards available in "Technical Bulletins for Good Engineering Practices."

This action is taken by the Commission in its efforts to relax restrictive regulations and policies.

The proposed Rule changes are intended to provide broadcasters more flexibility in meeting their programming needs.

DATES: Comments due by December 31, 1984, and Reply Comments due by January 15, 1985.

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

FOR FURTHER INFORMATION CONTACT: Hank VanDeursen, Mass Media Bureau, (202)632-9660.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of Television Waveform Standards Concerning Horizontal and Vertical Blanking Intervals (BC Docket No. 79-145).

Adopted: November 19, 1984.
Released: November 23, 1984.

By the Commission.

Introduction

1. On June 7, 1979, the Commission adopted a Notice of Inquiry [1] *(Inquiry)* in the above-entitled matter on its own motion. The purpose of the *Inquiry* was to assist the Commission in identifying how to deal with problems encountered by the broadcast industry in meeting maximum vertical and horizontal blanking interval standards. Vertical and horizontal blanking intervals are those periods during which synchronizing pulses are transmitted to control the vertical and horizontal scanning of the television picture. No picture information is transmitted during this time.

2. The Commission's Rules presently specify minimum and maximum timing values for both the horizontal and vertical blanking intervals. Maximum horizontal blanking is 11.44 microseconds and maximum vertical blanking is 21 lines (approximately 1335 microseconds). For the past few years there has been a continuing problem with television broadcast signal waveforms exceeding the maximum values contained in the Rules. When this occurs, black borders may appear at the top and left hand side of the picture. Blanking intervals width increases are inherent in much equipment used to process video signals. Thus, in today's complex TV environment, where a video signal may be processed a number of times between the camera and the transmitter, it is quite easy for the ultimate waveform to have blanking widths in excess of present standards.

Background/Comments

3. In response to numerous inquiries from station engineers and the Commission's own monitoring observations, a *Public Notice* was issued on June 16, 1978, establishing a temporary policy on enforcement of blanking standards. Under this policy, the Commission's Field Operations Bureau would issue *Advisory Notices* instead of *Notices of Violation* to stations broadcasting signals with horizontal blanking exceeding 11.44 microseconds but less than or equal to 12 microseconds, or for vertical blanking exceeding 21 lines but less than or equal to 23 lines. However, blanking intervals in excess of either of these ranges would be caused for a Notice of Violation.

4. The issuance of this *Public Notice* merely heightened awareness of the blanking standards, and the problem was found to be much more extensive than either the FCC or industry had anticipated. Consequently, the FCC released a *Public Notice* on January 10, 1979, modifying its temporary policy. Based on the magnitude of the problem and the cooperative effort then underway among segments of the industry, violation notices would not be issued for blanking in excess of the values stated in the Rules. The *Public Notice* also stated the Commission's intention to address the problem in a *Notice of Inquiry* in the very near future. The *Notice of Inquiry* was issued on June 25, 1979.

[1] See 44 FR 37520, published June 27, 1979.

5. The *Inquiry* requested interested parties to comment on matters related to the duration of vertical and horizontal blanking, including causes for blanking width increases, and the validity of existing standards in view of present practices and equipment. Parties were also requested to comment on how material not meeting present standards should be treated. Further, the *Inquiry* sought comments on the need for explicit standards and asked if marketplace forces could be relied upon to control excessive horizontal and vertical blanking. Shortly after issuance of the *Notice*, a report discussing horizontal and vertical blanking, reasons for blanking width increases, and recommendations on how best to handle the problem was filed with the Commission. The report was the result of a cooperative effort of the television industry and was sponsored by the National Association of Broadcasters (NAB).[2] Since the material contained in the report dealt with the issues raised in the *Inquiry*, it was made part of the record in the proceeding.

6. The NAB report discussed horizontal and vertical blanking intervals and, in particular, the practical difficulties experienced by the industry in meeting the maximum blanking standards in today's broadcast environment. For example, the report noted that blanking width increases are inherent in certain video processing equipment essential to today's broadcast operations. Intrinsic limitations in the design of certain pieces of equipment, now in widespread use, add to the problem. The report stated that even with good engineering practices and with equipment of modern design, licensees would have difficulty always meeting current Commission standards. To resolve the problem, the report recommended a continuance of the Commission's temporary policy of non-enforcement of blanking width standards for a period of five years. During this time, the report stated, the television industry would take steps to issue "long range recommendations." At the end of this period, a report would be issued by NAB on the blanking width situation along with recommendations for rule changes deemed appropriate. In addition to these steps, the report recommended modifying certain measurement procedures. Specifically, it was recommended that the picture level at which blanking width is specified and measured should be changed from 90 IRE units to 20 IRE units.[3] It was also recommended that vertical blanking interval should be measured on field one only, with the interval beginning 1.5 microseconds before the first equalizing pulse. Finally, it was recommended that horizontal blanking should be divided into two components designated pre-blanking and post-blanking.

7. Most comments in response to the *Inquiry* supported the recommendations advanced in the NAB reports. While most of the commenting parties limited responses to their own areas of interest, they all advanced substantially the same position.

8. The comments were divided with regard to the question of whether marketplace forces could be relied upon to protect the public from the adverse effects of excessive blanking. Those in favor of this concept contended that it was in a station's best interest to transmit a high quality signal, and excessive blanking would cause audiences to turn to other programming sources. However, the Electronics Industries Association (EIA) stated that the public's dissatisfaction with reduced picture size would be vented on the receiver manufacturers, resulting in increased costs and inconvenience.

9. A number of parties addressed the question of the causes of excessive blanking. For example, Trandem Productions and T.A.T. Communications (Trandem) stated that "excessive blanking can be caused by virtually any piece of equipment anywhere in the chain from camera through tape recorders and playback equipment up to and including the television station's broadcast transmitter." The specific pieces of video signal processing equipment, such as videotape recorders, time base correctors, field synchronizers, etc., were discussed, along with their effects on the horizontal and vertical blanking of a video signal as that signal passed through the "system." The majority of those commenting on production practices indicated that closer control over the production cycle and more frequent adjustments of equipment would eliminate many of the problems. The commenters noted that using post-production techniques to correct the problem were very expensive and often introduced significant degradation into the program signal.

10. As noted previously, the comments were unanimous in their opinion that the present maximum blanking standards were not appropriate in light of current operating procedures and practices. The NAB report suggested maximum blanking widths be increased to 12.2 microseconds (horizontal) and 1460 microseconds (vertical), or approximately 23 lines. EIA's comments recommended approximately the same values. EIA stated that blank edges would become visible if horizontal blanking was much greater than 12.6 microseconds or vertical blanking was much greater than 1450 micro-seconds.[4] The EIA noted that expanding blanking intervals along the lines recommended by NAB would not have an adverse impact on the future design of TV receivers.

11. Finally, the comments indicated that there is a large amount of archival material that would not meet either the present or the proposed standards. This category of material includes instructional televison material and news footage of historic events. They asserted that correcting such material would be very expensive. Thus, asserted that correcting such material would be very expensive. Thus, they stated that the Commission should exempt or "grandfather" this material from meeting the blanking standards.

Discussion

12. The NAB recommended a 5 year hiatus in enforcement of the blanking interval standards. Those 5 years have passed and it now appears that a marketplace approach is warranted. Incorrect blanking interval timing affects only the viewers of a particular station. Other co-channel and adjacent channel stations are not affected. So the standard is really one of on-channel quality, not interference.

13. Competition is keen among broadcasters and other video suppliers, and a strong incentive exists for each station to supply the best possible picture. However, market demands may dictate a tradeoff between blanking interval timing and choices of available programming. For example, much of the archival material may not meet the standards, but such programming may be of great interest to a station's viewing audience. Government regulations should not inhibit the airing of such material. We are confident that the broadcasters will exercise good judgment and keep their audiences in

[2] The report also contained a paper entitled "A Survey of Television Blanking Width Problems" by Frank Davidoff published in the March, 1979, edition of the SMPTE Journal.

[3] The IRE standard scale is a linear scale for measuring, in IRE units, the relative amplitude of the components of a television signal from zero reference at blanking level, with picture information falling in the positive, and synchronizing information in the negative. Reference white corresponds to 100 IRE units.

[4] These figures consider both black and white and color sets of both transistor and vacuum tube design.

mind when choosing and supplying programming. Therefore, we propose that it is appropriate to remove the maximum blanking interval standards from the Rules.

14. We would hope that eventually the industry will set its own voluntary guidelines in such quality areas. Until that time, we propose to make available the standards currently contained in the Rules in the form of technical bulletins for good engineering practices. This repository of technical information will provide guidance to broadcasters, production houses, and manufacturers, but will permit judgments consistent with programming needs.

15. Regulatory Flexibility Final Analysis.

I. *Reason for action:* The current Rules proscribe transmission standards that cannot be met by broadcasters for several sources of program material. The proposed action would eliminate that dilemma.

II. *The objective:* The Commission's proposals are designed to provide broadcast licensees more freedom in choosing program material without the fear of violating FCC technical Rules.

III. *Legal basis:* Action is proposed in accordance with Sections 303 (g) and (r) of the Communications Act of 1934, as amended, which charges the Commission to encourage the most effective use of radio in the public interest.

IV. *Description, potential impact, and number of small entities affected:* The proposed Rule changes should favorably affect all television broadcast stations by eliminating technical Rules that now restrict the transmission of certain video material, if the material exceeds the allowed horizontal or vertical blanking interval limits.

V. *Recording, recordkeeping, and other compliance requirements:* None.

VI. *Federal Rules which overlap, duplicate, or conflict with this Rule:* None.

VII. *Any significant alternatives minimizing impact on small entities and consistent with the stated objective:* None.

16. The Secretary shall cause a copy of this *Notice of Proposed Rule Making*, including the Initial Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 94 Stat. 1164, 50 U.S.C. 601 *et seq.*)

17. Accordingly, it is proposed to amend Part 73 of the Commission's Rules as set forth in the attached Appendix. Authority for the action taken herein is contained in Sections 4(i), 303 (g) and (r) of the Communications Act of 1934, as amended.

18. Pursuant to applicable procedures set forth in 1.415 and 1.419 of the Commission's Rules and Regulations, interested parties may file comments on or before December 31, 1984, and reply comments on or before January 15, 1985. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and five copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

19. For purposes of this nonrestrictive Notice and comment Rule Making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed Rule Making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, and *ex parte* presentation is any written or oral communication (other than formal written comments or pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits an *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who make an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments on the proceeding must prepare a written summary of that presenttion; and, on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's Rules, 47 CFR 1.1231.

20. Further information on this proceeding may be obtained by contacting Hank Van Deursen, Technical and International Branch, Policy and Rules Division, Mass Media Bureau, (202) 632–9660.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A—List of commenting parties

Agency for Instructional Television (AITV)
American Associations of Community and Junior Colleges (AACJC)
Antiope Videotex Systems (Antiope)
CBS, Inc. (CBS)
Coast Community College District (Coast)
Consumer Electronics Groups of the Electronic Industries Association (EIA)
Maryland State Department of Education (Maryland)
National Association of Broadcasters (NAB)
National Broadcasting Company (NBC)
PLT Television Network (PTL)
Public Broadcasting Service (PBS)
Radio Television News Directors Association (RTNDA)
Trandem Productions and T.A.T. Communications (Tandem)
WTVM–TV
KYVE–TV
WJAC-TV

Appendix B

It is proposed to amend Part 73 of the Federal Communications Commission's Rules and Regulations as follows:

§ 73.699 [Amended]

1. Section 73.699 Figure 6 would be amended by adding a new "Note" 19 to read as follows:

Notes

* * * * *

19 Maximum horizontal and vertical blanking intervals are recommended values only.

2. Section 73.699 Figure 7 would be amended by adding a new Note 12 to read as follows:

Notes

* * * * *

12 Maximum horizontal and vertical blanking intervals are recommended values only.

* * * * *

[FR Doc. 84–31751 Filed 12–5–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Parts 81 and 83

[PR Docket No. 84-1236; FCC 84-580]

Eligibility for Portable Ship Station Licenses and Frequency Assignments on the Great Lakes

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The FCC proposes to amend four rule sections in the maritime services. The amendments are intended to eliminate interference to the ship movement service on the Great Lakes and prevent inadvertent unlicensed operations by boaters. This action is a result of the Commission's ongoing effort to review and update the rules.

DATES: Comments must be submitted on or before January 4, 1985, and reply comments on or before January 21, 1985.

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

FOR FURTHER INFORMATION CONTACT: Nicholas G. Bagnato, Private Radio Bureau (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 81

Coast Stations, Marine safety, Communications equipment, Radio.

47 CFR Part 83

Communications equipment, Ship stations, Canada, Communications equipment, Radio.

Notice of Proposed Rule Making

In the matter of amendment of Parts 81 and 83 concerning eligibility for portable ship station licenses and frequency assignments on the Great Lakes (PR Docket No. 84-1236).

Adopted: November 21, 1984.

Released: November 28, 1984.

By the Commission.

Portable Ship Station License

1. Section 83.50(b) of our rules currently permits a ship station license to be granted solely for testing marine radio equipment incident to installation or servicing. Boat owners frequently assume that after a service company installs and tests a radio it is appropriately licensed and available for use. Inadvertent unlicensed operations result. The Commission has simplified the ship station application procedures to permit an applicant to obtain an "instant" special temporary authority at the time the application is mailed.[1] Therefore, there is little need for a service company to test a newly installed radio under its own portable ship station license when the new ship station can be authorized by concurrently completing FCC Forms 506 and 506-A which are available as a single application form.

2. Accordingly, we are proposing to discontinue granting portable ship station licenses to entities which solely install or service marine radio equipment. Existing licensees in this category would be permitted to continue to operate under their portable ship station license for the remainder of the license term. If the rule is ultimately changed as proposed we will emphasize in a Public Notice the boat owner/operator responsibilities to complete Forms 506 and 506-A prior to installing, testing and operating a new marine radio. Additionally, we are correcting § 83.28(a)(1) to state that FCC Form 506-A provides temporary authority to operate ship station for 90 days rather than 60 days.[2]

Great Lakes Ship Movement Service

3. The Great Lakes Agreement (GLA)[3] designates marine VHF Channels 11, 12, 13 and 14 as ship movement channels. The ship movement service is part of the safety system established on the Great Lakes by the Canadian and U.S. Coast Guards. The Commission has received reports from the Canadian Coast Guard that interference is occurring in some sectors on ship movement channels. The interference results primarily from commercial communications which are also permitted on Channel 11 and port operations communications on Channels 12 and 14.

4. Since the ship movement service is essential for safety of navigation on the Great Lakes, we propose to make Channels 11, 12, 13 and 14 primarily available for ship movement service communications in the Great Lakes. On a secondary basis, Channel 11 will be available for commercial communications and Channels 12 and 14 could be utilized for port operations communications. We note that ten other frequencies are available for commercial communications on a primary basis in the Great Lakes while five additional frequencies are available for port operations communications. No licensee would be without a suitable alternative frequency if secondary status is unsatisfactory in a particular sector. Further, the frequency table in § 83.351 does not reflect the designation of Channel 13 for the ship movement service in the Great Lakes. We propose to amend this table to specify the permitted use of Channel 13 in the Great Lakes.

5. Under procedures set out in § 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before January 4, 1985 and reply comments on or before January 21, 1985. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that fact of the Commission's reliance on such information is noted in the Report and Order.

6. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other material. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

7. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal arguments) between a person outside the Commission and a Commissioner or a member of the Commission's Staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in

[1] See, *Order*, FCC 78-846, released January 11, 1979, 70 FCC 2d 863.

[2] See, *Order*, FCC 84-323, released July 24, 1984, § 1.925(f).

[3] Agreement between the United States of America and Canada for the Promotion of Safety on the Great Lakes, 1973, TIAS 7837, amended 1978, TIAS 9352.

the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules 47 CFR 1.1231.

8. Pursuant to section 605 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), we certify that the proposed rule will not have a significant impact on a substantial number of small entities. The majority of installation or servicing of ship radio stations is performed under the ship station license. The purpose of this rule amendment is to prevent an uninformed boat operator from unlicensed operation in violation of the rules.

9. The proposals continued herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

10. It is ordered, that a copy of this Notice of Proposed Rule Making shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

11. Regarding questions on this matter contact Nicholas G. Bagnato, 202/632–7175.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 81 and 83 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

In § 81.356, the tables for port operations, navigational and commercial frequencies are amended and paragraph (4)(b) is added as follows:

§ 81.356 Assignable frequencies in the band 156–162 MHz.

(a) * * *

Channel designator	Frequencies (MHz) Coast	Ship	Points of communications	Conditions of use
	*	*	* * *	
Port Operations				
12	156.600	156.600	do	1, 4
73	156.675	156.675	do	
14	156.700	156.700	do	1, 4
	*	*	* * *	
Navigational				
11	156.550	156.550	Coast to ship	1, 4
	*	*	* * *	
Commercial				
13	156.650	156.650	Coast to ship	4, 10
	*	*	* * *	

(b) * * *

* * * * *

(4) In the Great Lakes available primarily for use for the Ship Movement Service (SMS) appropriate to the area of operation. On a secondary basis, available for use as permitted elsewhere in these rules.

* * * * *

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

§ 83.28 [Amended]

1. In § 83.28 paragraph (a)(1) is amended by changing the number "60" to "90" in the last sentence.

§ 83.50 [Amended]

2. In § 83.50 paragraph (b) is amended by deleting the words "installation or servicing" from the first sentence.

3. In § 83.351(a) the table is amended and § 83.351(b)(55) is added as follows.

§ 83.351 Frequencies available.

(a) * * *

Carrier frequency	Conditions of Use Section	Limitations
	* * *	* *
156.550	83.359, 83.361, 83.539	19, 20, 27, 35, 55.
156.575	83.359	19, 20, 28, 32.
156.600	83.359, 83.361, 83.539	19, 20, 23, 35, 55.
156.625	83.359	19, 20, 30, 46.
156.650	83.359	19, 20, 24, 31, 36, 55.
156.675	83.359	19, 20, 23.
156.700	83.359, 83.361, 83.539	19, 20, 23, 35, 55.
	* * *	* *

(b) * * *

* * * * *

(55) In the Great Lakes available primarily for the Ship Movement Service (SMS) appropriate to the area of operation. On a secondary basis available for use as permitted elsewhere in these rules.

[FR Doc. 84–31750 Filed 12–5–84; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 49, No. 236
Thursday, December 6, 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

Intent To Reestablish the Agribusiness Promotion Council

Notice is hereby given that the Secretary of Agriculture intends to reestablish the Agribusiness Promotion Council.

The purpose of the Council will be to assist USDA in carrying out the agricultural development aspects of the Caribbean Basin Economic Recovery Act. The objective of the Council will be to increase the level of new U.S. agri-industrial investment in the countries of the Caribbean Basin. This Council will serve an essential function.

Reestablishment of this Council is in the public interest in connection with the performance of the duties and responsibilities of USDA.

Written comments on the proposed reestablishment of the Council may be submitted to Joan S. Wallace, USDA/OICD, Room 3049 South Building, Washington, D.C. 20250 until 15 days after publication in the **Federal Register.**

Dated: November 30, 1984.

John J. Franke, Jr.,

Assistant Secretary for Administration.

[FR Doc. 84-31828 Filed 12-5-84; 8:45 am]

BILLING CODE 3410-DP-M

Animal and Plant Health Inspection Service

[Docket No. 84-347]

Availability of Draft Trifly Environmental Impact Statement

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This document provides notice of the availability for public comment of a draft Environmental Impact Statement that has been prepared by the Consortium for International Crop Protection for the Animal and Plant Health Inspection Service, U.S. Department of Agriculture on proposals to eradicate the Mediterranean Fruit Fly, the Oriental Fruit Fly and the Melon Fly in Hawaii (USDA-APHIS-DEIS 85-1). The draft EIS was sent to the Environmental Protection Agency (EPA) on November 19, 1984, by the U.S. Department of Agriculture (USDA) pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969. This document also provides notice of public meetings on December 18, 19, and 20, 1984.

To provide an opportunity for public participation in the development of the final EIS, comments on the draft EIS are invited from all interested members of the public, from State and local agencies which administer plant pest control regulatory programs or are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any national program issue or environmental impact that should be discussed in the final EIS.

DATES: Written comments concerning the draft EIS must be received on or before January 16, 1985. Public meetings concerning the draft EIS will be held on December 18, 1984, in Honolulu, Hawaii; December 19, 1984, in Kahului, Hawaii, and December 20, 1984, in Hilo, Hawaii.

ADDRESSES: Written comments concerning the draft EIS should be submitted to Edward J. Stubbs, Senior Staff Officer, Field Operations Support Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Edward J. Stubbs, Senior Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8295. Copies of the draft Trifly EIS are available upon request at this same address.

SUPPLEMENTARY INFORMATION:

Public Meetings

In compliance with its contractual obligations, the Consortium for International Crop Protection is holding public meetings on December 18, 1984, at the Ala Moana Americana Hotel, Plumeria Room, 410 Atkinson Drive, Honolulu, Hawaii; on December 19, 1984, at the Maui Community College, Community Service Building, 310 Kaahumanu Avenue, Kahului, Hawaii; and on December 20, 1984, at the County Extension Office, CES Meeting Room, 875 Komohana Street, Hilo, Hawaii. Comments will be taken concerning issues raised in the draft EIS and issues that should be discussed in the preparation of the final EIS. A representative of Plant Protection and Quarantine (PPQ), Animal and Plant Health Inspection Service (APHIS), will attend the meeting. Any interested person may appear and be heard in person, by attorney, or by other representative.

The public meeting to be held on December 18, 1984, in Honolulu, Hawaii, will begin at 9 a.m. and end at 10 p.m. The public meeting to be held on December 19, 1984, in Kahului, Hawaii, will begin at 7 p.m. and end at 10 p.m. The public meeting to be held on December 20, 1984, in Hilo, Hawaii, will begin at 7 p.m. and end at 9:30 p.m. The public meetings may be terminated at any time after they begin if all of those persons desiring an opportunity to speak have been heard. Persons who wish to speak are requested to register with the presiding officer prior to the meetings. The premeeting registration will be conducted at the location of the meetings one-half hour before the meeting begins. Those registered persons will be heard in the order of their registration. Any other person who wishes to speak at the meetings will be afforded such opportunity after the registered persons have been heard.

If the number of preregistered persons and other participants in attendance at the meetings warrant it, the presiding officer may limit the time for each presentation in order to allow everyone wishing to speak the opportunity to be heard.

Background

Three species of exotic fruit flies have become established in the State of Hawaii. These flies, referred to collectively as "Trifly", are the Mediterranean fruit fly, (*Ceratitis capitata*) Wiedeman, the Oriental fruit fly (*Dacus dorsalis*) Hendel, and the Melon fly (*Dacus cucurbitae*) Coquillett.

On December 30, 1983, APHIS published a notice in the **Federal Register** (48 FR 57577–57578) announcing their intent to prepare an environmental impact statement (EIS) in accordance with section 102 of the National Environmental Policy Act (42 U.S.C. 4321) on proposals to eradicate the Trifly in Hawaii. The notice of December 30 also announced that two public meetings would be held in Honolulu, Hawaii, to receive public comment on January 17 and 18, 1984. A second notice was published by APHIS in the **Federal Register** on July 24, 1984 (49 FR 29810) announcing the availability of a document, captioned "Scoping Process Summary—Trifly Eradication Environmental Impact Statement", which summarized the procedures followed by APHIS, and the written comments received during the scoping process.

In the notice of intent to prepare an EIS published in the **Federal Register** on December 30, 1983, the public was requested to submit comments pertaining to any issues, concerns, or questions, that should be discussed in the Trifly EIS. The comments received have been considered in the preparation of the draft EIS.

Copies of this draft EIS are available upon request. (See **"FOR FURTHER INFORMATION CONTACT"**).

Done at Washington, D.C., this 3rd day of December 1984.

Harvey L. Ford,

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

[FR Doc. 84-31881 Filed 12-5-84; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Revised Notice of Intent To Prepare the Medicine Bow National Forest and Thunder Basin National Grassland Land and Resource Management Plan and Environmental Impact Statement; Albany, Campbell, Carbon, Converse, Crook, Natrona, Niobrara, Platte, and Weston Counties, WY

A Notice of Intent to prepare an environmental impact statement (EIS) for the Medicine Bow National Forest and Thunder Basin National Grassland Land and Resource Management Plan was published in the **Federal Register** on February 12, 1980, and revised on November 14, 1980.

A second Revised Notice of Intent was published in the **Federal Register** on August 25, 1983. The August 1983 revised notice indicated the analysis in the draft EIS would disclose the environmental consequences of wilderness and nonwilderness management for the areas of the Medicine Bow National Forest which were inventoried in the Roadless Area Review and Evaluation (USDA Forest Service, RARE II FEIS, January 1979).

During the time the proposed Plan and draft EIS were being printed, Congress passed the Wyoming Wilderness Act. The President signed it into law (Pub. L. 98–550) on October 30, 1984. Therefore, the reanalysis of roadless areas is no longer within the scope of the EIS.

There are now three new wildernesses on the Forest—Platte River, Encampment River, and Houston Park. The three new wildernesses were found "suitable" for wilderness in the proposed Plan and DEIS. The Laramie Peak roadless area was also found suitable for wilderness in the planning process, however, the Act released this area to nonwilderness management.

The changes caused by the Wyoming Wilderness act on the alternatives discussed in the draft EIS are not substantial and there are no significant new circumstances relevant to environmental concerns resulting from the Act. Therefore, supplemental information was prepared identifying changes in the proposed Plan and draft EIS and the documents were released to the public and filed with the Environmental Protection Agency on November 21, 1984. The public comment period ends on March 14, 1985.

Following receipt of comments on the proposed Plan and draft EIS the Forest Service will consolidate the reanalysis caused by the Wyoming Wilderness Act with that indicated by public comment. This will be incorporated in the Forest Plan and final EIS which is now scheduled for release in the fall of 1985.

Public meetings are scheduled in January 1985. For further information or to obtain a meeting schedule please contact: Ron Olsen, Medicine Bow National Forest, 605 Skyline Drive, Laramie, Wyoming 82070, Phone: (307) 745–8971.

Dated: November 28, 1984.

S.H. Hanks,

Deputy Regional Forester.

[FR Doc. 84-31849 Filed 12-5-84; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (See 14 CFR 302.1701 et seq.); Week Ended November 23, 1984

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the applications by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Nov. 20, 1984	42647	Air Micronesia, Inc., c/o R. Tenney Johnson, Zuckert, Scoutt, Rasenberger & Johnson, 888 17th Street, NW., Washington, D.C. 20006. Application of Air Micronesia, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for modification of conditions five and six of its certificate of public convenience and necessity for Route 170. Conforming Applications, Motions to Modify Scope and Answers may be filed by December 18, 1984.
Do	42648	International Air Management Associates, Inc. d/b/a Explorair International, c/o Harold L. Lexo, P.O. Box 52024, GMF, Miami, Florida 33152. Application of International Air Management Associates, Inc. d/b/a Explorair International pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests issuance of a certificate of public convenience and necessity to authorize it to engage in foreign charter air transportation and for a fitness determination. Conforming Applications, Motions to Modify Scope and Answers may be filed by December 18, 1984.
Do	42649	International Air Management Associates, Inc. d/b/a Explorair International, c/o Harold L. Lexo, P.O. Box 52024, GMF, Miami, Florida 33152.

Date filed	Docket No.	Description
		Application of International Air Management Associates, Inc. d/b/a Explorair International pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests issuance of a certificate of public convenience and necessity to authorize it to engage in domestic and overseas charter transportation and for a fitness determination. Conforming Applications, Motions to Modify Scope and Answers may be filed by December 18, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-31873 Filed 12-5-84; 8:45 am]

BILLING CODE 6320-01-M

Notice of Order Establishing International Cargo Rate Flexibility Policy

The Board, by Policy Statement PS-109, effective February 27, 1983, adopted a policy of not suspending international cargo rate changes within a specified zone, except in extraordinary circumstances. That policy, implemented by Regulation ER-1322, effective February 27, 1983 (14 CFR Part 221), eliminates the requirement of economic justification for international cargo rates which are within Board established zones of flexibility. As stated in ER-1322, the Board has taken action to allow air carriers to respond more quickly to changing costs and competitive conditions.

In establishing the SFRL for the two-month period starting December 1, 1984, we have projected nonfuel costs based on the year ended June 30, 1984, and have determined fuel prices on the basis of experienced monthly fuel cost levels as reported to the Board.

By Order 84-11-116 cargo rates may be increased by the following adjustment factors over the April 1, 1982, level:

Atlantic	1.0226
Western Hemisphere	1.0611
Pacific	.9644

Copies of the Board's order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request.

For Further Information Contact: John D. Coakley, (202) 673-5196.

By the Civil Aeronautics Board: November 28, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-31876 Filed 12-5-84; 8:45 am]

BILLING CODE 6320-01-M

Notice of Order Establishing Standard Foreign Fare Level

The International Air Transportation Competition Act (IATCA), Pub. L. 96-192, requires that the Board establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile. The SFFL thus computed becomes the benchmark for measuring the statutory nonsuspend zone similar to the zone of reasonableness established by the Airline Deregulation Act and set forth in sec. 1002(d) of the Federal Aviation Act of 1958, as amended. Order 80-2-69 established the first interim SFFL and subsequent Order 84-9-87 established the currently effective two-month SFFL applicable through November 30, 1984.

In establishing the SFFL for the two-month period starting December 1, 1984, we have projected nonfuel costs based on the year ended June 30, 1984, and have determined fuel prices on the basis of experienced monthly fuel cost levels as reported to the Board.

By Order 84-11-117 fares may be increased by the following adjustment factors over the October 1, 1979, level:

Atlantic	1.1240
Western Hemisphere	1.2437
Pacific	1.2387
Canada	1.2182

Copies of the Board's order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request.

For Further Information Contact: John D. Coakley, (202) 673-5196.

By the Civil Aeronautics Board: November 28, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-31875 Filed 12-5-84; 8:45 am]

BILLING CODE 6320-01-M

[Docket 42631]

Ports of Call Travel Club, Inc.; Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge Ronnie A. Yoder. Future communications should be addressed to him.

Dated Washington, D.C., November 26, 1984.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 84-31872 Filed 12-5-84; 8:45 am]

BILLING CODE 6320-01-M

[Order 84-11-90; Docket 42585]

Petition of Transamerica Airlines, Inc.; Order To Show Cause

Adopted by the Civil Aeronautics Board at its Office in Washington, D.C., on the 26th day of November, 1984.

By a petition filed October 25, 1984, Transamerica Airlines, Inc. (Transamerica) requests that we (1) amend the definition of "all-cargo air service" in Part 291 of our Economic Regulations to include service between points within Alaska and within Hawaii; and (2) amend all outstanding certificates authorizing all-cargo air service under section 418 of the Act by removing the condition expressly prohibiting such service. Such actions, Transamerica contends, are necessary to implement statutory changes made by section 9(a) of the CAB Sunset Act of 1984.[1]

In further support of its request, Transamerica states that both the exclusion of intra-Alaska and intra-Hawaii service from the definition of all-cargo air service in 14 CFR 291.2, and the express prohibition of such service imposed as a condition in all section 418 certificates, derive directly from the terms of the Cargo Deregulation Act of

[1] Pub. L. 98-433, 98 Stat. 1703, October 4, 1984. These amendments to the Federal Aviation Act take effect on January 1, 1985.

1977,[2] particularly section 418(b)(3),[3] and have no independent basis in Board policy or findings of fact. According to the carrier, the explicit repeal of section 418(b)(3) by section 9(a) of the Sunset Act, as well as its restatement of the statutory definition of "all cargo air service"[4] clearly manifest a Congressional intent that the Board extend the same deregulation benefits to Hawaii and Alaska with respect to the provision of air-cargo services that they already enjoy for passenger service under the Airline Deregulation Act of 1978. Finally, the carrier asserts that the Board should act promptly to insure that carriers can implement the statutory changes commencing with their January 1, 1985 effective date. It emphasizes that there is no need to await individual applications or to review service proposals of individual carriers for intra-Hawaii or intra-Alaska service, since section 418 certificates require neither a finding of consistency with the public convenience and necessity nor affirmative findings of fitness.

We agree with Transamerica's analysis and will grant its requests. The explicit repeal of section 418(b)(3) is a strong signal from Congress that both existing and future section 418 certificate holders should be free to provide all-cargo air service within those two States after January 1, 1985. Because the repeal is not mandatory, however, we will provide for a brief comment period. We are therefore directing all interested persons to show cause, within fourteen (14) days of the date of service of this order, why we should not amend all outstanding section 418 certificates to remove, as of January 1, 1985, the condition prohibiting all-cargo air service between points wholly within Alaska or Hawaii. Should such action be made final, we will contemporaneously issue a final rule conforming the definitions of "all-cargo air service" and "all-cargo air carrier" in 14 CFR §291.2 to the revised statutory definition of "all-cargo air service" by removing the referenced exclusion of intra-Hawaii and intra-Alaska service by section 418 permit holders.

In view of the foregoing, we tentatively find and conclude that all outstanding section 418 certificates should be amended to remove the condition prohibiting all-cargo air service within the State of Alaska or the State of Hawaii.

Accordingly,

1. We grant the petition of Transamerica Airlines, Inc. in Docket 42585;

2. We direct all interested persons to show cause why we should not make final our tentative findings and conclusions and amend all outstanding section 418 certificates as indicated above;

3. Properly supported objections may be filed within fourteen (14) days of the date of service of this order, December 12, 1984;

4. If timely and properly supported objections are filed, we will give full consideration to all matters and issues raised by them before taking further action;

5. If no timely objections are filed, all further procedural steps will be deemed to have been waived, and the tentative findings and conclusions contained in this order shall become final;

6. This order shall be served on all certificated air carriers; and

7. This order shall be published in the **Federal Register.**

By the Civil Aeronautics Board. All Members concurred.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-31874 Filed 12-5-84; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41306]

Unicorn Air, Ltd., Fitness Investigation (on Remand); Postponement of Prehearing Conference

Notice is hereby given that the perhearing conference in the above-entitled matter scheduled to be held on December 5, 1984, at 9:30 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before Chief Administrative Law Judge Elias C. Rodriguez is hereby postponed until further notice.

Dated at Washington, D.C. November 29, 1984.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 84-31871 Filed 12-5-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications; University of Illinois, et al

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

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

Docket No.: 85-023. Applicant: U.S. Environmental Protection Agency, 944 E. Harmon Avenue, P.O. Box 15027, Las Vegas NV 15027. Instrument: Mass Spectrometer, Model MM ZABS250 with Accessories. Manufacturer: VG Analytical, United Kingdom. Intended use: The instrument will be used to develop methods for ultra-trace analyses of environmentally hazardous materials in complex matrices where other less sophisticated instrumentation is not capable of providing the required unequivocal answers. Application received by Commissioner of Customs: November 6, 1984.

Docket No.: 85-024. Applicant: University of Illinois at Urbana Champaign, Department of Chemistry, Urbana, IL 61801. Instrument: Photon Counting Spectrometer with Accessories. Manufacturer: Photochemical Research Associates, Canada. Intended use: Studies of luminescent dyes and aromatic chromophores dispersed in polymer matrices. The phenomenon to be studied is the nonexponentiality introduced into the decay of luminescence, after pulsed excitation, by energy transfer into quenching sites. Experiments will be conducted to evaluate energy migration rates in a network of dispersed chromophores and to relate these rates to the molecular properties needed to achieve long ranges of exciton diffusion. The results are related to technologies of energy conversion and information transfer. Application received by Commissioner of Customs: November 5, 1984.

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[2] Pub. L. 95-163, 91 Stat. 1278, November 9, 1977.

[3] That section has provided that "Notwithstanding any other provision of this section, no certificate issued by the Board under this section should authorize all-cargo air service between any pair of points both of which are within the State of Alaska or the State of Hawaii."

[4] As amended by section 9(a), section 101(11) of the Act now reads " 'All-cargo air service' means the carriage of mail by aircraft in interstate or overseas air transportation of only property or mail or both."

Docket No.: 85–026. Applicant: Rutgers University, Purchasing Department, Administrative Services Building, Busch Campus, Piscataway, NJ 08854. Instrument: Mass Sepectrometer, Model MM7070EQ–HF with Accessories. Manufacturer: VG Analytical, Ltd., United Kingdom. Intended use: Analysis and identification of important food peptides, oligosaccharides, glycopeptides, peroxides, triglycerides, corn syrup hydrolysates and Maillard reaction products using tandem mass spectrometry (MS/MS). In addition MS/MS will be used in the identification and quantification of naturally-occurring toxins and environmental toxins in various foods. The instrument will also be used for detecting and quantifying volatile food constituents and toxins. Application received by Commissioner of Customs: November 5, 1984.

Docket No.: 85–027. Applicant: NIH/HHS, Center for Infectious Disease, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333. Instrument: Electron Microscope, Model EM 109T, with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: Studies of whole cells and subcellular fractions from pathogenic microorganisms, cell wall and membrane components and nucleic acids. Experiments will be conducted involving the use of whole cells or cell fractions for the production of antibody to antigens of interest. Such antibodies will then be conjugated to electron dense compounds and then used to identify and localize the original components themselves on the cell surface and to determine their usefulness as diagnostic parameters. Application received by Commissioner of Customs: November 5, 1984.

Docket No.: 85–028. Applicant: Cornell University, Department of Chemistry, G75 Chemistry Research Building, Ithaca, NY 14853. Instrument: Oscillator-Amplifier Excimer Laser, Model EMG 150ES–C, FL 2002E. Manufacturer: Lambda Physik, West Germany. Intended use: The instrument is intended to be used in high-resolution spectroscopy and state-resolved chemistry in the extreme ultraviolet spectral region from 60–200 nm (6–21 eV). This system will dramatically extend the range of tunable radiation making it possible to excite molecules with any wavelength from the near infrared to the extreme ultraviolet. Application received by Commissioner of Customs: November 6, 1984.

Docket No.: 85–029. Applicant: University of Minnesota, St. Anthony Falls Hydraulic Laboratory, Mississippi River at 3rd Avenue, SE., Minneapolis, MN 55414–2196. Instrument: Anemometer. Manufacturer: Opto-Electronische Instrumente, GmbH, West Germany. Intended use: Engineering studies and education in the area of fluid motion. Measurement of velocity, pressure, temperature, and mass which is almost always required to describe a particular flow phenomenon under study. The instrument will be used by graduate students in pursuit of their theses research and in study of related projects. Application received by Commissioner of Customs: November 5, 1984.

Docket No.: 85–032. Applicant: Arizona State University, Tempe, AZ 85287. Instrument: Electron Microscope, Model EM 430 ST with Accessories. Manufacturer: N.V. Philips Gloeilampenfabrieken, The Netherlands. Intended use: Study of various inorganic materials including alloys, semiconductors, minerals and ceramics. Thin specimens prepared by fracture, chemical thinning, ion-beam irradiation or other methods will be examined to determine the arrangements of atoms in the interior or on the surfaces of specimens in order to investigate the structural aspects of various material phenomena. Application received by Commissioner of Customs: November 5, 1984.

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

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-31846 Filed 12-5-84; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

[Docket No. 41027-4127]

Proposed Revision of FIPS Fortran and FIPS Minimal Basis

Correction

In FR Doc. 84–30350 beginning on page 45774 in the issue of Tuesday, November 20, 1984, make the following correction: On page 45774, in the third column, following the line "Dated: November 14, 1984" insert the signature:

"Ernest Ambler,

Director."

BILLING CODE 1509-01-M

National Oceanic and Atmospheric Administration

Receipt of Permit Applications

This document publishes for public review a summary of applications received by the Secretary of State for foreign vessels to fish in the fishery conservation zone under the Magnuson Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 et seq.).

Send comments on applications to: Fees, Permits, and Regulations Division (F/M12), National Marine Fisheries Service, Department of Commerce, Washington D.C. 20235

or, send comments to the Fishery Management Council(s) which review the application(s), as specified below:

Douglas G. Marshall, Executive Director; New England Fishery Managment Council; Suntaug Office Park; 5 Broadway (Route 1); Saugus MA O1906; 617–231–0422

David H.G. Gould, Executive Director; South Atlantic Fishery Management Council; Southpark Building, Suite 306; 1 SouthPark Circle; Charleston, SC 29407; 803–571–4366

Omar Munoz-Roure, Executive Director; Caribbean Fishery Managment Council; Banco De Ponce Building, Suite 1108; Hato Rey, PR 00918; 809–753–6910

Wayne E. Swingle, Executive Director; Gulf of Mexico Fishery Managment Council; Lincoln Center, Suite 881; 5401 West Kennedy Blvd.; Tampa, FL 33609; 813–228–2815

Joseph C. Greenley, Executive Director; Pacific Fishery Managment Council; 526 S.W. Mill Street, Portland, OR 97201; 503–221–6352

Jim H. Branson, Executive Director; North Pacific Fishery Managment Council; 411 W. Fourth Avenue, Suite 2D; Anchorage, AK 99510; 907–271–4064

Kitty M. Simonds, Executive Director; Western Pacific Fishery Managment Council; 1164 Bishop Street, Room 1608; Honolulu, Hawaii 98613; 808–523–1368.

For further information contact Shirley Whitted or John D. Kelly (Fees, Permits, and Regulations Division), 202–634–7432. The Magnuson Act also requires the Secretary of State to publish a notice of receipt of all applications for such permits summarizing the contents of the applications in the **Federal Register**. The National Marine Fisheries Service under the authority granted in a memorandum of understanding with the Department of

State effective November 29, 1983 issues the notice on behalf of the Secretary of State.

Individual vessel applications for fishing in 1985 have been received between December 4, 1983 and December 4, 1984 from the Government(s) shown below.

Dated: December 4, 1984.

Roland Finch,

Director, Office of Fisheries Managment, National Marine Fisheries service.

Fishery codes and designation of Regional Fishery Management councils which review applications for individual fisheries are as follows:

Code	Fishery	Regional fishery management council
ABS	Atlantic billfishes and sharks.	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, Caribbean.
BSA	Bering Sea and Aleutian Islands groundfish.	North Pacific.
GOA	Gulf of Alaska	Do.
NWA	Northwest Atlantic Ocean.	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, Caribbean.
SMT	Seamount groundfish (Pacific Ocean).	Western Pacific.
SNA	Snails (Bering Sea)	North Pacific.
WOC	Pacific groundfish (Washington, Oregon, and California).	Pacific.
PBS	Pacific billfishes and sharks.	Western Pacific.

Activity codes which specify categories of fishing operations applied for are as follows:

Activity code	Fishing operations
1	Catching, processing, and other support.
2	Processing and other support, only.
3	Other support only.
4	"Joint venture" in support of U.S. vessels.

Nation, vessel name, vessel type	Application No.	Fishery	Activity
Government of the Federal Republic of Germany			
Friedrich Busse, large stern trawler.	GE-85-0010	BSA	1
Mond, large stern trawler.	GE-85-0015	BSA	1
Government of the U.S.S.R			
Arkovo, large stern trawler.	UR-85-0012	BSA, GOA	1
Ivan Malyakin, large stern trawler.	UR-85-0737	BSA, GOA	1
Lesogorsk, large stern trawler.	UR-85-0230	BSA, GOA	1
Mys Elagina, large stern trawler.	UR-85-0165	BSA, GOA	1
Mys Senyavina, large stern trawler.	UR-85-0227	BSA, GOA	1
Tymovsk, large stern trawler.	UR-85-0046	BSA, GOA	1
Uraniya, large stern trawler.	UR-85-0774	BSA, GOA	1
Valentin Kotelnikov, large stern trawler.	UR-85-0189	BSA, GOA	1

Federal Republic of Germany

Joint Venture—The Government of the Federal Republic of Germany has applied for fishing vessel permits to engage in joint venture activities in Alaska. The application requests that West Germany Vessels receive transshipments of pollock (6,000 mt), Yellowfin sole (10 mt), Other flounder (10 mt), Other groundfish (30 mt), Atka mackerel (20 mt) and Sablefish (1 mt) from domestic vessels. The total is 6,071 mt. The American partner has not been identified.

Poland

Joint Venture—The Government of the Polish People's Republic has submitted a request to amend its Alaskan joint venture application published on December 3, 1984, at 49 FR 47298. The amended application indicates that the proposed joint venture with Alaska Contact, Ltd. is changed to request authorization to receive 30,000 mt of pollock in the BSA fishery and 10,000 mt of pollock in the GOA fishery from U.S. fishing vessels beginning January 15.

[FR Doc. 84-32066 Filed 12-5-84; 11:59 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent to Prepare a Draft Environmental Impact Statement (DEIS) for the Slidell, LA, and Pearlington, MS, Interim Report on Flood Control

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

ACTION: Notice of Intent to prepare a draft Environmental Impact Statement (DEIS).

SUMMARY: 1. *Proposed Action:* The proposed action includes developing various alternative plans to provide flood protection for the urbanized areas in the vicinity of Slidell, Lousiana, and Pearlington, Mississippi.

2. *Alternatives:* Several alternatives are being developed to provide flood protection. The DEIS will include an evaluation of the environmental, social, economic, and engineering impacts associated with each alternative plan. The following alternatives are being considered:

a. *No-Action.* This alternative will be the without-project condition against which impacts will be measured.

b. *Nonstructural Alternatives.* These include floodproofing, flood plain evacuation, and flood plain regulations.

c. *Structural Alternatives.* Various structural measures for providing protection from three different flood events (100-year, 200-year, and SPF) are being investigated. These measures will include various levee alignments and related floodgates and pumping plants.

3. *Scoping Process: Public Involvement.* Numerous informal meetings, one formal public meeting (27 June 1984), and one workshop (25 July 1984) have been held over the course of the study involving the general public and other interested public groups. The DEIS will be sent to state, local, and Federal agencies as well as private groups and individuals for comments.

4. *Significant Issues to Be Analyzed in DEIS:* The DEIS will contain evaluations concerning project impacts on and subject to the Fish and Wildlife Coordination Act, the Historical Preservation Act, the Endangered Species Act, Executive Order 11988 on Flood Plain Management, and Executive Order 11990 on Wetlands. A section 404 evaluation of the Clean Water Act will be prepared.

5. *Environmental Review and Consultation Requirements:* The environmental review will be conducted in accordance with the requirements of the National Environmental Policies Act regulations contained in the 29 November 1978 **Federal Register** and applicable Corps of Engineers regulations and guidance.

6. *DEIS Publication Date:* The DEIS is currently scheduled to be available to the public in February 1985.

ADDRESS: Questions concerning the proposed action and DEIS should be addressed to: Commander, U.S. Army Engineer District, Vicksburg, ATTN: LMKPD-Q (Ms. Maryetta Smith), Post Office Box 60, Vicksburg, Mississippi 39180-0060. Telephone: (FTS 542-5433) (Commercial (601) 634-5433).

Dated: November 30, 1984.

Kenneth L. Brown,

Lieutenant Colonel, Corps of Engineers, Acting District Engineer.

[FR Doc. 84-31826 Filed 12-5-84; 8:45 am]

BILLING CODE 3710-GX-M

Department of the Navy

National Environmental Policy Act Record of Decision for Disposal of Decommissioned, Defueled Naval Submarine Reactor Plants

SUMMARY: This Record of Decision has been prepared on the proposed disposal of decommissioned, defueled naval submarine reactor plants, pursuant to the Council on Environmental Quality Regulations (40 CFR Part 1505) implementing the procedural provisions of the National Environmental Policy Act NEPA). The Navy has decided to dispose of these reactor plants by land burial at Department of Energy (DOE) burial sites.

In accordance with the Council on Environmental Quality regulations (40 CFR Part 1501), the Department of the Navy served as the lead agency for preparation of the Environmental Impact Statement (EIS) on this subject. The Department of Energy (DOE) participated as a cooperating agency with regard to the alternative of land disposal at DOE burial sites. By participating as a cooperating agency, DOE EIS obligations under NEPA are fulfilled and no separate DOE is required

SUPPLEMENTARY INFORMATION: With 10 nuclear-powered submarines having been decommissioned and future decommissioning of additional ships in the offing a permanent means of disposal must be available that is environmentally acceptable. Following decommissioning, the submarines do not contain nuclear fuel, transuranic elements, or high-level radioactive material. They will, however, contain low-level radioactive material resulting from the opertation of the reactors while the submarines were in commission.

The two basic methods for permanent disposal are land disposal and sea disposal. Permanent disposal can be achieved by removal of the submarine compartment that contains the defueled reactor, followed by shipment of the compartment by barge and overland transporter to either of two accessible Federal land burial sites used by the Department of Energy for burial of low-level radio-active waste. These sites are in Washington State (Hanford Site) and in South Carolina (Savannah River Plant). The submarine compartments contain classified design information so only government owned burial grounds may be used. The remainder of the submarine which contains no radioactive material, would either be disposed of by sinking it at sea or by cutting it up for sale as scrap metal. Radiation levels associated with the entire operation would meet applicable requirements of the Department of Transportation, Nuclear Regulatory Commission, and Department of Energy for transportation and disposal of solid low-level radioactive material. Alternatively, permanent disposal of the defueled submarine reactor plants could be achieved by sinking the submarines in a deep ocean location that would be designated by the United States Environmental Protection Agency. Specific sites for sea disposal have not been proposed and a site-specific evaluation would be required prior to disignation of a sea disposal site.

An alternative for temporary storage of these defueled submarine reactor plants would be to place each submarine in protective floating storage in a Navy facility for an extended period. This would allow radioactive material to decay under controlled conditions without release to the environment. However, this altenative would lead to other impacts and only postpone the decision for ultimate disposal, requiring the decision to be made sometime in the future. For this reason, this alternative is regarded as the no-action alternative because it represents the minimum action the Navy must take to ensure that the decommissioned submarines would be maintained without hazard to people or the environment. No other practical alternatives are known to exist for the final disposition of the reactor plants. The Navy published a Draft Environmental Impact Statement which assessed these alternatives on December 22, 1982. This Draft EIS was widely circulated. Over 150 copies of the Draft statement were distributed to individuals, environmental organizations, state and local allowed for interested parties to comment on the draft EIS. More than 500 letters were received providing comments. The Navy held four public hearings in different parts of the country at which over 150 people presented statements.

All substantive comments received by the Navy were analyzed and addressed in the Final EIS which was published on June 4, 1984. Impacts assessed for each disposal alternative included expected commitment of resources, land use, transportation requirements, and environmental consequenes, including occupational radiation exposure due to disposal activities, and possible radiation exposure to the public during and after transporation and disposal. The impact of radioactive material releases due to unexpected occurrences was also assessed. For each alternative considered, an assessment of the impact on the environment in the vicinity of disposal sites has been performed. The EIS also included information on the costs of the disposal alternatives. The Navy considers that permanent disposal would be environmentally safe and feasible using either the land burial or deep ocean option. There are no technical obstacles which would prevent successful disposal or environmental monitoring for either permanent disposal option. The highly conservative estimates used in the analyses of impacts have amply compensated for any uncertaintes that may exist in man's knowledge relative to the impacts for either disposal option. No unacceptable environmental impacts associated with either option have been identified as a result of the analyses or through the public review process.

Since the Navy began its evaluation of disposal options, several developments associated with possible ocean disposal of low-level radioactive waste have occurred. These include Congressional action in December 1982 restricting the issuance of ocean disposal permits and requiring Congressional approval before any such permit may be issued by the EPA. In addition, the EPA has indicated additional regulations may be required before EPA could evaluate a permit request. In view of these and other uncertainites associated with national acceptance of the ocean disposal option, the Navy considers that allocation of additional funds to pursue this option further is not warrented at this time.

Based on a consideration of all current factors bearing on a disposal action of this kind contemplated, the Navy has decided to proceed with disposal of the reactor compartments by land burial. Land burial is the method currently used in the United States for disposal of low-level radioactive waste and this disposal action would comply with existing requirements for use of the government burial grounds. Land burial of the reactor compartments would be enviromentally safe at both of the government burial grounds which were evaluated in the final EIS. However, with all but one of our ten decommissioned nuclear submarines currently in storage on the West Coast, the federal burial ground at Hanford, Washington is the site appropriate for use in the near future. This approach will allow permanent disposal of this

form of low-level radioactive material to proceed with no unacceptable enviromental impacts.

Issued in Arlington, Virginia on November 30, 1984.

Dated: November 30, 1984.

John Lehman,

Secretary of the Navy.

[FR Doc. 84-31845 Filed 12-5-84; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Centers for Independent Living; Funding Priorities

AGENCY: Department of Education.

ACTION: Notice of proposed funding priorities for fiscal year 1985.

SUMMARY: The Secretary proposes annual funding priorities for grants for establishing and operating Centers for Independent Living. The Secretary proposes two priorities to direct funds to the areas of greatest need during Fiscal Year 1985 to ensure effective use of program funds. The priorities will extend independent living services to additional groups of disabled persons and will assist severely handicapped persons in making the transition from school or institution to community living or employment. The Secretary proposes to give absolute preference to applications meeting these priorities.

DATE: Interested persons are invited to submit comments or suggestions regarding the proposed priorities on or before January 7, 1985.

ADDRESSES: All written comments and suggestions should be sent to Harold F. Shay, Director, Division of Special Projects, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 400 Maryland Avenue, SW., (MS 2312) Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Harold F. Shay, Telephone: (202) 732-1332.

SUPPLEMENTARY INFORMATION: Grants for Centers for Independent Living are authorized by Title VII, Part B of the Rehabilitation Act of 1973, as amended (29 U.S.C. 796e). Program regulations are established at 34 CFR Part 366. The purpose of the Centers for Independent Living Program is to establish and operate Centers designed to provide a combination of services to severely handicapped individuals to enable them to live more independently in family and community or to secure and maintain appropriate employment. The Act requires each Center established and operated under this authority to have substantial involvement of handicapped individuals in policy direction and management of the Center.

Eligible Applicants:

The designated State unit of the State vocational rehabilitation agency is the principal eligible applicant for grants under this program. However, if in any fiscal year the designated State unit has not applied for a grant within six months after the date on which the Secretary begins to accept applications, then any local public or private nonprofit agency within that State may submit an application.

Available Funds:

The Congress has appropriated $27,000,000 for Independent living in Fiscal Year 1985. The Rehabilitation Amendments of 1984 Pub. L. 98-221), include an authorization of $22,000,000 for the Centers for Independent Living Program; of this amount, approximately $20,100,000 will be required to continue existing projects as mandated by section 711(f) of the Rehabilitation Act of 1973, as amended. It is estimated that the total amount to be reserved for the proposed priorities announced in this notice will be up to $1,900,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant.

Proposed Priorities:

In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to applications submitted in Fiscal Year 1985 in response to priorities to be established. An absolute preference in one which permits the Secretary to reserve all or a part of a program's funds solely for applications that meet an announced priority. The Secretary proposes to reserve part of the funds appropriated for the Centers for Independent Living Program in Fiscal Year 1985 to support projects in which specific project components or activities, i.e., not an entire project, implement announced program priorities. All applications will be evaluated according to selection criteria contained in program regulations at 34 CFR 366.31.

The proposed priorities are as follows:

Priority 1: Expanding Services to Additional Groups of Disabled Persons

This proposed priority is intended to enable those existing Centers for Independent Living that have focused in the past on a limited number of disabilities because of tradition, lack of resources, or lack of specially trained staff to expand services to additional disability populations with service needs which require specialized staff, techniques, equipment or other resources.

Examples of the type of program expansion to which this proposed priority is addressed are programs currently serving mobility impaired persons that wish to expand coverage to persons with mental handicaps; programs currently serving orthopedically or neurologically impaired persons that wish to expand to serve persons with sensory impairments, including the deaf/blind; programs currently serving persons with mental handicaps that wish to expand to serve physically disabled individuals; programs currently serving children that wish to expand to serve youths and adults; or programs currently serving younger populations that wish to expand to serve older persons, especially older blind persons.

Services to be developed under this proposed priority will enable additional numbers of severely handicapped persons to live more independently in family and community or to secure and maintain employment.

Priority 2: Transition from School or Institution to Community Living or Employment

Priority will be given to proposals that will enable existing Centers for Independent Living to provide independent living services cooperatively with services of other community programs so as to enhance the abilities of severely disabled persons leaving school or institution to live more independently in the community or to seek and maintain employment. Examples of other community services which should be effectively integrated into a comprehensive approach are: local housing and transportation authorities; State or county Medicaid agencies that can assist in the provisions of personal care attendant or home based services; State vocational rehabilitation agencies; technical or vocational schools and community colleges; agricultural extension services in rural areas; as well as any other service or income maintenance programs which

individuals need and are eligible to receive.

Projects supported under this proposed priority must include cooperative arrangements with existing community resources which will facilitate the transition of severely handicapped persons from school or institution to community living or employment.

It is not necessary that the cooperating community agencies support the direct costs of the project, but it is expected that they will cooperatively participate to the fullest extent possible to ensure that severely disabled persons leaving school or institution achieve their maximum independence.

(Information collection requirements have been approved by the Office of Management and Budget under control number 1820-0018)

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (48 FR 29158; June 24, 1983). The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed priorities. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments received on or before the end of the comment period will be considered before the Secretary issues final priorities. All comments submitted in response to these proposed priorities will be available for public inspection during and after the comment period in Room 3317, Mary E. Switzer Building, 330 C Street, SW., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week, except Federal holidays. (29 U.S.C. 796e)

(Catalog of Federal Domestic Assistance No. 84.132, Centers for Independent Living)

Dated: November 30, 1984.

T.H. Bell,

Secretary of Education.

[FR Doc. 84-31823 Filed 12-5-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 7286-001]

Beulah Associates; Surrender of Preliminary Permit

November 30, 1984.

Take notice that Beulah Associates Permittee for the Beulah Power Project No. 7286 has requested that its preliminary permit be terminated. The Preliminary Permit was issued on December 16, 1983, and would have expired on May 31, 1985. The project would have been located on North Fork Malheur River in Malheur County, Oregon.

The Permittee filed the request on November 1, 1984, and the preliminary permit for Project No. 7286 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR § 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31781 Filed 12-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7230-001]

Birch Creek Hydro, Inc.; Surrender of Preliminary Permit

November 30, 1984.

Take notice that Birch Creek Hydro, Inc., Permittee for the proposed Lone Pine Creek Project No. 7230, has requested that its preliminary permit be terminated. The preliminary permit was issued on October 13, 1983, and would have expired on September 30, 1985. The project would have been located on Lone Pine Creek, in Inyo County, California.

The Permittee filed the request on October 11, 1984, and the preliminary permit for Project No. 7230 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31782 Filed 12-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-4579-031, et al.]

Cities Service Oil and Gas Corporation, et al.; Applications for Certificates, Abandonments of Service and Petitions to Amend Certificates [1]

November 28, 1984.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 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, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

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

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-4579-031, D, Oct. 29, 1984	Cities Service Oil and Gas Corporation, P.O. Box 300, Tulsa, Oklahoma 74102.	Northwest Central Pipeline Corporation, Maysville Plant, Garvin County, Oklahoma.	(1)	
G-18748-001, D, Oct. 29, 1984	Arco Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	El Paso Natural Gas Company, J.H. Jines Well #1, Section 479, Block 43, H&TC Survey, Ochiltree County, Texas.	(2)	
CI81-101-001, E, Oct. 30, 1984	Phillips Petroleum Company (successor in interest to Phillips Oil Company), 336 HS&L Building, Bartlesville, Oklahoma 74004.	Southern Natural Gas Company, St. Gabriel Area, Iberville & Ascension, Louisiana.	(3)	
CI84-459-001, E, Oct. 18, 1984	SRC Production Company (successor in interest to Southland Royalty Company), 801 Cherry Street, Fort Worth, Texas 76102.	Arkansas Louisiana Gas Company, Bonanza Field, Sebastian County, Arkansas.	(4)	14.73
CI85-28-000, A, Oct. 26, 1984	CNG Producing Company, Canal Place One, Suite 3100, New Orleans, Louisiana 70130.	Texas Gas Transmission Corporation, High Island Block A-462, Offshore, Texas.	(5)	14.73
CI84-30-000, F, Oct. 31, 1984	Phillips Petroleum Company (partial successor in interest to Phillips Oil Company), 336 HS&L Building, Bartlesville, Oklahoma 74004.	Columbia Gas Transmission Corporation, Block 276, Vermilion Area, Offshore Louisiana.	(6)	14.73
CI85-31-000, B, Oct. 29, 1984	Cities Service Oil and Gas Corporation, P.O. Box 300, Tulsa, Oklahoma 74102.	Transwestern Pipeline Co., Winchester Field, Eddy County, New Mexico.	(7)	
CI85-32-000, F, Nov. 5, 1984	The Superior Oil Company (partial successor in interest to Texaco, Inc.), Post Office Box 152, Houston, Texas 77001.	Columbia Gas Transmission Corporation, Vermilion Bay Field, Vermilion and Iberia Parishes, Louisiana.	(8)	
CI85-33-000, A, Nov. 7, 1984	CNG Producing Company, Canal Place One, Suite 3100, New Orleans, Louisiana 70130.	Natural Gas Pipeline Company of America, West Cameron Block 564, Offshore, Louisiana.	(9)	15.025
CI85-34-000, F, Nov. 8, 1984	Sun Exploration and Production Company (successor in interest to Petro-Lewis Funds, Inc.), P.O. Box 2880, Dallas, Texas 75221.	Northwest Central Pipeline Corporation, Newcastle Plant, Grady County, Oklahoma.	(10)	14.73
CI85-35-000, B, Nov. 5, 1984	Felmont Oil Corporation	Southern Natural Gas Company and United Gas Pipe Line Company, West Cameron Area Block 330, Offshore, Louisiana.	(11)	
CI85-37-000, B, Nov. 7, 1984	Case-Pomeroy Oil Corporation, Post Office Box 1511, Midland, Texas 79702.	do	(11)	
CI85-38-000, F, Nov. 9, 1984	Texas Gas Exploration Corporation (partial succession in interest to Forest Oil Corporation), P.O. Box 4326, Houston, Texas 77210-4326.	Columbia Gas Transmission Corporation, Block 268, Vermilion Area, South Addition, Offshore Louisiana.	(12)	14.73
CI85-39-000, E, Nov. 8, 1984	Exxon Corporation (successor in interest to Petro Lewis Corporation), Post Office Box 2180, Houston, Texas 77252-2180.	Montana-Dakota Utilities Company, Elk Basin Field, Park County, Wyoming.	(13)	
CI85-40-000, E, Nov. 8, 1984	do	Colorado Interstate Gas Company, Elk Basin Unit, Park County, Wyoming.	(14)	
CI85-42-000, B, Nov. 13, 1984	Wagner & Brown, Suite 1100 The Summit, 300 N. Marienfield, P.O. Box 1714, Midland, Texas 79702.	Arkansas Louisiana Gas Company, Hemphill (Granite Wash) Field, Hemphill County, Texas.	(15)	
CI85-43-000, B, Nov. 14, 1984	Union Oil Company of California, Union Oil Center P.O. Box 7600, Los Angeles, California 90051.	Transcontinental Gas Pipe Line Corporation, Willow Woods Field, Terrebonne Parish, Louisiana.	(16)	
CI85-44-000, B, Nov. 15, 1984	George R. Brown, San Jacinto Building, Suite 800, Houston, Texas 77002-6266.	Transcontinental Gas Pipe Line Corporation, Thibodaux Field, Lafourche Parish, Louisiana.	(16)	
G-18451-000, Oct. 31, 1984	Gulf Oil Corporation, Post Office Box 2100, Houston, Texas 77252.	Transwestern Pipeline Company, Kermit and South Kermit Fields, Winkler County, Texas.	(17)	14.73
CI81-50-002, E, Nov. 13, 1984	Phillips Petroleum Company (successor in interest to Phillips Oil Company), 336 HS&L Building, Bartlesville, Oklahoma 74004.	Southern Natural Gas Company and United Gas Pipe Line Company, West Cameron Block 552, Offshore Louiiana.	(18)	14.73

[1] To allow Cities to sell the portion of gas under Rate Schedule 42 dedicated to Northwest Central and sold at the tailgate of the Maysville Gas Processing Plant but which, due to Northwest Central's present depressed gas market demand, Northwest is failing to purchase.

[2] The J.H. Jines Well No. 1 is no longer productive in the Mississippi Formation, Sec. 479, Block 43. It has been recompleted as an oil well in the Cleveland Zone.

[3] Effective December 1, 1983, Phillips Oil Company assigned to Applicant, its working interest in the Natalbany Lumber Company, Well No. 1, St. Gabreil Area, Iberville and Ascension Parishes, Louisiana.

[4] Effective December 1, 1983, Applicant acquired an undivided 6% interest before payout and an undivided 30% interest after payout in the leases certified to Southland Royalty Company in Docket No. CI84-459-000.

[5] Applicant is filing under Gas Purchase Contract dated September 26, 1984.

[6] Effective December 1, 1983, Phillips Oil Company assigned to Applicant, its working interest in Block 276, Vermilion Area, Offshore Louisiana.

[7] Gas pressure in the Foxie Federal No. 1 well has declined to the point where the production can no longer be delivered into the Transwestern pipe line system, and subsequently no deliveries have been made to Transwestern since October, 1983.

[8] By Sublease dated September 13, 1984, Texaco Inc. sublet certain of its interest in an oil and gas lease located in Vermilion Bay Field, Vermilion and Iberia Parishes, Louisiana, to Superior.

[9] Applicant is filing under Gas Purchase Contract dated September 26, 1984.

[10] Assignment, Bill of Sale and Conveyance from Partnership Properties Co., Petro-Lewis Producing Company II, and Petro-Lewis Funds, Inc., to Sun Exploration and Production Company became effective May 1, 1984.

[11] Ceased production due to depletion.

[12] By instrument titled "Assignment of Interest In Oil and Gas Lease", executed by Applicant on April 11, 1979, but effective June 15, 1978, Forest assigned to Applicant an 8.33% undivided interest in the OCS oil and gas lease covering Block 268, Vermilion Area, South Addition, Offshore Louisiana.

[13] By assignment dated May 1, 1984 Exxon acquired certain acreage covered by Conoco Inc. certificate.

[14] Contract term is 20 years and year to year to year thereafter. Production terminated on August, 1980, and the well was plugged and abandoned on February 19, 1982.

[15] Gas reserves were depleted. The leases were dropped on December 9, 1982.

[16] All wells are depleted and have been plugged and abandoned. All leases have expired for lack of production. The gas purchase contract has expired.

[17] Applicant is filing to change delivery points.

[18] Effective March 1, 1984, Phillips Oil Company assigned to Applicant its working interest in the West Cameron, Block 552, Offshore, Louisiana.

Filing Code: A—Initial service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total succession; F—Partial succession.

[FR Doc. 84-31783 Filed 12-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES85-15-000]

Gulf States Utilities Co.; Application

November 29, 1984.

Take notice that on November 16, 1984, Gulf States Utilities Company (Applicant) filed an application seeking an order under Section 204(a) of the Federal Power Act authorizing the Applicant to issue up to 1,500,000 Additional Shares of Common Stock, without par value, pursuant to its Employee Stock Ownership Plan, and for exemption from competitive bidding requirements.

Any person desiring to be heard or to make any protest with reference to said Application should on or before December 16, 1984, file 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 the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it

in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file motions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31784 Filed 12-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-129-000]

Iowa Southern Utilities Co.; Filing

November 29, 1984.

The filing Company submits the following:

Take notice that on November 16, 1984, Iowa Southern Utilities Company (Iowa) tendered for filing the following documents:

(1) Service Agreement dated July 2, 1984, between Iowa, and Mt. Pleasant Municipal Utilities including the attachments thereto of an Exhibit A and Exhibit B.

(2) Service Agreement dated October 29, 1984, between Iowa and the City of Bloomfield.

(3) Revised Tariff Sheets of Iowa FERC Electric Tariff Original Volume No. 1, all carrying an issue date of November 13, 1984.

Iowa states that the requested effective date for the Tariff Sheets is February 1, 1985, to allow at least 60 days after the date of filing. Requested effective date for the Mt. Pleasant contract is October 5, 1984 to coincide with service beginning on October 5, 1984. Requested effective date of the Bloomfield contract is November 5, 1984 to coincide with service beginning November 5, 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 December 14, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a 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. 84-31785 Filed 12-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7289-001]

Juntura Associates; Surrender of Preliminary Permit

November 30, 1984.

Take notice that Juntura Associates, Permittee for the Juntura Power Project No. 7289 has requested that its preliminary permit be terminated. The Preliminary Permit was issued December 5, 1983, and would have expired on May 31, 1985. The project would have been located on Malheur River in Malheur County, Oregon.

The Permittee filed the request on November 1, 1984, and the preliminary permit for Project No. 7289 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

FR Doc. 84-31786 Filed 12-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-114-010]

Northwest Central Pipeline Corp.; Proposed Changes in FERC Gas Tariff

November 28, 1984.

Take notice that Northwest Central Pipeline Corporation (Northwest Central) on November 15, 1984, tendered for filing First Revised Sheet No. 219 of Original Volume No. 2 of its FERC Gas Tariff. According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until November 21, 1984. Northwest Central states that this filing is being made to reflect the recent settlement of Docket No. RP82-114.

Northwest Central states that copies of its filing were served on all parties to the proceedings in the above-cited docket.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

FR Doc. 84-31787 Filed 12-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-136-000]

Pacific Power & Light Co., an Assumed Business Name of PacificCorp.; Filing

November 29, 1984

The filing Company submits the following:

Take notice that Pacific Power & Light Company (Pacific), an assumed business name of PacificCorp, on November 20, 1984, tendered for filing Pacific's Revised Appendix 1 for the state of Washington. The Revised Appendix 1 calculates an average system cost of the state of Washington applicable to the exchange of power between Bonneville Power Administration (Bonneville) and Pacific.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective July 1, 1984, which it claims is the date of commencement of service.

Copies of the filing were supplied to Bonneville, the Washington Utilities and Transportation Commission, 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 December 14, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a 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. 84-31788 Filed 12-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-134-000]

Portland General Electric Co.; Filing

November 29, 1984.

The filing Company submits the following:

Take notice that on November 19, 1984, Portland General Electric Company (PGE) tendered for filing a Summary of Sales made under the Company's first revised Electric Service Tariff, Volume No. 1, during September of 1984, along with a cost justification for the rates charged.

Copies of this filing were served upon parties having service agreements with PGE, parties to the Intercompany Pool Agreement (revised), intervenors in Docket No. ER77-131 and the Oregon Public Utility 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 December 14, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a 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. 84-31789 Filed 12-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-393-001]

Public Service Company of Indiana, Inc.; Filing

November 29, 1984.

Take notice that on October 31, 1984, Public Service Company of Indiana (PSI) tendered for filing a First Supplemental Agreement, dated October 1, 1984, to the Short-Term Agreement, dated April 1, 1984, between American Municipal Power—Ohio, Inc. (AMPO) and PSI.

PSI states that said agreement eliminates the contractual restriction on the resale power by AMPO.

Copies of this filing were served upon AMPO, the Public Utilities Commission of Ohio and the Public Service Commission of Indiana.

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., on or before December 15, 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. 84-31790 Filed 12-5-84; 8:45 am]

BILLING CODE 6717-10-M

[Docket No. ER85-133-000]

Southern Company Services, Inc.; Cancellation

November 29, 1984.

The filing Company submits the following:

Take notice that on November 19, 1984, Southern Company Services, Inc. (SCS) tendered for filing a Notice of Cancellation of Rate Schedule FERC No. 56. SCS requests an effective date of December 1, 1982.

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 December 14, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a 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. 84-31791 Filed 12-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7138-001]

Springfield Associates #3; Surrender of Preliminary Permit

November 30, 1984

Take notice that Springfield Associates #3, Permittee for the Hills Creek Project No. 7138, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 7138 was issued on October 18, 1983, and would have expired on March 31, 1985. The project would have been located on Hills Creek in Lane County, Oregon, within the Willamette National Forest near the Town of Oakridge, Oregon.

The Permittee filed the request on November 1, 1985, and the preliminary permit for Project No. 7138 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31792 Filed 12-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-135-000]

Union Electric Co.; Filing

November 29, 1984.

The filing Company submits the following:

Take notice that on November 29, 1984, Union Electric Company (UE) tendered for filing a Standby Electric Service Agreement dated November 5, 1984, between Associated Electric Cooperative, Inc. and UE. Said Agreement provides for a new connection point in the vicinity of Canton, Missouri.

UE requests an effective date of October 1, 1984, and therefore requests waiver of the Commission's notice requirments.

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 December 14, 1984. Protests will be considered by the Commission in determining the appropritate 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. 84-31793 Filed 12-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5819-004]

Woods Creek, Inc.; Surrender of Preliminary Permit

November 30, 1984.

Take notice that Woods Creek, Inc., Permittee for the Johnson Creek Hydroelectric Project No. 5819, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 5819 was issued on November 1, 1982, and would have expired on October 30, 1985. The project would have been located on Johnson Creek in Snohomish County, Washington, within the Snoqualmie National Forest.

The Permittee filed the request on October 29, 1984, and the preliminary permit for Project No. 5819 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31794 Filed 12-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4306-004]

City of Hibbing, Minnesota and City of Hastings, Minnesota; Application for Transfer of License (Major)

December 3, 1984.

Take notice that the City of Hibbing, Minnesota, (Licensee) for the Mississippi River Locks and Dam No. 2, FERC No. 4306, and the City of Hastings, Minnesota (City) have requested that the project license be transferred from the Licensee to the City.

The license was issued on July 11, 1983. Article 46 of the license requires the Licensee to start construction of the project within 2 years from the effective date of the license and to complete construction within 5 years of that date. The project is located on the Mississippi River in Dakota and Washington Counties, Minnesota. Construction of the project has not started.

Comments, Protests, or Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or motions to intervene must be filed on or before December 25, 1984.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST, or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Director, Division of Project Management, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-31813 Filed 12-5-84; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee on Reduced Orbital Spacings; Meeting

December 3, 1984.

The first meeting of the FCC Advisory Committee for the Implementation of Reduced Orbital Spacings Between United States Domestic Fixed-Satellites will take place on December 17 as indicated below. The purpose of this advisory committee is to obtain expert technical and operational advice on how to better implement 2 degree spacings in the 4/6 and 12/14 GHz bands.

Date: December 17, 1984.
Time: 9:30 AM.
Place: Room 856, Federal Communications Commission, 1919 M Street, NW., Washington, D.C.

Agenda:

1. Adoption of agenda.
2. Introduction and background of committee purpose.
3. Committee work plan.
4. Organization of subgroups.
5. Method of selection of committee officers.
6. Other business.

This meeting is open to the public. For more information contact Roger Herbstritt at the FCC on (202) 634-1624.

William J. Tricarcio,

Secretary, Federal Communications Commission.

[FR Doc. 84-31868 Filed 12-5-84; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Board of Tea Experts; Notice of Rechartering

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the rechartering of the Board of Tea Experts by the Commissioner of Food and Drugs. This notice is issued under the Federal Advisory Committee Act.

DATE: Authority for this committee will expire on January 3, 1987, unless the Commissioner formally determines that rechartering 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: November 30, 1984.

Ronald T. Ottes,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-31796 Filed 12-5-84; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committee Meeting; Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is cancelling the telephone conference call meeting of the Ophthalmic Devices Panel scheduled for December 13, 1984. The meeting was announced by notice in the **Federal Register** of November 14, 1984 (49 FR 45071).

FOR FURTHER INFORMATION CONTACT: George C. Murray, Center for Devices and Radiological Health (HFZ-460),

Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7940.

Dated: November 30, 1984.

Ronald T. Ottes,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–31795 Filed 12–3–84; 10:38 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D–84–779; FR–2050]

Delegation of Authority for the Housing Development Grant Program

AGENCY: Department of Housing and Urban Development (HUD); Office of the Secretary.

ACTION: Notice of delegation of authority.

SUMMARY: The Secretary is delegating to the Assistant Secretary for Housing/FHA Commissioner the responsibility and authority with respect to the Housing Development Grant Program, authorized pursuant to section 17 of the U.S. Housing Act of 1937, 42 U.S.C. 1437o.

EFFECTIVE DATE: November 30, 1984.

FOR FURTHER INFORMATION CONTACT: Lawrence Goldberger, Director, Housing Development Grant Division, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone (202) 755–6142 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 301 of the Housing and Urban Rural Recovery Act of 1983 amended the U.S. Housing Act of 1937 by adding section 17 which, among other matters, provides the Secretary of Housing and Urban Development with the authority to make development grants for the new construction or substantial rehabilitation of residential rental housing in accordance with the requirements set forth in that section. Grants are to be made to eligible grantees on the basis of applications submitted to and approved by the Secretary in accordance with statutory criteria and regulations prescribed by the Secretary. The Secretary is delegating his authority under section 17 to the Assistant Secretary for Housing/FHA Commissioner as follows:

Section A. Authority Delegated

The Assistant Secretary for Housing-FHA Commissioner shall exercise all the power and authority of the Secretary with respect to the Housing Development Grant Program, pursuant to section 17 of the U.S. Housing Act of 1937.

Section B. Authority to Redelegate

The Assistant Secretary for Housing/FHA Commissioner is authorized to redelegate to the employees of the Department any of the authority delegated by Section A, except the authority to issue rules and regulations.

Authority: Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Sec. 17 U.S Housing Act of 1937, 42 U.S.C. 1437o.

Dated: November 30, 1984.

Samuel R. Pierce, Jr.,

Secretary, Housing and Urban Development.

[FR Doc. 84–31839 Filed 12–5–84; 8:45 am]

BILLING CODE 4210–32–M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–84–1469; FR–2041]

Section 312 Rehabilitation Loan Program; Interest Rates

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of section 312 Interest Rates.

SUMMARY: This notice establishes new interest rates for direct loans made by the Department under section 312 of the Housing Act of 1964. The interest rates established under this Notice shall be applicable to any loan (1) where the loan application has been submitted to the approving authority after the date of publication of this Notice, or (2) where the loan application was submitted to the approving authority before the date of publication of this Notice but was not approved before January 1, 1985. In the section 312 Program, a loan is considered approved when an authorized HUD official or the approving official under a local "loan approval agreement" between HUD and a public body, approves the loan application.

FOR FURTHER INFORMATION CONTACT: Michael Ehrmann, Deputy Director, Office of Urban Rehabilitation, Room 7170, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5685. (This is not a toll free number.

SUPPLEMENTARY INFORMATION: The Department's statutory authority to make direct loans for the purpose of financing the rehabilitation of properties is found at 42 U.S.C. 1452b (section 312 of the Housing Act of 1964). Under 42 U.S.C. 1452(c), for "loans to families with adjusted incomes of not more than 80 per centum of the median income for the area . . .", the interest rate may not exceed three percent per year. For all other loans, including loans to families with adjusted incomes greater than 80 percent of the median income, the interest rate charged may range from above three percent to a rate that does not "exceed the current average market yield on outstanding marketable securities of the United States with remaining periods to maturity comparable to the terms of loans made pursuant to this section, adjusted to the nearest one-eight of one per centum." The 80th percentile of median income for the area, adjusted for family size, is determined by the Department in accordance with the policies and procedures it currently uses in administering Section 8 assistance programs under the United States Housing Act of 1937.

The new intrest rates on section 312 loans shall be as follows:

(1) For an owner-occupant of a one- to four-unit property, whose family income does not exceed 80 percent of the median family income for the area, adjusted for family size, the intrest rate shall be three percent. Two or more unrelated individuals who own and occupy a property as tenants-in-common or joint tenants will have their incomes added together and will be treated as a two or more person family for purposes of this provision.

(2) For all other borrowers (including partnerships, corporations and other legal entities, as well as persons and families with incomes exceeding 80 percent of median income for the area), the interest rate shall be based on the yield of government securities for the term most comparable to the section 312 loan term. This rate can be obtained by reference to the Federal Reserve Statistical Release H.15 (519), which is published each week and lists the yield of U.S. Treasury securities adjusted to a constant maturity. The release publishes daily, weekly, and monthly yields for the preceding period. The applicable rate for section 312 loans shall be the most recently available interest rate value for U.S. Treasury securities of comparable maturity (adjusted to the nearest one-eight of a percent) at the time that a loan application is approved. The interest rate value (rounded to the nearest one-eight of one percent) shall be the contract interest rate, provided that the loan is closed within 60 days from the time it is approved. If the

application is not closed within the 60-day period, a new application will be required and the interest rate will be the rate for the appropriate U.S. Treasury security that is most recently available at the time a new application is approved. Thus, for a 20-year loan, the rate would correspond to the interest rate value for U.S. Treasury securities adjusted to constant maturities of 20 years; for a 10-year loan, the rate would correspond to the interest rate value for U.S. Treasury securities adjusted to constant maturities of 10 years, etc. If the term of a loan does not correspond exactly to a constant maturity for U.S. Treasury securities for which an interest rate value is constructed by the U.S. Treasury Department, the loan interest rate would be the same as that for the U.S. Treasury securities having a maturity that most closely approximates the loan term (*e.g.*, a loan with an eight-year term would have an interest rate corresponding to the U.S. Treasury securities adjusted to a constant maturity of seven years).

Finally, if the loan term is a number (of years) that is exactly midway between two constant yield values, the loan interest rate would correspond to the interest rate value for U.S. Treasury securities that is the lower of the two possibilities. For example, if a loan term is six years, the loan interest rate would correspond to the lower interest rate value for U.S. Treasury securities having a constant maturity of five years or seven years.

Notwithstanding the scale of interest rates directed by this notice, localities are to comply with the priority, as required by section 312(a) of the Housing Act of 1964, as amended, for applications from low- and moderate-income persons who will own and occupy the property after rehabilitation. For the rehabilitation of single family properties, the term "low- and moderate-income" means income which does not exceed 95 percent of the median income for the area.

For the rehabilitation of multifamily properties, the property must be located in a low- or moderate-income neighborhood or a majority of the property's initial tenants after rehabilitation must be low- or moderate-income using the 95 percent of median income standard. The property shall also be in an area otherwise qualified for section 312 lending (*e.g.*, necessary or appropriate to the execution of a Community Block Grant program or a section 810 Urban Homesteading program).

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, D.C. 20410.

The section 312 Rehabilitation Loan program is listed in the Catalog of Federal Domestic Assistance as program number 14.220.

Authority: Sec. 312 of the Housing Act of 1964, (42 U.S.C. 145b); sec. 7(b), Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)).

Dated: November 30, 1984.

Jack R. Stokvis,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 84-31840 Filed 12-5-84; 8:45 am]
BILLING CODE 4210-29-M

[Docket No. N-84-148; FR-2038]

Mortgage Insurance; Changes to the Maximum Mortgage Limits for Single Family Residences, Condominiums and Manufactured Homes and Lots

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of revisions to FHA maximum mortgage limits for high-cost areas.

SUMMARY: This Notice amends the listing of areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act by adding eight areas and further increasing the limits of a previously designated high-cost area. Mortgage limits are adjusted in an area when the Secretary determines that middle- and moderate-income persons have limited housing opportunities because of high prevailing housing sales prices.

FOR FURTHER INFORMATION CONTACT: For single family: Brian Chappelle, Acting Director, Single Family Development Division, Room 9270, Telephone (202) 755-8720. For manufactured homes: Christopher Peterson, Director, Office of Title I Insured Loans, Room 9160, Telephone (202) 755-6880; 451 Seventh Street, SW., Washington, D.C. 20410. (Telephones are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

The National Housing Act (NHA) (12 U.S.C. 1710-1749) authorizes HUD to insure mortgages for single family residences (from one- to four-family structures), condominiums, manufactured home lots, and manufactured homes, combination manufactured homes and lots. The NHA, as amended by the Housing and Community Development Act of 1980 and the Housing and Community Development Amendments of 1981, permits HUD to increase the maximum mortgage limits under most of these programs to reflect regional differences in the cost of housing. In addition, sections 2(b) and 214 of the NHA provide for special high-cost limits for insured mortgages in Alaska, Guam and Hawaii.

The Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98-181, November 30, 1983) (the 1983 Act) further amended HUD's insuring authority. Of particular interest here are (1) the authorization to insure condominium in high-cost areas at the same levels as the high-cost limits for one-family residence insured under section 203(b) of the National Housing Act; and (2) the authorization to increase maximum loan limits under the Title I loan insurance program for combination manufactured home and lot loans and for individual lot loans in high-cost areas, so long as the percentage increase in the maximum loan limit does not exceed the percentage increase made to a one-family residence in the area authorized under section 203(b) of the NHA.

The Department implemented these provisions of the 1983 Act in related documents published in the **Federal Register** on April 11, 1984 (see 49 FR 14332, 14335, 14336), effective May 22, 1984. These documents also amended the Department's rules to codify the procedure of announcing high-cost mortgage limits for single family residences, condominiums, combination manufactured homes and lots and manufactured home lots by notice in the **Federal Register** (see the April 11, 1984 documents, amending 24 CFR 201.1504, 203.18b, 203.29, 234.27, and 234.49). In addition, the documents codified the procedure whereby a party may request an alternative mortgage limit (see the same sections cited above).

On May 22, 1984, the Department published a revised list of areas eligible for "high-cost" mortgage limits, which contained several new features. (See 49 FR 21520). First, there was no separate listing for condominium units, since

these limits are now the same as those for other one-family residences. Second, the listing included instructions on how to compute the high-cost limits for combination manufactured homes and lots and individual lots, and specified the special high-cost amounts for manufactured homes, combination manufactured homes and lots and individual lots insured in Alaska, Guam and Hawaii. And, third, it made changes to the list based on a new definition of "metropolitan area."

This Document

Today's document adds the following jurisdictions to the listing of high-cost areas: Berkshire County, Massachusetts, Chester County, Pennsylvania, Delaware County, Pennsylvania, Montgomery County, Pennsylvania, Guilford County, North Carolina, Fayette County, Kentucky, Routt County, Colorado and Grand County, Colorado. In addition, the Department is further increasing the limits for Maricopa County, Arizona.

These amendments to the high-cost areas appear in two parts. Part I explains high-cost limits for mortgages insured under Title I of the National Housing Act. Part II lists any changes for single family residences insured under sections 203(b), and 234(c) of the National Housing Act.

Accordingly, the Commissioner hereby amends the list of high-cost mortgage limits by adding eight jurisdictions and further increasing the limits for Maricopa Counter Arizona as set forth in Part II of the following Table:

National Housing Act High-Cost Mortgage Limits

I. Title I: METHOD OF COMPUTING LIMITS

A. *Section 2(b)(1)(D). Combination manufactured home and lot (excluding Alaska, Guam and Hawaii):* To determine the high-cost limit for a combination manufactured home and lot loan, multiply the dollar amount in the "one-family" column of Part II of this list by .80. For example, Bristol County, MA, has a one-family limit of $81,200. The combination home and lot loan limit for Bristol County is $81,200 x .80, or $64,960.

B. *Section 2(b)(1)(E). Lot only (excluding Alaska, Guam and Hawaii):* To determine the high-cost limit for a lot loan, multiply the dollar amount in the "one-family" column of Part II of this list by .20. For example, Bristol County, MA, has a one-family limit of $81,200. The lot only loan limit for Bristol County is $81,200 x .20, or $16,240.

C. *Section 2(b)(2). Alaska, Guam and Hawaii limits:* The maximum dollar limits for Alaska, Guam and Hawaii may be 140% of the statutory loan limits set out in section 2(b)(1). Accordingly, the dollar limits for Alaska, Guam and Hawaii are as follows:

1. For manufactured homes: $56,700. ($40,500 x 140%).

2. For combination manufactured homes and lots: $75,600. ($54,000 x 140%).

3. For lots only: $18,900. ($13,500 x 140%).

II. Title II: Updating of FHA Sections 203(b) and 234 Areawide Mortgage Limits.

Market area designation and local jurisdictions	Mortgage limits			
	1-family and condominium unit	2-family	3-family	4-family
Region I				
HUD Field Office: Boston Office				
Berkshire County	72,200	81,300	98,800	114,000
Region III				
HUD Field Office: Philadelphia Office				
Chester County	90,000	101,300	122,650	142,650
Delaware County	76,850	88,800	107,900	124,500
Montgomery County	77,450	87,200	105,950	122,250
Region IV				
HUD Field Office: Greensboro Office				
Guilford County	74,550	83,950	102,050	117,750
Hud Field Office: Louisville Office				
Fayette County	69,800	78,650	95,550	110,250
Region VIII				
HUD Field Office: Denver Office				
Routt County	90,000	101,300	122,650	142,650
Grand County	80,750	90,950	110,500	127,500
Region IX				
HUD Field Office: Phoenix Office				
Maricopa County	88,350	99,500	120,900	139,500

Dated: November 30, 1984.

Maurice L. Barksdale,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84-31838 Filed 12-5-84; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Office of the Secretary Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Clearance Officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, D.C. 20503, telephone 202-395-7313.

Title: Information Collections Related to Specific Procurement Transactions.

Abstract: Respondents supply information and data on progress experienced or performance of individual contract requirements. This information allows the Department to determine if required progress is being made on the contract.

Bureau Form Number: None
Frequency: On occasion
Description of Respondents: Government Contractors
Annual Responses: 14,400
Annual Burden Hours: 43,200
Bureau Clearance Officer: John Strylowski 202-343-6191

November 30, 1984.

Colonel C. Armstrong,

Chief, Division of Acquisition and Grants, Office of Acquisition and Property Management.

[FR Doc. 84-31831 Filed 12-5-84; 8:45 am]

BILLING CODE 4310-10-M

Reduction of Information Collected From Small Businesses

Since 1980, the Department of the Interior has engaged in an ongoing examination of information collections (such as forms, reports, surveys, compliance requirements, etc.) imposed on the public to determine how these collections can be made less burdensome. During fiscal year 1985 the Department is continuing this review process, with special emphasis on information collected from small businesses.

This notice is being published to expand the review by requesting suggestions and comments from small business owners from whom the Department collects information. If you are the owner of a small business who completes forms or supplies information to any bureau or office of the Department of the Interior and feel that the requirement is too burdensome, please contact the Department at the

address below. When you contact us, identify the information collection you feel is too burdensome (give the form number, regulation, or submit a copy), and tell us how you think it could be simplified, and include an address or phone number so that we may contact you. Address comments and suggestions to: Division of Directives and Regulatory Management, Office of Information Resources Management, Room 7357, Department of the Interior, Washington, D.C. 20240.

Dated: November 28, 1984.

Joseph E. Doddridge, Jr.,

Deputy Assistant Secretary of the Interior.

FR Doc. 84-31825 Filed 12-5-84; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe; Wintu Indians of Central Valley

November 27, 1984.

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the Wintu Indians of Central Valley, c/o Mr. Loren P. Timmons, Toyon Wintu Center, P.O. Box 669, Central Valley, California 96109; has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on October 26, 1984. The petition was forwarded and signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) (formerly § 54.8(d)) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20242.

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 84-31822 Filed 12-5-84; 8:45 am]

BILLING CODE 4310-07-M

Bureau of Land Management

Colorado-Ute Electric Association, Inc., Record of Decision

AGENCY: Bureau of Land Management, Interior.

ACTION: Availability of Record of Decision (ROD).

SUMMARY: Pursuant to 40 CFR 1505.2, the Montrose and Grand Junction BLM Districts have jointly issued a ROD to authorize a right-of-way for Colorado-Ute Electric Association, Inc. for construction of a single circuit 345 kV transmission line and associated facilities on public lands in Colorado between Rifle and the New Mexico state line. The ROD was signed on November 1 and 2, 1984.

Copies of the ROD are available for public inspection at the Montrose District Office, Bureau of Land Management, 2465 South Townsend, Montrose, Colorado 81401, and the Grand Junction District Office, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81501.

FOR FURTHER INFORMATION CONTACT: Gordon Bentley, Chief Planning and Environmental Assistance, Bureau of Land Management, 2465 South Townsend, Montrose, Colorado 81401. Telephone: (303) 249-7791..

Paul W. Arrasmith,

District Manager.

[FR Doc. 84-31830 Filed 12-5-84; 8:45 am]

BILLING CODE 4310-JB-M

[OR 33316]

Realty Action for Exchange of Public Land for Private Land in Harney County, OR

The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756; 43 U.S.C. 1716):

Willamette Meridian

T. 25 S., R. 35 E.
Sec. 5, Lots 1, 2, 3, and 4;
Sec. 6, All;
Sec. 8, All;
Sec. 18, Lots 1, 2, 3, and 4, E½NW¼, NE¼, S½SE¼.

The area described aggregates approximately 1907.93(+) acres in Harney County. In exchange for all or some of these lands the United States will acquire the following described private land from Mr. Walt McEwen:

Willamette Meridian

T. 24 S., R. 35 E., W.M.
Sec. 5, All;
Sec. 19, W½E½, E½W½;
Sec. 30, E½W½;
Sec. 31, Lots 1, 2, 3, and 4, E½W½.

The area described aggregates approximately 1435.66(±) acres in Harney County.

The purpose of the exchange is to facilitate the resource management program of the Bureau of Land Management and to enhance the range management potential for the area. This exchange also entails the acquisition of a larger portion of Alder Creek and an increase in riparian habitat for the area. The Federal lands that will be exchanged are hard to manage parcels mostly surrounded by the private lands of the exchange proponent.

This proposal is consistent with Bureau planning for the lands involved and has been discussed with State and local officials. The public interest will be well served by making this exchange. The comparative values of the lands exchanged are approximately equal and the acreage will be adjusted and/or money will be used to equalize the values upon completion of the final appraisal of the lands. Any monetary adjustments made will be for no more than 25% of the appraised value of Federal lands involved.

The exchange will be subject to:

(1) A reservation to the United States of a right-of-way for ditches or canals under the Act of August 30, 1890.

(2) Valid, existing rights including but not limited to any right-of-way, easement, or lease of record.

Publication of this notice has the effect of segregating all of the above described Federal land from appropriation, under the public land laws and these lands are further segregated from appropriation under the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976. The segregative effect of this notice will terminate upon issuance of patent or in two years from the date of the publication of this notice, whichever occurs first.

Detailed information concerning the exchange is available for review at the Burns District Office of the Bureau of Land Management, 74 South Alvord, Burns, Oregon 97720.

For a period of 45 days, interested parties may submit comments to the Burns District Manager at the above address. Any adverse comments will be evaluated by the Oregon State Director, BLM, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of Interior.

Dated: November 19, 1984.

Thomas R. Thompson,

Associate District Manager.

[FR Doc. 84-31829 Filed 12-5-84; 8:45 am]

BILLING CODE 4310-33-M

Conveyance of Public Land Reconveyed Land Opened to Entry; Arizona

[A 17948]

Notice is hereby given that the following described land has been transferred out of Federal ownership pursuant to section 206 of the Federal Land Policy and Management Act of 1976 in exchange for privately owned land. The land transferred to private ownership is described as:

Gila and Salt River Meridian

T. 4 N., R. 14 W.,
Sec. 20, Lots 2, 3, 6, SW¼NE¼, W½SE¼, SE¼SE¼;
Sec. 21, Lots 2;
Sec. 28, Lots 3, 4, 8, NW¼NW¼, S½NW¼, NW¼SE¼, S½SE¼;
Sec. 32, NE¼SW¼.
T. 4 N., R. 15 W.,
Sec. 14, SE¼.

Comprising 795.10 acres in La Paz County.

Land acquired by the United States is described as:

Gila and Salt River Meridian

T. 3 N., R. 14 W.,
Sec. 32, N½.
T. 5 N., R. 16 W.,
Sec. 9, W½.

Comprising 640.00 acres in La Paz County.

The exchange was made based on approximately equal values.

The purpose of this notice is to inform the public and interested State and local government officials of the transfer of public land and acquisition of private land by the Federal Government.

The land acquired by the Federal Government in this exchange will become subject to operation of the public land laws, generally, at 10:00 a.m. on January 8, 1985. The State of Arizona has reserved one sixteenth of all oil, gas, coal and other minerals in the N½ of sec. 32, T. 3 N., R. 14 W.

Don R. Mitchell,

Chief, Branch of Lands and Minerals.

[FR Doc. 84-31799 Filed 12-5-84; 8:45 am]

BILLING CODE 4310-32-M

Casper District Advisory Council; Meeting Cancellation

AGENCY: Bureau of Land Management, Interior.

ACTION: Cancellation of Casper District Advisory Council Meeting.

SUMMARY: The Casper District Advisory Council meeting scheduled for December 4–5, 1984, at the Buffalo Federal Savings and Loan Building, Buffalo, Wyoming has been canceled. It will be rescheduled later in the spring.

FOR FURTHER INFORMATION CONTACT: Runore Wycoff, Bureau of Land Management, 951 North Poplar Street, Casper, WY 82601, (307) 261–5557.

Dated: November 28, 1984.

James W. Monroe,

District Manager.

[FR Doc. 84-31798 Filed 12-5-84; 8:45 am]

BILLING CODE 4310-84-M

Designation of Ash Valley Research Natural Area (RNA); Lassen County, CA

SUMMARY: Pursuant to the authority in 43 CFR 8223, the following lands are designated as a Research Natural Area (RNA).

Mt. Diablo Meridian; Lassen County, California

T.37N., R.11E.,
Sec. 5, Lot 4, SW¼NW¼,SW¼NE¼, W½SE¼, and SW¼.
Sec. 8, N½NW¼,W½NE¼,SE¼,E½SW¼.
Sec. 9, SE¼, E/½SW¼, SW¼SW¼.
T.38N., R.11E.,
Sec. 32, SW¼SW¼, and SE¼SE¼.

These lands, designated the Ash Valley RNA, total 1120.58 acres of BLM administered lands.

This designation is being made to provide protection for five sensitive plant species. The area will be preserved for research and education purposes and the continued existence of the sensitive plants and their habitat.

This area and management criteria were developed through the planning process (43 CFR Part 1610) which included three stages of public participation. The resulting document, the Resource Management Plan Record of Decision for the Alturas Resource Area, signed August 28, 1984, published land use decisions and required support needs. These support needs included the development of a Habitat Management Plan (HMP) for the Ash Valley RNA, restriction of off highway vehicle (OHV) use, and acquisition of private land in the Ash Valley RNA area. The HMP will incorporate management objectives and the specific actions needed to meet these objectives.

DATE: The designation of the Ash Valley Research Natural Area (RNA) is effective upon publication of this notice.

ADDRESS: For further information regarding the Resource Management Plan and the Ash Valley RNA contact: Richard J. Drehobl, Area Manager, Alturas Resource Area, P.O. Box 771, Alturas, CA 96101.

Lynda J. Roush,

Acting Alturas Area Manager.

[FR Doc. 84-31808 Filed 12-5-84; 8:45 am]

BILLING CODE 4310-84-M

Realty Action; Recreation and Public Purposes Classification; Minnesota

AGENCY: Bureau of Land Management, Interior.

ACTION: Land Classification for Recreation and Public Purposes, Itasca and St. Louis Counties, ES–31843 and ES–31845.

SUMMARY: The following public islands have been examined and found to be suitable for classification and sale under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869):

Fourth Principal Meridian, Minnesota

1. *ES–31843,* Scenic State Park, Itasca County: T. 60N., R25W., Tract 37, 0.10 acres, island in Sandwich Lake.
2. *ES–31845* Tower Soudan State Park, St. Louis County: T. 62N., R. 15W., Tracts 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, and 75, total of 0.93 acres, 12 islands in Lake Vermilion.

The Minnesota Department of Natural Resources has applied for these islands so that they can be added to Scenic and Tower Soudan State Parks to be used for recreational purposes.

The islands are physically suited to the proposed use and are not of national significance. Since the islands are valuable for a State program they are considered chiefly valuable for public purposes and therefore suitable for classification and sale under the Recreation and Public Purposes Act. This action is consistent with local and Federal government plans, programs and policies.

Any patent issued under this notice shall be subject to the provisions in 43 CFR 2741.8. In the event of

noncompliance with the terms of the patent, title to the land revert to the United States.

The classification of these islands will segregate them from all appropriation except as to applications under the mineral leasing laws and the Recreation and Public Purposes Act. Segregation will terminate upon issuance of a patent; or eighteen (18) months from the date of this notice; or upon publication of a notice of termination, whichever occurs first.

Comments

For a period of 45 days from the date of first publication of this notice, interested parties may submit comments to: District Manager, Milwaukee District Office, Bureau of Land Management, P.O. Box 631, Milwaukee, Wisconsin 53201–0631. Any adverse comments will be evaluated by the District Manager who may vacate or modify this classification. In the absence of any action by the State Director, this Realty Action will become the final determination of the Department of Interior.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this application is available for review at the Milwaukee District Office, Suite 225, 310 W. Wisconsin Ave., Milwaukee, Wisconsin 53201, or by calling Priscilla McLain at (414) 291–4427.

Chuck Steele,

District Manager.

[FR Doc. 84–31824 Filed 12–5–84; 8:45 am]

BILLING CODE 4310–84–M

[CA 16639]

Realty Action; Exchange of Public Lands; Riverside County, CA

AGENCY: Bureau of Land Management; Interior.

ACTION: Realty action—exchange of public lands in Riverside County (CA–16639).

SUMMARY: The following described lands, including the surface and subsurface estate, have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, U.S.C. 1716:

T. 8 S., 8 E., SBBM.
Sec. 4, NW¼ (unnumbered lots), SW¼, W½ SE¼, (355.41 acres);
Sec. 10, E½ SW¼, (80 acres);
Sec. 14, SW¼ SE¼, (40 acres);
Sec. 22, all (640);
Sec. 26, all (640 acres).
Total acreage 1,735.41.

In exchange for these lands, the Federal Government will acquire the following non-Federal lands in Riverside County from the Nature Conservancy:

T. 3 S., R. 6 E., S.B.B.M.,
Sec. 34, all (640 acres);
Sec. 35, S½ (320 acres).
T. 4 S., R. 6 E., S.B.B.M.,
Sec. 2, lots 1–6, S½ NW¼ (320.31 acres).
Total acreage 1,280.31.

The purpose of this exchange is to acquire a portion of the non-Federal lands within the proposed 13,030 acre preserve for the Coachella Valley fringe-toed lizard. The lizard is Federally listed as threatened and state listed as endangered. The Bureau of Land Management's goal is to acquire 6,700 acres of the 13,030 acre preserve. Other state or Federal agencies will acquire the remaining portion of the preserve.

The exchange will include the surface and mineral estates for both selected and offered lands.

An appraisal has been completed and the land exchanged will be of equal value or otherwise be equalized by the payment of money to the Federal Government not to exceed 25 per centum of the total value of the land transferred out of Federal ownership.

Lands transferred from the United States will be subject to the following reservations, terms and conditions: The reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

Upon publication of this Notice of Realty Action in the **Federal Register**, the public lands will be segregated from all appropriations under the public lands laws, including the mining laws, except exchanges and mineral leasing for a period of two (2) years or upon issuance of patent or other documents of conveyance to such lands, whichever occurs first.

Detailed information concerning the exchange, including the Environmental Assessment Record/Land Report, Cultural Resources Report and Minerial Report are available for review at the California Desert District Office, 1695 Spruce Street, Riverside, CA 92507.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, California Desert District Office of the Bureau of Land Management, 1695 Spruce Street, Riverside, CA 92507. Any adverse comments will be evaluated by the District Manager, and forwarded to the California State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of Interior.

Dated: November 30, 1984.

H.W. Ricken,

Associate District Manager.

[FR Doc. 84–31852 Filed 12–5–84; 8:45 am]

BILLING CODE 4310–40–M

[NM–58429]

Realty Action; Exchange; Counties of Eddy and Lea; NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action—NM–58429, Exchange of Public Lands and New Mexico State Lands in the Counties of Eddy and Lea, State of New Mexico.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under Section 206 of the *Federal Land Policy and Management Act of 1976*, 43 U.S.C. 1716:

Township	Range	Meridian	Section	Subdivision	Acres
23 S.	32 E.	N.M.P.M.	32	All	640
			36	All	640
22 S.	33 E.	N.M.P.M.	8	All	640
			17	W½	320
					2,240

Comprising 2,240 acres in Lea County, NM.

In exchange for these lands, the United States will acquire the following described lands from the State of New Mexico:

Township	Range	Meridian	Section	Subdivision	Acres
16 S.	26 E.	N.M.P.M.	36	All	640
20 S.	26 E.	N.M.P.M.	32	E½E½	160
					800

Comprising 800 acres in Eddy County, NM.

This exchange is limited to surface estate only.

The purpose of this exchange is to acquire the State lands which have high public values to accommodate the Bureau of Reclamation Brantley Dam Project in southeastern New Mexico.

The values of the lands to be exchanged are approximately equal.

Lands to be transferred from the United States will be subject to the following reservations, terms, and conditions:

1. A reservation thereon for ditches and canals to be constructed by the authority of the US Act of August 30, 1980 (26 State 391, 43 U.S.C. 945).

2. All minerals shall be reserved to the United States together with the right to prospect for, mine, and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at this BLM office.

3. The patent will be subject to the terms and conditions of valid existing rights-of-way. The rights-of-way will then be assigned to the New Mexico State Land Office for administration.

Existing Federal grazing lessees, on the affected lands, will be offered up to the legal maximum of 5 years for a State Land Office grazing lease with the preferentail right of renewal.

Existing range improvements, within the interior of the Federal lands, will be transferred to the State Land Office. The value of these improvements was included in the appraisal. Other range improvements, such as fences bordering the Federal lands, will remain under BLM authorization.

Publication of this notice segregates the Federal lands from appropriation under any of the land entry laws, including the mining laws, but not the mineral leasing laws for a period of 2 years from the date of first publication.

For a period of 45 days, from the date of first publication, interested parties may submit comments to BLM, Carlsbad Resource Area Headquarters, P.O. Box 1778, Carlsbad, NM 88220 and BLM, Roswell District Office, P.O. Box 1397, Roswell, NM 88201.

Further information concerning the exchange, including the environmental assessment and land report, is available for review at the Carlsbad Resource Area Office, 101 E. Mermod, Carlsbad, NM.

Dated: November 29, 1984.

Charles W. Luscher,

State Director.

[FR Doc. 84-31853 Filed 12-5-84; 8:45 am]

BILLING CODE 4310-FB-M

[OR-19231]

Oregon; Proposed Continuation of Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Army, Corps of Engineers proposes that a land withdrawal for the Umpqua River Improvement Project continue for an additional 100 years. The land(s) would remain closed to surface entry and mining but has been and would remain open to mineral leasing.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208 (Telephone 503-231-6905).

SUMMARY: The Department of the Army, Corps of Engineers proposes that the existing land withdrawal made by the Executive Order of November 24, 1903, be continued for a period of 100 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

The land(s) involved is located just south of the Umpqua River and approximately five miles southwest of Reedsport and contains approximately 71.10 acres within Section(s) 14, T. 22 S., R. 13 W., W.M., Douglas County, Oregon.

The purpose of the withdrawal is to protect the Umpqua River Improvement Project. The withdrawal segregates the land(s) from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: November 29, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-31847 Filed 12-5-84; 8:45 am]

BILLING CODE 4310-33-M

[OR-21738]

Oregon; Proposed Continuation of Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Army, Corps of Engineers, proposes that a land withdrawal for the Tillamook Bay Jetties continue for an additional 100 years. The land(s) would remain closed to surface entry and mining but has been and would remain open to mineral leasing.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughn, BLM Oregon State Office P.O. Box 2965, Portland, Oregon 97208 (Telephone 503-231-6905).

SUMMARY: The Department of the Army, Corps of Engineers, proposes that the existing land withdrawal made by the Secretarial Order of January 28, 1901, be continued for a period of 100 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

The land(s) involved is located about 2 miles southwest of Garibaldi and contains approximately 145 acres within Section(s) 19, 20, and 30, T. 1 N., R. 10 W., W.M., Tillamook County, Oregon.

The purpose of the withdrawal is to protect the Tillamook Bay Jetties. The withdrawal segregates the land(s) from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer at the above address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: November 29, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-31848 Filed 12-5-84; 8:45 am]

BILLING CODE 4310-33-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-196]

Certain Apparatus for Installing Electrical Lines and Components Therefor; Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a consent order agreement: Ontario Ltd., a Canadian corporation trading as Canadian Flexi Drill, ("CFD").

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on December 3, 1984.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

By order of the Commission.

Issued: December 3, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-31854 Filed 12-5-84; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30580]

State of Alaska; Petition for Declaratory Order

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the requirements of 49 U.S.C. 11323(b) the appointment of Mr. Frank X. Chapados to the board of directors of Alaska Railroad Corporation.

DATES: This exemption is effective on December 5, 1984. Petitions to reopen must be filed by December 26, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30580 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

and

(2) Honorable Norman C. Gorsuch, Attorney General, State of Alaska, Pouch K—State Capital, Juneau, AK 99811.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll-free (800) 424-5403.

Dated: November 29, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Sommons, Lamboley, and Strenio.

James H. Bayne,

Secretary.

[FR Doc. 84-31833 Filed 12-5-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-223)]

Burlington Northern Railroad Co.; Abandonment; in Chelan County, WA; Findings

The Commission has issued a certificate authorizing Burlington Northern Railroad Company to abandon its 1.74-mile rail line between station 10671+99.7 near Leavenworth and station 10764+05 near Old Leavenworth in Chelan County, WA. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

James H. Bayne,

Secretary.

[FR Doc. 84-31832 Filed 12-5-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

[Civil No 52-139]

Proposed Termination of Final Judgment

Notice is hereby given that The Great Atlantic & Pacific Tea Co., Inc. (A&P) has filed with the United States District Court for the Southern District of New York a motion to terminate the final judgment in *United States* v. *The New York Great Atlantic & Pacific Tea Co., Inc., et al.*, Civil No. 52-139; and the Department of Justice ("Department"), in a stipulationa also filed with the court, has consented to termination of the judgment, but has reserved the right to withdraw its consent for at least seventy days after the publication of this notice. The complaint in this case (filed on September 15, 1949) alleged that defendants had attempted to monopolize retail food markets. The

judgment (entered on January 19, 1954), as modified, enjoins A&P (the parent or successor in interest to all other defendants) from: (1) Selling products to the "outside trade" (food brokers, wholesalers, and retailers other than A&P) at prices, terms of sale, or delivery schedules that are *not* at least as favorable as those offered to any of its similarly sited retail stores; (2) coercing suppliers to refrain from dealing with food product brokers or to make products available to the outside trade without premiums or discounts, at increased prices for store door deliver, or at prices or other terms and conditions of sale dictated by A&P; (3) extracting a label or container allowance at a rate in excess of that offered to the outside trade; (4) knowingly attempting to obtain or obtaining any quantity discount or allowance based upon the combined purchases of more than one of its operating units (groups of retail stores under regional headquarters) except for cost justified label and container allowances and shared carload or truckload purchases; (5) merging any of its operating units for the primary purpose of capturing otherwise forbidden quantity discounts; (6) contracting for discounts, cost saving allowances, advertising allowances, floor space or wall space rentals, special newspaper supplements, store sales services, feature payments, mass displays, or other similar programs on forms other than those prepared and submitted by the affected supplier; (7) assigning a gross profit rate to a group of two or more operating units knowing that the assigned gross profit rate will result in the operation thereof at a loss for the purpose or intent of destroying or eliminating competition at the retail level; and (8) accepting payment of any allowance at A&P's headquarters or field buying offices.

The Department has filed with the court a memorandum setting forth the reasons why the Department believes that termination of the judgment would serve the public interest. Copies of the complaint and final judgment, A&P's motion papers, the stipulation containing the Goverment's consent, the Department's memorandum and all further papers filed with the court in connection with this motion will be available for inspection in the Legal Procedure Unit of the Antitrust Division, Room 7416, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, D.C. 20530 (telephone 202–633–2481), and at the Office of the Clerk of the United States District Court for the Southern District of New York, U.S. Courthouse, 40 Foley Square, New York, New York 10007. Copies of any of these materials may be obtained from the Legal Procedure Unit upon request and payment of copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the decree to the Department. Such comments must be received within sixty days, and will be filed with the court. Comments should be addressed to Alan L. Marx, Chief, General Litigation Section, Antitrust Division, Department of Justice, Washington, D.C. 20530 (telephone 202–724–6327).

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 84–31869 Filed 12–5–84; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Appointment of Members and Notice of Meeting

Notice is hereby given that appoinments have been made to fill six (6) vacancies on the National Advisory Committee on Occupation Safety and Health (NACOSH). The vacancies were created by the expiration of terms of six members on June 30, 1984. Four of the vacancies have been filled by members who have been reappointed to serve another term on the Committee, they are:

Mr. Robert B. Taylor, Public Representative
Mr. Tom Baker, Management Representative
Mr. John Donlon, Labor Representative
Mr. Ronald Davis, Safety Representative

The other two vacancies are in the public category and they have been filled by the appointment of new members:

Dr. Ernest M. Dixon
Ms. Anne J. Murphy

Each of these members has been appointed for a term which will end on June 30, 1986.

The Committee will meet on December 20, 1984 in room C2318 at the Frances Perkins Department of Labor Building. The meeting begin at 10:00 a.m. The public is invited to attend.

The agenda will include the swearing in of the members and reports on OSHA and NIOSH activities.

The National Advisory Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act.

For additional information contact: Clarence M. Page, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N–3662 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210. Telephone: (202) 523–8024.

Signed at Washington, D.C., this 3rd day of December 1984.

Robert A. Rowland,

Assistant Secretary.

[FR Doc. 84–31850 Filed 12–5–84; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Change in Future Meeting Dates

November 28, 1984.

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1 (1982), as amended, notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold meetings on the days listed below in calendar year 1985. All the meetings will be held in Washington, D.C. except for the November meeting which will be held in San Diego, CA. Exact times and locations will be announced at a later date.

The Committee, consisting of 18 non-Federal members appointed by the President from academia, business and industry, public interest organizations, and State and local government was established by Congress by Public Law 95–63 on July 5, 1977. Its duties are to (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or Congress.

The tentative meeting dates are as follows:

January 22, 23 (revised; Tuesday and Wednesday
March 4, 5; Monday and Tuesday
April 17, 18; Wednesday and Thursday
June 3, 4; Monday and Tuesday
July 15, 16; Monday and Tuesday
August 19, 20; Monday and Tuesday
Sept. 30, Oct. 1; Monday and Tuesday
November 14, 15; Thursday and Friday.

The public is welcome at the sessions and will be admitted to the extent that seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning these meetings may be obtained through the Committee's Executive Director, Steven N. Anastasion whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., Washington, DC 20235. The telephone number is 202/653-7818.

Dated: November 28, 1984.

Steven N. Anastasion,

Executive Director.

[FR Doc. 84-31827 Filed 12-5-84; 8:45 am]

BILLING CODE 3510-12-M

NUCLEAR REGULATORY COMMISSION

Availability of NUREG-1061, Volume 3, "Report of the U.S. Nuclear Regulatory Commission Piping Review Committee; Evaluation of Potential for Pipe Breaks"

The Nuclear Regulatory Commission announces the availability of NUREG-1061, Volume 3, "Report of the U.S. Nuclear Regulatory Commission Piping Review Committee: Evaluation of Potential for Pipe Breaks" which was prepared by the NRC Piping Review Committee Task Group on Pipe Breaks.

The NRC Piping Review Committee was established by the Executive Director for Operations of the USNRC to make a comprehensive review of the NRC requirements in the area of nuclear power plant piping. The activities of this Review Committee were divided into four tasks handled by appropriate task groups. These are:

- Pipe Crack Task Group;
- Seismic Design Task Group;
- Pipe Break Task Group; and
- Dynamic Load/Load Combination Task Group.

Each task group is preparing a report appropriate to its scope to be published as a volume of NUREG-1061. In addition, the Piping Review Committee will prepare an overview summary report, NUREG-1061, Volume 5, that rationalizes the areas of overlap and summarizes Committee conclusions and recommendations.

NUREG-1061, Volume 3 summarizes a review of regulatory positions relating to the potential for pipe breaks and contains Pipe Break Task Group recommendations for application of the leak before break approach to the NRC licensing process. Issues examined include the large pipe break criteria and the implications of any changes in the criteria as they influence items such as jet loads and pipe whip. The application of appropriate fracture mechanics technology to demonstrate low probability that high energy fluid piping will experience double-ended ruptures is discussed including detailed analytic methods.

Copies of NUREG-1061, Volume 3 may be purchased by calling (301) 492-9530 or by writing to the Publication Services Section, Document Management Branch, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; or purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

Comments or questions on this document should be addressed to R.W. Klecker, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone (301) 492-8007. Comments received within 45 days of the date of this **Federal Register** Notice will be considered in action taken on the implementation of this report.

Dated at Bethesda, Maryland, this 28th day of November 1984.

R.H. Vollmer,

Cochairman, NRC Piping Review Committee.

L.C. Shao,

Cochairman, NRC Piping Review Committee.

[FR Doc. 84-31857 Filed 12-5-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-364]

Alabama Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of two reliefs from the requirements of ASME Code Section XI to Alabama Power Company (the licensees), for the Joseph M. Farley Nuclear Plant, Unit No. 2, located near the city of Dothan, Alabama.

Environmental Assessment

Identification of Proposed Action: The reliefs will permit the licensee to perform: (1) Surface and visual examinations of pressure retaining welds in the charging pump casings not normally accessible for examination as required by IWC-2600, and (2) hydrostatic tests of Class 2 portions of the steam generators and related piping at $1.25P_p$.

The examinations would be done in a manner different from that prescribed in Section XI of the ASME Boiler and Pressure Vessel Code, as required by 10 CFR 50.55a, because of inaccessibility of pump casing welds and steam generator vendor recommendations.

The relief is responsive to the licensee's application for reliefs dated July 27, 1984.

The Need for the Proposed Action: The proposed reliefs are needed because:

(1) The charging pump casing welds pose geometrical limitations not allowing volumetric examinations even when the pump is completely disassembled, and (2) the steam generator vendor, Westinghouse, recommends reduced pressure and times for conducting hydrostatic tests to prevent undue stress on the steam generators. Also, since the Class 2 piping is not isolable from the steam generators, the same test requirements would apply.

The licensee's proposed alternative examinations would ensure that the integrity of the charging pump casings and the steam generators and associated Class 2 piping are in good condition.

Environmental Impacts of the Proposed Action: The proposed reliefs will provide a degree of assurance of operability that is equivalent to that prescribed by the ASME Code. Consequently, the probability of the charging pump and the steam generators and Class 2 piping not operating properly will not be increased and post-accident radiological releases will not be greater than previously determined nor do the proposed reliefs otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with these proposed reliefs.

With regard to potential non-radiological impacts, the proposed reliefs involve features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore,

the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed reliefs.

Alternative Use of Resources: This action involves no use of resources not previously considered in the Final Environmental Statement (construction permit and operating license) for the Joseph M. Farley Nuclear Plant, Unit No. 2.

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 reliefs.

Based upon the foregoing 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 application for the reliefs dated July 27, 1984, which is available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C., and at the George S. Houston Memorial Libary, 212 W. Burdeshaw Street, Dothan, Alabama 36301.

Dated at Bethesda, Maryland this 29th day of November 1984.

For the Nuclear Regulatory Commission.

Gus C. Lainas,

Assistant Director for Operating Reactors, Division of Licensing.

[FR Doc. 84-31858 Filed 12-5-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-315 and 50-316]

Indiana and Michigan Electric Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of relief from the requirements of ASME Code Section XI and an exemption from the requirements of 10 CFR 50.55a to the Indiana and Michigan Electric Company (the licensee), for the Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, located in Berrien County, Michigan.

Environmental Assessment

Identification of Proposed Action: The relief will permit the licensee to examine the reactor coolant pump casing welds in a manner different from that prescribed in Section XI of the ASME Boiler and Pressure Vessel Code, as required by 10 CFR 50.55, because of high occupational radiation exposures. The exemption to 10 CFR 50.55(a)(g)(4) will permit the licensee to utilize a common start date for Unit No. 1 and Unit No. 2 for the inservice inspecting (ISI) and inservice testing (IST) programs. The exemption would extend the Unit 1 first ten-year interval by one year and shorten the Unit 2 first ten-year interval by two years. Relief is also proposed in conjunction with the exemption for the Unit 2 vessel beltline examination for the first ten-year interval to be conducted during the mid-1987 refueling outage using the 1974 edition through summer 1975 addenda as the governing code, for the Unit 2 class 1 and 2 welds remaining from the first interval to be examined at the beginning of the second interval credited to that interval, and for the Unit 2 system pressure tests for the first interval to be conducted during the mid-1987 refueling outage to the 1974 edition through summer 1975 addenda as the governing code.

The relief and exemption with relief is responsive to the licensee's applications dated March 8, 1984 and March 15, 1984 respectively; the latter application supplemented by letter dated May 11, 1984.

The Need for the Proposed Action: The proposed relief is needed because the examinations prescribed by the code, visual inspection of the internal surfaces and volumetric examination of the welds by radiography, necessitate disassembly of the pump with high occupational radiation exposures. The licensee's proposed alternate examinations would ensure that the pump casing welds are in good condition.

The proposed exemption with relief to allow a common start date for the ISI and IST programs for both Units 1 and 2 is needed to allow the use of the same Code Edition and Addenda for both Units, submission of a combined program which significantly decreases preparation and review time, and more efficient implementation of the programs. The licensee's proposed exemption with relief would ensure that the overall plant examination programs for both units are consistent, that the scheduled examinations will proceed during the changeover period as previously planned, and that the Unit 2 beltline and system pressure tests will be done as previously scheduled to the codes currently applicable to this unit.

Environmental Impacts of the Proposed Action: The proposed relief on the reactor coolant pump casing welds combined with our current knowledge as a result of experience gained at other reactors of the integrity of these welds provide a degree of assurance of operability that is equivalent to that prescribed by the ASME Code. The proposed exemption with relief to provide common start dates for the ISI/IST program for Units 1 and 2 will also provide a degree of assurance that all inspections and testing will proceed as previously scheduled with applicable codes being utilized as determined by the interval dates or for Unit 2, reactor vessel and system pressure tests, as currently scheduled with the existing code requirements. Consequently, the probability of the reactor coolant pump or plant systems not operating properly will not be increased and post-accident radiological releases will not be greater than previously determined nor does the proposed relief otherwise affect radiological plant effluents. The relief associated with the reactor coolant pump casing welds will significantly reduce occupational radiation exposures associated with the examinations. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed relief and exemption with relief.

With regard to potential non-radiological impacts, the proposed relief and exemption with relief involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed action.

Alternative Use of Resources: This action involves no use of resources not previously considered in the Final Environmental Statement (construction permit and operating license) for the Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2.

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 relief and exemption with relief.

Based upon the foregoing 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 applications dated March 8, 1984 and March 15, 1984 (as supplemented May 11, 1984), which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C.,

and at the Maude Reston Palenski Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Dated at Bethesda, Maryland this 26th day of November 1984.

For the Nuclear Regulatory Commission.

Gus C. Lainas,

Assistant Director for Operating Reactors, Division of Licensing.

[FR Doc. 84-31859 Filed 12-5-84; 8:45 am]

BILLING CODE 7590-01-M

[Certificate of Compliance Nos. 5957, 6346, 5926, 9044, 5971, 5980, 6003, 9781, 9103, 5607, 9132; Docket Nos. 71-5957, 71-6346, 71-5926, 71-9044, 71-5971, 71-5980, 71-6003, 71-9781, 71-9103, 71-5607, 71-9132]

Spent Fuel Shipping Casks; Request for Action Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Material Safety and Safeguards, on November 30, 1984 denied the request for action filed by Mr. Lindsay Audin. By letter dated July 30, 1984, the petition requested that certain actions be taken with respect to spent fuel shipping casks. The petitioner requested that limitations to inert casks or "can" failed fuel be placed on research and submarine reactor spent fuel casks and that certain accident scenarios involving spent fuel casks be reanalyzed and appropriate action taken based on the results. For the reasons stated in the Director's Decision, the petitioner's requests have been denied.

A copy of the "Director's Decision under 10 CFR 2.206," DD-84-24, and the petitioner's letter are available in the Commissioner's Public Document Room located at 1717 H Street, NW, Washington, DC 20555.

A copy of the decision is being filed with the Secretary of the Commission's review in accordance with 10 CFR 2.206(c).

Dated at Silver Spring, Maryland this 30th day of November 1984.

Donald B. Mausshardt,

Deputy Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 84-31860 Filed 12-5-84; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Order No. 592; Docket No. A85-5]

West Coxsackie, New York 12192 (Doris and Glenn Barber, Petitioners); Order Accepting Appeal and Establishing Procedural Schedule

Issued December 3, 1984.

Before Commissioners: Janet D. Steiger, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; James H. Duffy.

Docket number: A85-5.

Name of affected Post Office: West Coxsackie, New York 12192.

Name(s) of petitioner(s): Doris and Glenn Barber.

Type of determination: Closing.

Date of filing of appeal papers: November 20, 1984.

Categories of issues apparently raised:

1. Effect on the community [39 U.S.C. 404(b)(2)(A)].

2. Effect on postal services [39 U.S.C. 404(b)(2)(C)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule [39 U.S.C. 404(b)(5)], the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioners. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before December 5, 1984.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register.**

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

November 20, 1984—Filing of Petition.

December 3, 1984—Notice and Order of Filing of Appeal.

December 17, 1984—Last day of filing of petitions to intervene [*see* 39 CFR 3001.111(b)].

December 26, 1984—Petitioners' Participant Statement or Initital Brief [*see* 39 CFR 3001.115(a) and (b)].

January 15, 1985—Postal Service Answering Brief [*see* 3001.115(c)].

January 30, 1985—(1) Petitioners' Reply Brief should petitioners choose to file one [*see* 39 CFR 3001.115(d)].

February 6, 1985—(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument [*see* 39 CFR 3001.16].

March 20, 1985—Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 31835 Filed 12-5-84; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21526; File No. SR-NYSE-82-20]

Self-Regulatory Organizations; Filing of Amendment No. 2 to Proposed Rule Change by New York Stock Exchange, Inc.

November 28, 1984.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 14, 1984, the New York Stock Exchange, Inc. ("NYSE") filed with the Securities and Exchange Commission Amendment No. 2 to a proposed rule change.

The proposed rule change would amend NYSE Rule 105 to allow NYSE specialists to use options on their specialty stocks for hedging purposes. As submitted through Amendment No. 1,[1] the proposed rule change was intended to limit specialists to options positions that (1) are on the opposite side of the market from the specialty stock position being offset; (2) fall within specified "hedge ratios"; and (3) are entered into solely for the purpose of offsetting the risks of the position in the specialty stock. In addition, as submitted through Amendment No. 1, the proposed rule change would allow certain persons associated with a specialist's firm to use options on the specialist's specialty stocks, subject to compliance with the specified hedge ratios but not subject to the requirement of the entry within specified time periods of orders to liquidate options positions that come to exceed these hedge ratios due to changes in the stock position being offset.

The NYSE states that Amendment No. 2 provides for the following: (1) Deletion of language in paragraph (b) of amended Rule 105 referring to a specialist's hedging a "reasonably anticipated" specialty stock position, *i.e.*, the acquisition of options positions in the

[1] Notice of the proposed rule change and Amendment No. 1 was given by issuance of a Commission release (Securities Exchange Act Release No. 19984, July 19, 1983), and by publication in the **Federal Register** (48 FR 34377, July 28, 1983). Amendment No. 1, among other things, amended the hedge ratios contained in the original proposal.

absence of a stock position or even on the same side of the market as an existing stock position (so-called "anticipatory hedging"); (2) addition of language to paragraph (b) of amended Rule 105 to make clear the NYSE's intention that Rule 105 is not a 'safe harbor' provision, but rather that transactions that do not meet the requirements of the "Guidelines for Specialists' Specialty Stock Option Transactions Pursuant to Rule 105" ("Guidelines") and transactions that are not effected to offset market-making risk, shall be deemed rule violations;[2] and (3) addition of language to paragraph (c) of amended Rule 105 to make clear that specified persons associated with a specialist are subject to the Guidelines for both acquisitions and liquidations of options positions.[3] Amendment No. 2 also deletes paragraph (d) of amended Rule 105 as submitted through Amendment No. 1. Paragraph (d) would have excepted so-called "19c–3 stocks", *i.e.*, securities which are not subject to the NYSE's off-board trading restrictions,[4] from the restrictions of amended Rule 105.

The NYSE submitted Amendment No. 2 after a Commission meeting on October 11, 1984, to discuss the proposed rule change through Amendment No. 1. At that meeting, the Commission considered the NYSE proposal and the comments thereon; and discussed whether the NYSE proposal was consistent with the Act. In that meeting, the Commission preliminarily indicated that the NYSE proposal would be consistent with the Act if amended to (1) incorporate the NYSE's interpretation of the proposal as set forth in the NYSE's March 20, 1983, letter and (2) to subject certain associated person's of the specialist to the same restrictions on their use of options on the specialist's specialty stocks as are imposed on the specialist himself.[5]

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2 within 21 days after the date of publication in the **Federal Register**.[6] Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549. Reference should be made to File No. SR–NYSE–82–20.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the NYSE.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–31821 Filed 12–5–84; 8:45 am]

BILLING CODE 8010–01–M

[2] In its March 20, 1983, letter to the Commission, the NYSE stated that it interpreted its proposal as submitted through Amendment No. 1 to contain the prohibitions contained in points one and two. Letter dated March 20, 1983, from James E. Buck, Secretary, NYSE, to George A. Fitzsimmons, Secretary, SEC. These amendments are intended to conform the Rule and Guidelines with this interpretation.

[3] As described above, the proposed rule change as submitted through Amendment No. 1 subjected associated persons' use of options on the specialty stocks of the specialist firm with which they are aassociated to the same restrictions as are imposed on a specialist's use of such options except for the requirement relating to the time within which to enter orders to liquidate options positions that come to exceed the specified hedge ratios due to changes in the stock positions being offset.

[4] Rule 19c–3 under the Act, 17 CFR 240.19c–3 (1984).

[5] At that meeting the Commission also determined that, should the Commission eventually approve the NYSE proposal, the NYSE would be requested to submit to the Commission a report showing the nature and effect of NYSE specialist options hedging activity that occurs under amended Rule 105 during the first six months of the amended Rule's effectiveness. For a more complete description of the contents of any such monitoring report, *see* letter from Richard T. Chase, Associate Director, Division of Market Regulation, SEC, to Santo Famularo, Assistant Vice President, Market Surveillance Services, NYSE, dated November 27, 1984.

[6] The Commission notes that since its October 11, 1984, meeting, it has received several comments on that meeting. *See* letter from Anne Taylor, Secretary, Chicago Board of Options Exchange Incorporated ("CBOE") to Shirley Hollis, Acting Secretary, SEC, dated November 13, 1984; letter from Morris Propp, Senior Partner, Cygnet V, to John S.R. Shad, Chairman, SEC, dated October 11, 1984; letter from Martin Kraft, to John S.R. Shad, Chairman, SEC, dated October 12, 1984; and letter from John A.M. Rowe to John Shad, Chairman, SEC, dated November 14, 1984. The commission will, of course, consider the comments received since the October 11, 1984 meeting, as well as the comments received prior to that meeting in any order the Commission eventually may issue regarding the NYSE proposal.

Self-Regulatory Organizations; Pacific Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

November 30, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Best Products Company, Inc.
Common Stock, $1.00 Par Value, File No. 7–8169

Commodore Corporation
Common Stock, $.05 Par Value, File No. 7–8170

Data Point Corporation
Common Stock, $.25 Par Value, File No. 7–8171

First Pennsylvania Corporation
Common Stock, $1.00 Par Value, File No. 7–8172

Galaxy Oil Company
Common Stock, $.10 Par Value, File No. 7–8173

Kellogg Company
Common Stock, $.50 Par Value, File No. 7–8174

Matrix Corporation
Common Stock, $1.00 Par Value, File No. 7–8175

New Process Company
Common Stock, No Par Value, File No. 7–8176

Phibro-Salomon, Inc.
Common Stock, $1.00 Par Value, File No. 7–8177

Pope, Evans & Robbins Inc.
Common Stock, $.10 Par Value, File No. 7–8178

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 21, 1984, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley D. Hollis,

Acting Secretary.

[FR Doc. 84-31817 Filed 12-5-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23500; (70-7057]

Columbus and Southern Ohio Electric Co.; Proposed Sale of Part of Ownership Interest in Zimmer Nuclear Generating Station

November 28, 1984.

Columbus and Southern Ohio Electric Company ("C&SOE"), (215 North Front Street, Columbus, Ohio, 43215), a subsidiary of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed a proposal with this Commission pursuant to section 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 44 promulgated thereunder.

The proposed transaction involves the adjustment of certain ownership interests in the William H. Zimmer Generating Station ("Zimmer Plant") pursuant to an agreement (the "Settlement Agreement"), dated as of January 20, 1984, by and among C&SOE and two nonassociate companies, The Cincinnati Gas & Electric Company ("CG&E") and The Dayton Power and Light Company ("DP&L"). The Zimmer Plant, located along the Ohio River near the town of Moscow, Ohio, was originally planned as a nuclear generating unit to be constructed by CG&E and to be owned jointly by CG&E, DP&L, and C&SOE (hereinafter sometimes referred to as the "Owners") in the respective percentages of 40%, 31.5%, and 28.5%. After encountering a variety of difficulties and uncertainties in the construction of the Zimmer Plant as a nuclear unit, the Owners entered into the Settlement Agreement pursuant to which they agreed, among other things, to cease construction of the Zimmer Plant as a nuclear facility and to use their best efforts to convert the Zimmer Plant to a coal-fired unit. Two studies for the Owners conclude that conversion to coal is feasible and attractive from both an engineering and an economic standpoint, and the Owners have determined that the conversion alternative to be pursued is a cycle substantially identical to the 1300-MW coal-fired generating series used at the other plants in the AEP System.

The Settlement Agreement provides, among other things, that the ownership interests of CG&E, DP&L, and C&SOE shall be changed from the original shares of 40%, 31.5%, and 28.5%, respectively, to revised shares of 46.5%, 28.1%, and 25.4%, respectively. The Settlement Agreement further provides that, in addition to being responsible for an additional 6.5% ownership interest in the Zimmer Plant, CG&E is obligated to pay to DP&L and C&SOE, in proportion to their original ownership interests, the sum of $110,000,000. Such sum shall be paid, starting in 1985, by CG&E's making payments of DP&L's and C&SOE's share of all ongoing project costs, provided that CG&E shall be obligated to pay no more than $50,000,000 toward the satisfaction of this obligation in any one year. In the event that the Zimmer Plant is not constructed as a coal-fired unit or is cancelled or terminated, CG&E will pay directly to DP&L and C&SOE, in proportion to their original ownership interests, any portion of the $110,000,000 not previously paid. C&SOE proposes upon payment of all or part of its share of the $110,000,000 by CG&E to deliver to CG&E one or more deeds evidencing the reduction of C&SOE's interest, and the corresponding increase in CG&E's interest, in the Zimmer Plant.

The owners are currently engaged in negotiating a Project Management Agreement with American Electric Power Service Corporation ("AEPSC"), a subsidiary service company of AEP, pursuant to which AEPSC would assume the role of project manager responsible for the remaining work (the "Project") necessary to convert the Zimmer Plant into a 1300-megawatt coal-fired generating plant. It is contemplated that all of AEPSC's work (and any work of any AEP affiliated company) would be performed for the Owners at actual cost (*i.e.*, without any profit or return on equity to AEPSC or to any AEP affiliated company) as described in HCAR No. 21922 (February 19, 1981) and allocable to the Project in accordance with the principles described in that Release.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 26, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-31820 Filed 12-5-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 14257; (812-5947)]

Forest City Investment Partners III, Limited Partnership, et al.; Application for an Order for Exemption

November 29, 1984.

Notice is hereby given that Forest City Investment Partners III Limited Partnership (10800 Brookpark Road, Cleveland, Ohio) (the "Partnership"), a District of Columbia limited partnership, and its general partner, Forest City Dillon, Inc. (the "General Partner") (collectively with the Partnership, "Applicants"), filed an application on September 26, 1984, and exhibits thereto on November 14, 1984, for an order pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting the Partnership from all provisions of the Act and the rules and regulations thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and to the Act and rules thereunder for the text of the applicable provisions.

Applicants state that the Partnership was formed on August 1, 1984, and intends to offer 90 units of limited partnership interest (the "Units") at $79,450 per Unit, subject to adjustment and payable in seven annual installments. The Units will be offered pursuant to an exemption from registration under the Securities Act of 1933, and each limited partner will be furnished a private placement memorandum (the "Memorandum"), subsequently filed as an exhibit to the application. The aggregate offering is $7,150,500. Applicants state that the Partnership will operate as a "two-tier" investment; i.e., the Partnership will acquire a 99% limited partner interest in a maxmum of four limited partnerships that will own and maintain government assisted multiunit housing ("Operating Partnerships"). The General Partner and certain of its affiliates will serve as the general partners of each of the Operating Partnerships. Five employee of the General Partner will serve as Class A limited partners of the

Partnership and Shearson Lehman/American Express Real Estate Corporation will serve as the Class B limited partner of the Partnership.

Applicants state that the net proceeds of the offering will be invested in the Operating Partnerships and that the Partnership will not invest in the securities of other issuers, except as a temporary investment. The Operating Partnerships, Applicants represent, rent primarily to low and moderate income persons and/or elderly persons in accordance with the purposes and criteria set forth in Investment Company Act Release No. 8456 (August 9, 1974) (the "Release").

Subscription proceeds from the offering will be deposited in trust with the placement agent, Shearson Lehman/American Express, Inc. ("Placement Agent"). Subscription proceeds will not be released until the Partnership purchases an Operating Partnership ("Closing"). If Closing does not occur for one or more of the Operating Partnerships by December 31, 1984, then the subscription proceeds and investor notes allocable to such Operating Partnerships will be returned to investors. Compensation and fees payable to the General Partner and its affiliates will be reduced accordingly.

The application states that investment in low and moderate income housing involving several housing projects is not feasible without the tax and organizational advantages of the limited partnership form. A limited partnership, Applicants state, is the only form of organization that provides investors with both the ability to claim on their individual tax returns the tax benefits arising from the Partnership's investment in the Operating Partnerships and a liability limited to the amount of their investment.

Subscription for Units will be effected through the Placement Agent and other broker-dealers engaged by the Partnership who are members of the National Association of Securities Dealers, Inc. The Placement Agent and any other broker-dealers will be retained on a best efforts basis. According to the application, the General Partner must approve all subscriptions based on representations made by limited partners as to the suitability of an investment in the Partnership. An investor must represent in writing, *inter alia*, that: he is acquiring the Units for investment and not with a view towards resale or distribution, and that they understand the risks and terms of the offering; that he either: (i) Has a net worth per Unit or fraction thereof of at least the greater of (a) twice the subscription price of the Units or (b) $200,000 (exclusive of home, furnishings and automobiles) or (ii) is an "accredited investor" under Regulation D; that he is subject to a marginal tax rate of a least 45% from 1984 through 1990; and, that he has such knowledge and experience in financial and business affairs that he is capable of evaluating the merits and risks of the investment. Applicants believe that the suitability standards are consistent with the terms of the Release and are consistent with the guidelines of states prescribing suitability standards, wherein the Units may be sold.

Applicants also assert that, in accordance with the Release, the requirements of fair dealing by the general partner are codified in the basic organizational documents of the Partnership. The Partnership Agreement and Memorandum contain numerous provisions, Applicants state, that ensure fair dealing by the General Partner with limited partners. Applicants further state that all compensation to be paid the General Partner and its affiliates are disclosed in the Memorandum and Partnership Agreement, and no compensation will be payable to the General Partner or it affiliates not so specified, unless that compensation is fair and on terms no less favorable to the Partnership than would be the case if arrangements had been made with independent third parties and is disclosed to all partners. Further, Applicants believe that the amount of compensation meets all applicable guidelines necessary to permit the Units to be offered and sold in the various states selected by the General Partner which prescribe such guidelines. The Partnership further believes the compensation meets the real estate program statement of policy adopted by the North American Securities Administrators Association, Inc. Applicants also represent that all potential conflicts of interest between the General Partner and investors are disclosed in the Memorandum.

The application states that the Partnership will be controlled by the General Partner and that limited partners will not be entitled to participate in the control of the Partnership's business. Applicants assert however, that a majority in interest of limited partners may, without the concurrence of the General Partner, amend the Partnership Agreement provided that no amendment may in any manner increase the liability of limited partners. A majority in interest of limited partners may remove the General Partner on grounds specified in the Agreement, and may remove the General Partner without cause upon unanimous consent of the limited partners. The Partnership Agreement further provides that the exercise of any voting rights by limited partners are not effective until the Partnership has received an opinion of counsel or a court of competent jurisdiction determines that such rights will not adversely affect the tax status of the Partnership or limited liability status of the limited partners. Under the Partnership Agreement, limited partners are entitled to review all books and records of the Partnership during reasonable business hours upon three days prior written notice to the General Partner. Copies of the list of names and addresses of the limited partners and Units owned will also be available.

Applicants represent that the Partnership, by investing in the Operating Partnerships, will implement the policy pronounced by Congress in Title IX of the Housing and Urban Development Act of 1968 in making available, by private participation, the provision of housing for low or moderate income persons. The government assistance received by two Operating Partnerships include mortgage insurance and rental subsidies administered by the Department of Housing and Urban Development ("HUD") pursuant to sections 236, 221(d)(4), and section 8 programs; the remaining two Operating Partnerships receive below market rate mortgage financing from the the Michigan State Housing Development Authority and rental subsidies from HUD under section 236. Without conceding that the Partnership is an investment company under the Act, Applicants assert that the requested exemption is both necessary and appropriate in the public interest and is consistent with the purposes and policies underlying the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than December 24, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-31815 Filed 12-5-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23501; (70-7041)]

Middle South Utilities, Inc.; Proposal to Guarantee Sale-Lease Agreement

November 28, 1984.

Middle South Utilities, Inc. ("MSU") (225 Baronne Street, New Orleans, Louisiana, 70112), a registered holding company, has proposed a transaction with this Commission subject to section 12(b) of the Public Utility Holding Company Act of 1935 and Rule 45 thereunder.

Middle South Services, Inc. ("Services"), a subsidiary service company of MSU, intents to enter into a sale-leaseback transaction with either Dean Witter Realty, Inc., or an entity to be formed by Dean Witter ("Lessor"), pursuant to which services will sell, and concurrently lease from the Lessor under a long-term net lease ("Lease"), a parcel or real property situated in Gretna, Louisiana, and all improvements thereon, including an existing office and computer center and an addition ("Addition") to such computer center currently under construction ("Property"). In order to effectuate these transactions, MSU proposes to guarantee the performance by Services of its obligations under the Lease and related documents without recourse to Services first being required.

It is proposed that Services will sell, convey and assign the Property and the related contracts for the construction and completion of the Addition to the Lessor for an amount equal to the fair market value thereof, estimated at approximately $15,151,000, subject to an upward or downward adjustment of up to 10 percent depending on the final cost of the Addition ("Purchase Price"). The Purchase Price will include certain capitalized transactional costs, fees and expenses. After order herein, Services will receive payment of the Purchase Price and will thereafter, as agent of the owner, effect completion of the Addition pursuant to an Agency Agreement.

Concurrently with the sale and purchase of the Property, the Lessor will lease the Property to Services pursuant to the Lease. The Lease will have a primary term ("Primary Term") of approximately 25½ years, commencing on or about January 1, 1985. In addition, subject to the conditions set forth in the Lease, Services will have the option to extend the Lease for up to 6 consecutive renewal terms of 5 years each, for a total of 30 additional years. At the end of the Primary Term and at the end of every renewal term, Services will also have the option to purchase the Property at the then fair market value.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 20, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-31819 Filed 12-5-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23499; (70-7034)]

Pennsylvania Electric Co.; Proposed Sale of Utility Assets

November 28, 1984.

Pennsylvania Electric Company ("Penelec") (100 Broad Street, Johnstown, Pennsylvania 15907), an electric utility subsidiary of General Public Utilities Corporation ("GPU"), a registered holding company, has filed with this Commission, a proposal pursuant to section 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 44.

Penelec proposes to sell to West Penn Power Company ("West Penn"), facilities ("Facilities") known as the Shingletown Substation, located in Harris Township, Centre County, Pennsylvania, and the Elko Substation, located in Fox Township, Elk County, Pennsylvania. The Elko and Shingletown Substations provide interconnections of electrical facilities between Penelec and West Penn. Penelec states that the sale of the Facilities will more equitably distribute ownership of interconnection facilities between West Penn and Penelec and improve delineation of operating and maintenance responsibilities. The purchase price of the Facilities will be its original cost, less depreciation, adjusted to compensate Penelec for resulting taxes, other than transfer taxes, all as computed as of the date of the closing of the transaction. As of December 31, 1984 the purchase price for Shingletown will be $659,928 and Elko $231,807.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 26, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-31818 Filed 12-5-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23502; (70-7045)]

Public Service Company of Oklahoma and Central and South West Corp.; Proposed Issue and Sale of Notes by Subsidiary and Guaranty by Parent

November 29, 1984.

The Public Service Company of Oklahoma ("Company") (P.O. Box 201, Tulsa, Oklahoma 74102), an electric utility subsidiary of Central and South West Corporation ("CSW") (2121 San Jacinto Street, Dallas, Texas 75266), a registered holding company, and CSW have filed an application with this Commission pursuant to sections 6, 7, and 12(d) of the Public Utility Holding Company Act of 1935 and Rules 45 and 50(a)(4) thereunder.

Certain counties served by the Company in Oklahoma (Tulsa, Creek, Osage, and Okmulgee) have been declared disaster areas, as determined by the President, pursuant to the provisions of Title 42, Chapter 68 of the

U.S. Code, due to flooding and numerous tornadoes in these areas. To pay a portion of the cost of repairing or replacing its damaged property, estimated at $1,176,022, the Company proposes to borrow up to $800,000 under the Small Business Act. Two applications will be made to the Small Business Administration: One to repair or replace damaged property caused by the tornadoes on April 26 and 29, 1984 and one to repair or replace damaged property caused by the flood on May 27, 1984.

The proposed borrowing by the Company will be represented by one or more promissory notes ("Notes") payable to the Small Business Administration in an aggregate principal amount of up to $800,000, maturing in 3 years, bearing interest at 8% annually, and payable semi-annually over the life of the Note. CSW proposes to guarantee payment of the Notes.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 27, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-31816 Filed 12-5-84; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, 450 5th Street, NW., Washington, D.C. 20549.

Extension

Form N-23C-1—File No 270-230
Rule 270.17a-8—File No 270-225
Rule 270.22d-4—File No 270-241
Rule 270.17a-7—File No 270-238
Rule 270.30a-1—File No 270-210
Rule 270.30b1-2—File No 270-212
Rule 270.30b2-1—File No 270-213
Rule 270.17g-1(g)—File No 270-200
Rule 270.19a-1—File No 270-240
Rule 270.17f-1—File No 270-236
Form 270.18f-1—File No 270-187
Form N-8F—File No 270-136

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension the following rules/forms:

Form N-23C-1—statement by closed-end investment company with respect to purchases of securities.

Rule 270.17a-8—mergers of certain affiliated investment companies.

Rule 270.22d-4—sale of redeemable securities pursuant to certain mergers with private investment companies.

Rule 270.17a-7—exemption of certain purchase or sale transactions between investment company and certain affiliated persons.

Rule 270.30a-1—annual reports.

Rule 270.30b1-2—quarterly report for totally-held registered investment company subsidiary.

Rule 270.30b2-1—filing copies of reports to stockholders.

Rule 270.18f-1—exemption from certain requirements of section 18(f) (1) for registered open-end investment companies which have the right to redeem in kind.

Rule 270.17g-1(g)—bonding of officers and employees of registered management investment companies.

Rule 270.19a-1—written statement to accompany dividend payment by management companies.

Rule 270.17f-1—custody of securities with members of national securities exchanges.

Form N-8F—deregistering as an investment company.

Comments should be submitted to OMB Desk Officer: Katie Lewin, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503.

Shirley E. Hollis,

Acting Secretary.

December 3, 1984.

[FR Doc. 84-31867 Filed 12-5-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21528; File No. SR-PHLX 84-25]

Self-Regulatory Organizations; Proposed Rule Change by Philadelphia Stock Exchange, Inc.; Relating to Increased Position Limits for Equity Options

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 31, 1984, Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change.

The Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") proposes to amend Rule 1001 to increase position and exercise limits for individual equity options. The Statement of Purpose in Item II(A) below contains a description and summary of the terms of substance of the proposed rule change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

Currently, position and exercise limits [1] are determined in accordance with a two-tiered system which was established in July 1983. If an underlying stock meets specific standards governing trading volume and/or number of outstanding shares, the option qualifies for a higher-tier, 4,000-contract limit. All other options are subject to a 2,500 contract position limit. Specifically, to be eligible for the 4,000-contract limit, an underlying security

[1] Hereafter, the term "position limits" includes position and exercise limits.

must have either: (i) Trading volume totalling at least 20,000,000 shares during the last six months, or (ii) trading volume of at least 15,000,000 shares during the last six months and at least 60,000,000 shares outstanding.

The Exchange believes it is now appropriate to file a proposal for increased position limits. In keeping with the tiered system, the PHLX proposes a three-tiered system, with limits of 4,000, 6,000 and 8,000 contracts, as described below:

Highest Tier (8,000 Contract Limit). Options on stocks that have: (i) Trading volume of at least 40,000,000 shares during the preceding six months or (ii) trading volume of at least 30,000,000 shares during the preceding six months and 120,000,000 shares outstanding, would be subject to this highest tier limit.

Middle Tier (6,000 Contract Limit). Options on stocks that have: (i) Trading volume of at least 20,000,000 shares during the preceding six months or (ii) trading volume of at least 15,000,000 shares during the preceding six months *and* 40,000,000 shares outstanding, would be subject to this middle tier limit. It should be noted that the CBOE has proposed to require 60,000,000 shares outstanding as part of the second criteria, rather than 40,000,000 shares as proposed herein (see Item 7). The Exchange is confident that its proposed criteria are appropriate to protect the interest of investors.

Lowest tier (4,000 Contract Limit). Options on stocks which do not meet either of the criteria above would be subject to the 4,000 contract limit. As noted above, this represents an increase from the current lower tier (2,500) limit.

The proposed change is consistent with the requirements of the Securities Exchange Act of 1934 (the "1934 Act") and rules and regulations thereunder applicable to the Exchange by increasing position limits to provide investors (particularly market professionals and institutions) with added trading and hedging opportunities, and thus potentially enhancing market depth and liquidity. Therefore, the proposed rule change is consistent with section 6(b)(5) of the 1934 Act, which provides, in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the investing public.

B. Self-Regulatory Organizations Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Options Committee, a committee of the PHLX comprised of members and representatives of member firms, has endorsed the proposed rule change.

No written comments were solicted or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approved such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 30549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 29, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-31866 Filed 12-5-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Thompson Venture Group, Inc.; License Surrender

[License No. 03/03-0116]

Notice is hereby given that Thompson Venture Group, Inc., 1725 "K" St., NW., Washington, D.C. 20006 has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended, (the Act). Thompson Venture Group, Inc., was licensed by the Small Business Administration on December 29, 1983.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender was accepted on November 26, 1984, and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 29, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-31880 Filed 12-5-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[AC No. 45-XX]

Advisory Circular; Installation, Removal, or Change of Identification Data and Identification Plates on Aircraft Engines.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed Advisory Circular (AC) and request for comments.

SUMMARY: This proposed AC is to provide information and guidance concerning the installation, removal, or change of identification data and identification plates on aircraft engines.

DATE: Comments must identify AC No. 45-XX and be received on or before January 31, 1985.

ADDRESSES: Send all comments on the proposed AC to: Federal Aviation Administration, Office of Airworthiness,

Attention: Aircraft Manufacturing Division (AWS-200), 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Allen K. Griggs, Aircraft Manufacturing Division (AWS-200), Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone (202) 426-8391.

Comments received on the proposed AC may be inspected in Room 301, FAA Headquarters Building (FOB-10A), 800 Independence Avenue, SW., Washington, D.C. 20591, between the hours of 8:30 a.m. and 5:00 p.m., Monday thru Friday.

SUPPLEMENTARY INFORMATION:

Comments Invited

Comments are invited from all interested persons on the action proposed in this AC.

Background

Federal Aviation Regulations (FAR) Part 45 sets forth the requirements for each aircraft engine manufactured under a type or production certificate to be identified by means of a fire proof identification (ID) plate. The ID plate and the information contained thereon provides positive correlation between the engine and the historical/modification records and serves as a baseline to control all activity accomplished, (i.e., configuration, airworthiness directive compliance, overhaul, life limited parts, noise/emission compliance, etc.) throughout the entire service life of the engine.

Since the advent of the turbine engine modular concept the FAA has become aware that some aircraft operators/repair stations do not remove the engine ID plate from the module to which it is affixed when the module is removed for maintenance. Similarly, they install replacement modules on which an ID plate belonging to another engine is installed.

To ensure compliance with the intent of FAR Part 45, the FAA is proposing to issue an AC to set forth procedures that identify when the engine ID plate should be transferred from the module that was removed to the module that has been installed in its place.

Final action on the proposed AC will not be taken until after evaluation of all comments received.

Comments

Comments on the proposed AC are invited from all interested persons, and comments thereon should be submitted to: Allen K. Griggs, Aircraft Manufacturing Division (AWS-200), Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone (202) 426-8361.

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

Sandy DeLucia,

Manager, Aircraft Manufacturing Division, Office of Airworthiness.

Advisory Circular

U.S. DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Subject: Installation, Removal, or Change of Identification Data and Identification Plates on Aircraft Engines

Date:

Initiated by: AWS-200.
AC No: 45-XX.

Change:

1. *Purpose.* This advisory circular provides information and guidance concerning the installation, removal, or change of identification data and identification plates on aircraft engines.

2. *Related Federal Aviation Regulations (FAR) Sections.* Sections 43.3, 43.9, 43.11, 45.11, and 45.13.

3. *Background.* FAR Section 45.11 sets forth the requirements for each aircraft engine manufactured under a type or production certificate to be identified by means of a fireproof identification (ID) plate. FAR Section 45.13 requires specific identification information on the ID plate. The identification information includes the name of the builder, the model designation, the builder's serial number, the type certificate number (if any), production certificate number (if any), and the established rating. The Federal Aviation Administration (FAA) requires the use of identification plates and the data contained thereon to identify the specific FAA approved engine configuration and the fact that it was manufactured and approved under the provisions of an FAA production approval. Additionally, the regulations require that the identification plate be affixed to the engine at an accessible location, and in such a manner that it will not likely be defaced or removed during normal service, or lost or destroyed in an accident.

4. *Discussion.* a. Problems have arisen, since the advent of the turbine engine modular concept, with respect to engine identification. A significant feature of turbine engines is that separate sections (known as modules) are devoted to particular functions. A typical engine consists of a compressor section, combustion section, turbine section, and exhaust section. These modules are not independently approved by the FAA, but are approved as a part of the complete engine type design.

b. Aircraft engine manufacturers in compliance with FAR Sections 45.11 and 45.13 identify each complete engine by affixing an ID plate to one of the modules. That module serves only as a vehicle on which to affix the ID plate. That plate does not identify the module but does serve to identify the assembly of modules that make up the complete engine approved under a type certificate.

c. When the module to which the ID plate is affixed requires replacement, the ID plate would need to be removed and reinstalled on the replacement module in order to maintain the identification of the engine. This is analogous to an aircraft, in that when the member to which the ID plate is affixed is damaged, the ID plate would be removed from the damaged member and reinstalled on the replacement member since that ID plate serves to identify the aircraft, not the member to which it is affixed.

d. Maintenance on modular engines is normally accomplished by replacing entire modules. However, there is a need to maintain a continuous history on the basic engine (notwithstanding that every module may have been replaced any number of times) which is predicated on the engine ID plate, serial number, and historical/modification records. Additionally, modular type engines also contain a number of non-modular components (e.g., fuel lines, accessories, etc.) which are controlled by the engine serial number on the ID plate and corresponding historical/modification records.

e. The FAA is aware that some aircraft operators/repair stations do not remove the engine ID plate from the module to which it is affixed when the particular module is removed for maintenance. Similarly, they install replacement modules on which an ID plate (belonging to another engine) is affixed. This essentially constitutes an exchange of ID plates resulting in a lost of identity (historical/modification data) for both engines, as well as being in noncompliance with FAR section 45.13(c) and/or (e). The changing of engine ID plates and serial numbers from engine to engine, or failure to remove and reinstall engine ID plates when the module to which they are attached is required to be removed for maintenance, inhibits positive control of both modular and non-modular components. This control is needed, since the ID plate and the information contained thereon provides positive correlation between the engine and the required historical/modification records. The ID plate also serves as a baseline to control all activity accomplished on a particular engine (i.e., configuration, AD compliance, overhaul, life limited parts, noise/emission compliance, etc.) throughout the entire service life of the engine.

5. *Procedures.* When the engine module to which the engine ID plate is affixed is removed from an engine, and it is to be replaced with another module that is new, or that has been repaired or overhauled, the ID plate should be transferred from the module that was removed to the module installed in its place. Upon completion of the module and ID plate change, an entry must be made in the maintenance record as required by FAR Sections 43.9 and 43.11.

[FR Doc. 84-31843 Filed 12-5-84; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Bergen and Hudson Counties, NJ

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Bergen and Hudson Counties, New Jersey.

FOR FURTHER INFORMATION CONTACT: Lloyd J. Jacobs, Staff Specialist for Environment, Federal Highway Administration, 25 Scotch Road, Second Floor, Trenton, New Jersey 08628, Telephone: (609) 989–2169.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New Jersey Department of Transportation (NJDOT), will be preparing an Environmental Impact Statement on a proposal to construct an extension of Route 17 (07NJ810103) in Bergen and Hudson Counties, New Jersey. The proposed project would consist of the construction of a four lane expressway or lesser facility between Route 3 in Lyndhurst, Bergen County to Route I–280 in Kearny, Hudson County, a distance of approximately 5 miles. The proposed extension of Route 17 would be located east of Schuyler Avenue and west of the New Jersey Turnpike.

The purpose of the proposed project is to relieve congestion on the local north-south roads which carry traffic from the end of Route 17 expressway to Route I–280. These local roads include Ridge Road (which is temporarily designated as Route 17) and Schuyler Avenue. Temporary Route 17 operates as a two-lane city arterial through commercial and residential sections of the intervening municipalities, carrying local as well as through traffic. In addition to the commuter and commercial traffic Schuyler Avenue is also burdened with a constant volume of refuse trucks destined for land fills in the adjacent Hackensack Meadowlands District. The extremely high traffic volumes on these roadways causes severe congestion and creates delays to local emergency services and unsafe conditions for motorists and pedestrians alike. Both Ridge Road and Schuyler Avenue operate with two lanes, one in each direction, with on-street parking permitted in the commercial and residential areas. The proposed extension of Route 17, in addition to relieving congestion on local roadways, will facilitate local planning objectives for development in the Hackensack Meadowlands District and provide access to the proposed DeKorte State Park.

Alternatives under consideration include (1) an expressway or lesser facility between Route 3 to Route I–280; (2) a combination of the above facility with mass transit; (3) the no action alternative. The FHWA and NJDOT will consult with other government agencies on their areas of responsibility. A formal scoping meeting is planned, and Federal and State agencies with permit or commenting responsibilities will be invited. Information meetings will also be held for the public in the project area.

Issued on: November 27, 1984.

John J. Kessler, Jr.,

Division Administrator, Trenton, New Jersey.

[FR Doc. 84–31700 Filed 12–5–84; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Intent To Establish a Fee Schedule for the Transfer of U.S. Treasury Book-Entry Securities Held at Federal Reserve Banks

Correction

In FR Doc. 84–31358 beginning on page 47354 in the issue of Monday, December 3, 1984, make the following correction on page 47355: In the middle column, under **"Fee Schedule"**, in the second entry, "transfers received" should read "transfer originated".

BILLING CODE 1505–01–M

UNITED STATES INFORMATION AGENCY

Advisory Committee on Public Diplomacy

The United States Advisory Commission on Public Diplomacy will conduct a meeting in Room 600, 301 4th Street SW., on December 19 from 1:30 to 4:00 PM.

The meeting will be closed to the public because it will involve a discussion of classified information relating to USIA implementation of the Radio Broadcasting to Cuba Act. (5 U.S.C. 552b(c)(1)). Premature disclosure of this information is unlikely to significantly frustrate implementation of proposed Agency action, because there will be a discussion of future Agency policy and programs. (5 U.S.C. 552b(c)(9)(B))

Please call Gloria Kalamets, (202) 485–2468 for further information.

Determination To Close Advisory Commission Meeting of December 19, 1984

Based on the information provided to the United States Information Agency by the United States Advisory Commission on Public Diplomacy, I hereby determine that the meeting scheduled by the Commission for December 19, 1984 may be closed to the public.

The Commission has requested that its December 19 meeting be closed because it will involve a discussion of classified information relating to USIA's implementation of the Radio Broadcasting to Cuba Act. (5 U.S.C. 552b(c)(1)). Premature disclosure of this information is likely to frustrate significantly the implementation of proposed Agency action, because there will be a discussion of future Agency policy and programs. (5 U.S.C. 552b(c)(9)(B)).

Dated: November 30, 1984.

Charles Z. Wick,

Director.

[FR Doc. 84–31836 Filed 12–5–84; 8:45 am]

BILLING CODE 8230–01–M

Reporting and Information Collection Requirements Under OMB Review

AGENCY: United States Information Agency.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U S.C. Chapter 35), agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. USIA is requesting approval of "Information Collection in Support of USIA Acquisition Process".

DATE: Comments must be received by December 31, 1984.

Copies: Copies of the request for clearance (SF–83), supporting statement, transmittal letter and other documents submitted to OMB for review may be obtained from the USIA Clearance Officer. Comments on the item listed should be submitted to the Office of Information and Regulatory Affairs of OMB, attention Desk Officer for USIA.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Charles N.

Canestro, United States Information Agency, M/M, 301 Fourth Street, SW., Washington, D.C. 20547, telephone (202) 485–8676. And OMB review: Michael Weinstein, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, telephone (202) 395–4814.

SUPPLEMENTARY INFORMATION:
Information Collection in Support of USIA Acquisition Process.

Abstract: Information collection from the public is necessary to evaluate bids and responses from potential suppliers for supplies, services and hardware for the purpose of making awards in conformance with rules and regulations governing procurement of federal government departments and agencies.

Dated: November 26, 1984.

Charles N. Canestro,

Management Analyst, Federal Register Liaison.

[FR Doc. 84–31882 Filed 12–5–84; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 236
Thursday, December 6, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (Eastern Time), Tuesday, December 11, 1984.

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200-C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, D.C. 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes
2. A Report on Commission Operations (Optional)
3. Freedom of Information Act Appeal No. 84-07-FOIA-129-NY, concerning a request for copies of the respondent's EEO-1 reports from 1980 through 1984.
4. Freedom of Information Act Appeal No. 84-10-FOIA-103-DE, concerning a request for the contents of a closed ADEA file.
5. Freedom of Information Act Appeal No. 84-07-FOIA-136-NY, concerning a request for records from two Title VII charge files.
6. Freedom of Information Act Appeal No. 84-10-FOIA-72-NY, concerning a request for documents, memorandum or other materials in a Title VII file.

Closed

1. Litigation Authorization; General Counsel Recommendations
2. Proposed Commission Decisions: ORA Decisions and Guidance Decisions
3. Discussion of Subpoenas
4. Discussion of Commissioners' Charges

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register** the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Cynthia Matthews, Executive Officer at (202) 634-6748.

Dated: December 4, 1984.

Cynthia Matthews,

Executive Officer, Executive Secretariat.

This notice Issued December 4, 1984.

[FR Doc. 84-31963 Filed 12-04-84; 1:43 p.m.]

BILLING CODE 6570-06-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 5:55 p.m. on Friday, November 30, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to adopt a resolution (A) making funds available for the payment of insured deposits in The Dayton Bank & Trust Company, Dayton, Tennessee, which was closed by the Commissioner of Financial Institutions for the State of Tennessee on Friday, November 30, 1984, (B) accepting the bid of First National Bank and Trust Company, Rockwood, Tennessee, for the transfer of the insured, secured, and preferred deposits of the closed bank, (C) appointing First National Bank and Trust Company as the agent for the corporation for the payment of insured, secured, and preferred deposits of the closed bank, and (D) making funds available for an advance payment to uninsured depositors and other general creditors of The Dayton Bank & Trust Company equal to 75 percent of their uninsured claims.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Michael A. Mancusi, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: December 3, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-31879 Filed 12-3-84; 5:04 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, December 10, 1984, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Report of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Memorandum and resolution re: Issuance of a Final Rule requiring insured banks to report, under certain circumstances, their brokered deposits and fully insured deposits of financial institutions.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive

Secretary of the Corporation, at (202) 389–4425.

Dated: December 3, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–31878 Filed 12–3–84; 5:04 pm]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, December 10, 1984, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note: Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for Federal deposit insurance and for consent to exercise trust powers:

Federated Bank & Trust Company, a proposed new bank to be located at 10 Foster Avenue, Gibbsboro, New Jersey.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requets for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: December 3, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–31877 Filed 12–3–84; 5:04 pm]

BILLING CODE 6714–01–M

5

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, December 11, 1984, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, December 13, 1984, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (Fifth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings
Correction and approval of minutes
Eligibility for Candidates to receive Presidential primary matching funds
Draft Advisory Opinion #1984–57, Patrick G. Golden, Pacific Gas & Electric Company
11 CFR PARTS 2 and 3: Proposed Amendments to Sunshine Regulations
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 84–31982 Filed 12–4–84; 8:45 am]

BILLING CODE 6715–01–M

6

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

November 28, 1984.

TIME AND DATE: 10 a.m., Wednesday, December 5, 1984.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Little Sandy Coal Sales, Inc., Docket No. KENT 83–178–R. (Issues include whether the company's operation is a "mine" subject to Mine Act jurisdiction.)

Any person intending to attend this meeting who requires special accessibility features and/or any auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Thus, the Commission may, subject to the limitations of 29 CFR 2706. 150(a)(3) and § 2706. 160(e), ensure access for any handicapped person who gives reasonable advance notice.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 84–31985 Filed 12–4–84; 2:48 pm]

BILLING CODE 6735–01–M

7

FEDERAL TRADE COMMISSION

TIME AND DATE: 4:00 p.m., Monday, December 3, 1984.

PLACE: Room 526, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW. Washington, D.C. 20580.

STATUS: Open.

MATTER TO BE CONSIDERED:

Ceremony for the swearing-in of Mary L. Azcuenaga as Commissioner (reception to follow by invitation only)

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 532–1892, Recorded Message: (202) 523–3806.

Emily H. Rock,

Secretary.

[FR Doc. 84–31969 Filed 12–4–84; 2:00 pm]

BILLING CODE 6750–01–M

8

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council)

ACTION: Notice of meeting to be held pursuant to the Government in the Sunshine Act (5 U.S.C. 552b).

STATUS: Open.

TIME AND DATE: December 11, 1984; 9:00 a.m.

PLACE: Council Office Meeting Room, 850 SW. Broadway, Suite 1100, Portland, Oregon.

MATTERS TO BE CONSIDERED:

The Council will conduct a hearing to take testimony from the region's public utility commissions concerning intertie access policy, out-of-region sales, and the ownership

and size of the intertie. The Council anticipates testimony from the Idaho Public Utilities Commission, the Montana Public Service Commission, the Oregon Public Utility Commission, and the Washington Utilities and Transportation Commission.

Public Comment will be taken at the conclusion of the Commissioners' testimony. The Council anticipates conducting future public sessions to receive testimony from other interested parties on these issues.

FOR FURTHER INFORMATION CONTACT:

Ms. Bess Wong (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 84–31939 Filed 12–4–84; 11:01 am]

BILLING CODE 0000–00–M

federal register

Thursday
December 6, 1984

Part II

Department of State

22 CFR Parts 121, 122, 123, 124, 125, 126, 127, 128, 129, and 130

Revision of the International Traffic in Arms Regulations; Final Rule

DEPARTMENT OF STATE

22 CFR Parts 121, 122, 123, 124, 125, 126, 127, 128, 129, and 130

[Departmental Reg. 108.840]

Revision of the International Traffic in Arms Regulations

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: On December 19, 1980, the Department of State published a proposed comprehensive revision of the International Traffic in Arms Regulations (the ITAR) (45 FR 83970). The purpose of this proposed revision was to simplify and clarify the regulations and to improve the regulatory scheme established under the Arms Export Control Act. Numerous comments were received from the public and from U.S. Government agencies. This publication publishes the final rule, which shall enter into force on January 1, 1985.

EFFECTIVE DATE: January 1, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. William B. Robinson, (202) 235–9755, Director, Office of Munitions Control; Mr. Mark L. Wiznitzer, (202) 235–9756, Office of Munitions Control; Ms. Jean U. Bailly, (202) 632–0568, Office of the Legal Adviser.

SUPPLEMENTARY INFORMATION:

Background. The International Traffic in Arms Regulations were first published in their current form on August 26, 1955 (20 FR 6250) pursuant to the authority of section 414 of the Mutual Security Act of 1954 (68 Stat. 848). The Mutual Security Act replaced the Neutrality Act of 1939 (54 Stat. 11), which had constituted the authority of the President to control exports of arms, ammunition, and implements of war. The provisions of the Mutual Security Act of 1954 were to a large extent superseded in 1976 by the Arms Export Control Act (22 U.S.C. 2778), referred to in this summary as the Act. Section 38 of the Act continued the President's authority to control the export and import of defense articles and defense services (including exports of technical data related to defense articles). It also continued to authorize the President to promulgate regulations for the import and export of defense articles and defense services and to provide foreign policy guidance to persons involved in such exports and imports. Executive Order 11958 of January 18, 1977 as amended (44 FR 4311) delegated authority to regulate exports of defense articles and defense services to the Secretary of State, in consultation with the Secretaries of Commerce and Defense.

Revision of the ITAR. The ITAR have been amended from time to time to reflect statutory enactments and to implement the foreign policy of the United States. However, the last substantial revision of the regulations occurred in 1969. There was a felt need in recent years to simplify whenever possible the structure and terminology of the regulations. As a result, the Department of State undertook in 1979 to revise the ITAR. A proposed revision was published on December 19, 1980 (45 FR 83970).

Extensive comments were received from the public and U.S. Government agencies. Many of those comments resulted in changes in the proposed regulations.

On August 29, 1984, the Department of State published a notice in the **Federal Register** (49 FR 34240) that the revision was complete. The public was informed that any person who wished to comment further on the regulations could do so by contacting the Office of Munitions Control. The proposed regulations were again modified in view of these latest comments and are published today as a final rule.

Most of the provisions of the ITAR have been modified in some way, generally for editorial purposes. However, the basic regulatory scheme is not changed under the revision. The changes in the revision attempt primarily to: incorporate changes in government policies and licensing procedures; improve its organization; simplify and modernize its terminology; improve its enforceability; and implement recent Congressional notification requirements. The major changes from the prior edition of the ITAR and the proposed revision of December 19, 1980, are as follows.

Part 120. Many of the comments on the proposed revision of the ITAR made it clear that there was considerable confusion on the relation of the ITAR to the export regulations administered by the Department of Commerce; on how defense articles and defense services are placed on the Munitions List; on the standards used to designate defense articles and services; on whether "dual use" items or technical data were controlled under the ITAR; and on whether the proposed foreign end-use of the item to be exported is relevant in determining whether State or Commerce controls a particular export. Part 120 is new, and provides information on these basic matters and a basic conceptual introduction to the regulatory scheme. Part 120 simply codifies the practice and standards of the Office of Munitions Control. No new policy is established by this Part.

The definitions which apply to the ITAR are now located in Part 120. These were previously found at the end of Part 121. A listing of U.S. Government forms referred to in the regulations has been included at the end of Part 120. The interpretations of the Munitions List in Part 121 and the definitions which apply specifically to the reporting requirements of Part 130 remain in those parts. Several definitions have been revised. Perhaps the most important definition is that of "technical data" (§ 120.21). Many of the comments received on the proposed revision of the ITAR were on the proposed definition of technical data of December 19, 1980 (as well as the related exemptions on certain exports of technical data). The final definition, and the related definitions of "public domain" (§ 120.18) and "defense services" (§ 120.8), took into account the public comments and seeks to reflect the actual practice of the Office of Munitions Control of controlling only exports of certain technical data directly related to defense articles and not general, theoretical information.

Some of the public comments received assumed that all activity or data described in the definitions section of Part 120 (e.g., defense services or technical data) required a license. This is not the case. The substantive provisions on when licenses or approvals are required are in Part 123 for unclassified defense articles; and Part 124 for technical assistance and licensing agreements; and Part 125 for technical data and classified articles and data.

Part 121. This part consists of the Munitions List and interpretations. The Munitions List itself has been changed in that certain defense articles (listed below) have been added and deleted from it. The structure of the Munitions List has been modified only in minor respects (e.g., "defense services" and "technical data" are placed in separate categories). Several comments were received regarding whether "software" should be deemed to be a defense article or technical data for purposes of the ITAR. Section 121.8 was consequently changed to address these comments.

Notable changes to the U.S. Munitions List or its interpretations are as follows:

Additions

—Aluminum powder (spherical) (see § 121.12(s)).

—Floating dry docks, class ARDM (see § 121.15(d) (4)).
—Armored coaxial cable capable of RF, optical, or high voltage power transmission, and designed, modified or configured for military application (see Category XI(a) (3).
—Certain structural materials specifically designed or modified for defense articles, such as carbon/carbon and metal matrix composites (see Category XIII(d)).
—Combat shotguns (see § 121.9(a)).
—Cryptographic software (see Category XIII(b)).
—Devices embodying particle beam and electromagnetic pulse technology (see Category XIII(h)).
—Metal embrittling agents (see Category XIII(i)).

Deletions

—Muzzle-loading (black powder) firearms (see § 121.9(a)).
—Bayonets (deleted from Category I).
—Floating dry docks, classes YFDM, YR, YRDH, YRDM, YHL, YSD (see §121.15(d)(4)).
—Submarine and torpedo nets (deleted from Category VI).
—Parachutes (deleted from Category VIII).
—Certain trainer aircraft (see § 121.3(2)).
—Certain inertial navigation systems (see Category VIII(j)).
—Fixed land-based arresting gear (see Category VIII(e)).
—Instrument flight trainers, except for combat simulation trainers (deleted from category IX(a)).
—Standard military helmets (deleted from Category X(a)).
—Pressurized breathing equipment (deleted from Category X(b)).
—Military oxygen masks (deleted from Category X(b)).
—Protective clothing for handling corrosive fuels (deleted from Category X (b)).

Items which no longer qualify as significant military equipment

—Non-military communication satellites (See Category VIII(b) (2) and Category XI(b) (2)).
—Radios (See Category XI(a) (2)).

Part 122. This Part deals with the registration of manufacturers and exporters. Registration is now required for U.S. persons who furnish defense services. The fees charged for registration have been increased for the first time since 1969.

Part 123. The current system requires that licenses be obtained before the physical export of defense articles outside of U.S. jurisdiction and generally requires that the applicant be a U.S. person (although licenses are granted to foreign diplomatic missions). In the proposed revision of December 19, 1980, the Department proposed that only U.S. persons could obtain licenses for the export of defense articles, and that licenses would be required before articles could be transferred to foreign persons in the U.S. All of the public comments were opposed to these changes. The Department has decided not to make these changes. The Department will continue the traditional policies on these matters.

Most of the changes in Part 123 are technical in nature. They provide more guidance to applicants on how to apply for licenses and clarifications on existing exemptions. Licenses are formally made valid for two years rather than one.

Part 124. This part deals primarily with agreements between U.S. and foreign persons which involve the furnishing of defense services for the production or maintenance of defense articles. It has been the consistent policy of the United States under the ITAR to require that such agreements be submitted to the Office of Munitions Control for approval and that they contain certain clauses. Part 124 continues this policy. The structure of the chapter has been revised for clarity. Some of the standard clauses have been simplified, and some have been modified to ensure that statutory requirements on the transfer of defense articles manufactured under licensing agreements can be fully implemented. The standards and procedures applicable to the export of technical data for purposes of offshore procurement have been revised and clarified.

Part 124 contains one significant revision. The comments indicated that it was not clear whether certain activities involving defense articles, but which did not involve the use or disclosure of technical data, were subject to ITAR controls. It has been the practice of the Department of State in the past to control training in the use of defense articles only if it involved the disclosure of technical data or the use of technical data that was not exempt from the licensing requirements of Part 125. This practice on training services was narrower than what the express terms of the ITAR or the Act would have permitted. It also meant that certain important defense services related to defense articles were not necessarily regulated. For example, the training of pilots to fly military aircraft, or training individuals in combat skills, was not always regulated under the ITAR. § 124.1 provides that the furnishing of any defense service, as defined in § 120.8(a), will henceforth require the approval of the Department of State, regardless of whether technical data will be used or disclosed. This provision does not affect any of the neutrality laws of the U.S.

Part 125. This Part, which deals with the export of technical data, and the definitions of technical data and public domain in Part 120 are closely related. The most significant changes in Part 125 are in § 125.4, which contains a listing of the exemptions from the licensing requirements of the ITAR. This provision was one on which numerous comments were received. Concerns were expressed, for example, on licensing requirements as they relate to the First Amendment to the Constitution. The revision seeks to reflect these concerns, and certain new exemptions are provided. Nontransfer and use assurances are now required for all exports of classified articles or classified technical data.

In recent years, some parts of the academic community have expressed concern about the application of government export regulations to disclosures of information in university classrooms. This concern (for example, that the language of the ITAR was overly broad) did not occur because of any changes in the text of the ITAR, or in the policies and practices of the Department of State in administering the regulations. In order to address the concerns expressed about the regulations, however, the language with regard to what information is subject to ITAR controls has been clarified. The Department's long-standing practice of regulating only information that is directly related to defense articles, as reflected in *U.S.* v. *Edler*, 579 F. 2d 516 (9th cir. 1978), remains unchanged. In the future, the Department will consider incorporating in the ITAR appropriate recommendations regarding scientific communications which are developed by an interagency group currently studying proposals in the context of the Export Administration Regulations of the Department of Commerce.

Part 126. Part 126 contains general policies that are applicable to all exports under the ITAR. Most of the revisions in this part are clarifications or amplifications of existing provisions. Some of the provisions that were in more than one part of the previous ITAR have been consolidated (e.g., provisions on proposals related to significant military equipment and general policies on license denials and approvals).

Section 126.6 provides a significant new exemption for certain exports of

defense articles and defense services sold by the U.S. Department of Defense to foreign governments or international organizations under the Foreign Military Sales (FMS) program. This new section envisions the use of a new form, DSP–XX, as the documentation and authority for such exports. Details of implementation will be incorporated in the instructions to DSP–XX. This exemption will become effective upon publication of the DSP–XX.

Section 126.8 deals with proposals either to sell significant military equipment or to enter into manufacturing license agreements or technical assistance agreements for the production or assembly of such equipment. This requirement will no longer apply with respect to sales of defense articles to members of NATO, Australia, Japan and New Zealand. The monetary threshold for cases that must be submitted to the Department for approval prior to making the proposals described in the provision have been increased (from seven to fourteen million dollars).

Section 126.10 deals with the confidentiality of information provided to the Office of Munitions Control.

Part 130. This part has been changed in one significant aspect. The monetary thresholds on which sales are subject to this Part's requirements have been increased. The structure of the Part has been revised for clarity.

List of Subjects in 22 CFR Parts 120 through 130

Arms and Munitions, Exports.

Subchapter M (consisting of Parts 120 through 130) of Chapter I of Title 22, Code of Federal Regulations, is consequently revised to read as follows:

SUBCHAPTER M—INTERNATIONAL TRAFFIC IN ARMS REGULATIONS

Part

120—Purpose, background and definitions.
121—The United States Munitions List.
122—Registration of manufacturers and exporters.
123—Licenses for the export of defense articles.
124—Manufacturing license agreements, technical assistance agreements, and other defense services.
125—Licenses for the export of technical data and classified defense articles.
126—General policies and provisions.
127—Violations and penalties.
128—Administrative procedures.
129—[Reserved].
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PART 120—PURPOSE, BACKGROUND AND DEFINITIONS

Sec.

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Definitions

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Forms

120.24 Listing of forms referred to in this subchapter.

Authority—Section 38, Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2778); E.O. 11958, 42 FR 4311; 22 U.S.C. 2658.

§ 120.1 Purpose.

Section 38 of the Arms Export Control Act (22 U.S.C. 2728) authorizes the President to control the export and import of defense articles and defense services. It is the purpose of this subchapter to implement this authority. The statutory authority of the President to promulgate regulations with respect to exports of defense articles and defense services was delegated to the Secretary of State by Executive Order 11958, as amended (42 FR 4311). By virtue of delegations of authority by the Secretary of State, these regulations are primarily administered by the Director of the Office of Munitions Control, Bureau of Politico-Military Affairs, Department of State (35 FR 5422).

§ 120.2 Designation of defense articles and defense services.

The Arms Export Control Act also provides (22 U.S.C. 2778(a) and 2794(7)) that the President shall designate which articles shall be deemed to be defense articles and defense services for purposes of this subchapter. The items so designated constitute the United States Munitions List, and are specified in Part 121 of this subchapter. Such designations are made by the Department of State with the concurrence of the Department of Defense.

§ 120.3 Policy on designating defense articles and services.

Designations of defense articles and defense services are based primarily on whether an article or service is deemed to be inherently military in character. Whether it has a predominantly military application is taken into account. The fact that an article or service may be used for both military and civilian purposes does not in and of itself determine whether it is subject to the export controls of this subchapter. (Narrow exceptions to this general policy exist with respect to exports of certain spare parts and components in Categories V(d); VIII (e) and (g); XI(e); XII(c); and XVI(b).) The intended use of the article or service after its export (i.e., for a military or civilian purpose) is also not relevant in determining whether the export is subject to the controls of this subchapter.

§ 120.4 Relation to Department of Commerce regulations.

If an article or service is placed on the United States Munitions List, its export is regulated exclusively by the Department of State. Exports which are not subject to the controls of this subchapter are generally under the regulatory jurisdiction of the Department of Commerce pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401–2420) and the implementing Export Administration Regulations (15 CFR Parts 368–399).

§ 120.5 Commodity jurisdiction procedure.

The Office of Munitions Control will provide, upon written request, a determination on whether a particular article is included on the United States Munitions List. Such requests should be accompained by five copies of the letter requesting a determination and any brochures or other documentation or specifications relating to the article. A "commodity jurisdiction" procedure is used if a doubt exists within the U.S. Government on whether an article is on the Munitions List. The procedure entails consultations among the Departments of State, Commerce and Defense.

Definitions

§ 120.6 General.

The definitions contained in this part (listed alphabetically) apply to the use of the defined terms throughout this subchapter unless a different meaning is

specified. See also §§ 130.2–130.8 for definitions applicable to Part 130.

§ 120.7 Defense articles.

"Defense article" means any item designated in § 121.1. This term includes models, mockups, and other such items which reveal technical data directly relating to items designated in §121.1.

§ 120.8 Defense services

Defense service means:

(a) the furnishing of assistance, including training, to foreign persons in the design, engineering, development, production, processing, manufacture, use, operation, overhaul, repair, maintenance, modification, or reconstruction of defense articles, whether in the United States or abroad; or

(b) the furnishing to foreign persons of any technical data, whether in the United States or abroad.

§120.9 District director of customs.

"District director of customs" means the district directors of customs at customs headquarters ports (other than the port of New York City, New York); the regional commissioners of customs, the deputy and assistant regional commissioners of customs for customs region II at the port of New York, New York; and port directors at customs ports not designated as headquarters ports.

§ 120.10 Export.

"Export" means, for purposes of this subchapter:

(a) Sending or taking defense articles out of the United States in any manner; or

(b) Transferring registration or control to a foreign person of any aircraft, vessel, or satellite on the United States Munitions List, whether in the United States or abroad; or

(c) Sending or taking technical data outside of the United States in any manner except by mere travel outside of the United States by a person whose personal knowledge includes technical data; or

(d) Disclosing or transferring technical data to a foreign person, whether in the United States or abroad; or

(e) The performance of a defense service on behalf of, or for the benefit of, a foreign person, whether in the United States or abroad.

As of the effective date of the Commercial Space Launch Act, a launch vehicle or payland shall not, by reason of the launching of such vehicle, be considered an export for purposes of this subchapter.

§ 120.11 Foreign person.

"Foreign person" means any person (§ 120.16) who is not a citizen or national of the United States unless that person has been lawfully admitted for permanent residence in the United States under the Immigration and Naturalization Act (8 U.S.C. 1101, section 101(a)20, 60 Stat. 163) (i.e., individuals referred to as "immigrant aliens" under previous laws and regulations). It includes foreign corporations (i.e., corporations that are not incorporated in the United States), international organizations, foreign governments, and any agency or subdivision of foreign governments (e.g., diplomatic missions).

§ 120.12 Intransit shipment.

"Intransit shipment" means a temporary import into the United States of a defense articile.

§ 120.13 License.

"License" means a document bearing the word "license" which when issued by the Director, Office of Munitions Control, or his authorized designee, permits the export or intransit shipment of a specific defense article, defense service, or technical data.

§ 120.14 Manufacturing license agreement.

An agreement (e.g., contract) whereby a U.S. person grants a foreign person an authorization or a license to manufacture defense articles abroad and which involves or contemplates (a) the export of technical data (as defined in § 120.21) or defense articles or the performance of defense services, or (b) the use by the foreign person of technical data or defense articles previously exported by the U.S. person.

§ 120.15 Office of Munitions Control.

"Office of Munitions Control" means the Office of Munitions Control, Bureau of Politico-Military Affairs, Department of State, Washington, D.C. 20520.

§ 120.16 Person.

"Person" means a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization or group, including governmental entities. If a provision in this subchapter does not refer exclusively to a foreign person (§ 120.11) or U.S. person (§ 120.23), then it refers to both.

§ 120.17 Presiding official.

"Presiding official" means a person authorized to conduct hearings in administrative proceedings.

§ 120.18 Public domain.

"Public domain" means information which is published and which is generally accessible or available to the public:

(a) Through sales at newsstands and bookstores;

(b) Through subscriptions which are available without restriction to any individual who desires to obtain or purchase the published information;

(c) through second class mailing privileges granted by the U.S. Government; or,

(d) at libraries open to the public.

§ 120.19 Significant military equipment.

(a) "Significant military equipment" means articles, as identified in paragraph (b) of this section, for which special export controls are warranted because of their capacity for substantial military utility or capability.

(b) Articles designated as significant military equipment under the criterion specified in paragraph (a) of this section include all classified articles and the articles enumerated in § 121.1 in Categories I (a) and (c) (in quantity); II (a) and (b); III(a) (excluding ammunition for firearms in Category (I)) and (d); IV (a), (b), (d), (e), (f) and (g); V (a) (in quantity) and (b); VI (a), (b) (inclusive only of turrets and gun mounts, missile systems, and special weapons systems) and (e); VII (a), (b), (c), (e), (f) and (g); VIII (a), (b)(1), (c) and (d), GEMS as defined in (i), and inertial systems as defined in (j); XI (a)(1), (b)(1), (c); XII (a) and (b); XIV (a), (b), (c) and (d); XVI; XVII; and XX (a) and (b).

(c) Items in § 121.1 which are preceded by an asterisk are "significant military equipment."

(d) Section 47(6) of the Arms Export Control Act (22 U.S.C. 2794(6) note) provides a definition of "major defense equipment" and refers to certain significant combat equipment on the U.S. Munitions List. The terms "significant military equipment" and "significant combat equipment" are considered to be equivalent for purposes of that section of the Arms Export Control Act and this subchapter.

§ 120.20 Technical assistance agreement.

An agreement (e.g., contract) for the performance of defense services or the disclosure of technical data, as opposed to an agreement granting a right or license to manufacture defense articles.

§ 120.21 Technical data.

"Technical data" means, for purposes of this subchapter:

(a) Classified information relating to defense articles and defense services;

(b) Information covered by an invention secrecy order;

(c) Information which is directly related to the design, engineering, development, production, processing, manufacture, use, operation, overhaul, repair, maintenance, modification, or reconstruction of defense articles. This includes, for example, information in the form of blueprints, drawings, photographs, plans, instructions, computer software and documentation. This also includes information which advances the state of the art of articles on the U.S. Munitions List. This does not include information concerning general scientific, mathematical or engineering principles.

§ 120.22 United States.

"United States", when used in the geographical sense, includes the several States, the Commonwealth of Puerto Rico, the insular possessions of the United States, the District of Columbia, and any territory over which the United States exercises any powers of administration, legislation, and jurisdiction.

§ 120.23 U.S. Person.

"U.S. Person" means a person (§ 120.16) who is a citizen or national of the United States, or a permanent resident of the United States under the Immigration and Nationality Act (8 U.S.C. 1101, section 101(a)20, 60 Stat. 163).

Forms

§ 120.24 Listing of forms referred to in this subchapter.

The forms referred to in this subchapter are available from the following government agencies:

(a) *Department of State:*

(1) Application/License for permanent export of unclassified defense articles and related technical data (Form DSP–5).

(2) Application for registration (Form DSP–9).

(3) Application/License for temporary import of unclassified defense articles (Form DSP–61).

(4) Application/License for temporary export of unclassified defense articles (Form DSP–73).

(5) Nontransfer and use certificate (Form DSP–83).

(6) Application/License for permanent/temporary export or temporary import of classified defense articles and related classified technical data (Form DSP–85).

(b) *Department of Commerce:*

(1) International Import Certificate (Form ITA–645P/ATF–4522/DSP–53).

(2) Shipper's export declaration (Form No. 7525–V).

(c) *Department of Defense:*

Offer and acceptance (DD Form 1513).

PART 121—THE UNITED STATES MUNITIONS LIST

Enumeration of Articles

Sec.

121.1 General. The United States Munitions List.
121.2 Interpretations of the United States Munitions List.
121.3 Aircraft and related articles.
121.4 Amphibious vehicles.
121.5 Apparatus and devices under Category IV(c).
121.6 Cartridge and shell casings.
121.7 Chemical agents.
121.8 End-items, components, accessories, attachments, parts, firmware, software and systems.
121.9 Firearms.
121.10 Forgings, castings and machined bodies.
121.11 Military demolition blocks and blasting caps.
121.12 Military explosives.
121.13 Military fuel thickeners.
121.14 Propellants.
121.15 Vessels of war and special naval equipment.

Authority: Section 38, Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2778); E.O. 11958, 42 FR 4311; 22 U.S.C. 2658.

Enumeration of Articles

§ 121.1 General. The United States Munitions List.

(a) The following articles, services and related technical data are designated as defense articles and defense services pursuant to sections 38 and 47(7) of the Arms Export Control Act (22 U.S.C. 2778 and 2794(7)). Changes in designations will be published in the **Federal Register.** Information and clarifications on whether specific items are defense articles and services under this subchapter may appear periodically in the Munitions Control Newsletter published by the Office of Munitions Control.

(b) *Significant Military Equipment.* An asterisk precedes certain defense articles in the following list. The asterisk means that the article is deemed to be "significant military equipment" to the extent specified in § 120.19. The asterisk is placed as a convenience to help identify such articles.

Category I—Firearms

*(a) Nonautomatic, semi-automatic and fully automatic firearms to caliber .50 inclusive, and all components and parts for such firearms. (See §§ 121.9 and 123.16–123.19.)

(b) Riflescopes manufactured to military specifications, and specifically designed or modified components therefor; firearm silencers and suppressors, including flash suppressors.

*(c) Insurgency-counterinsurgency type firearms or other weapons having a special military application (e.g. close assault weapons systems) regardless of caliber and all components and parts therefor.

Category II—Artillery Projectors

*(a) Guns over caliber .50, howitzers, mortars, and recoilless rifles.

*(b) Military flamethrowers and projectors.

(c) Components, parts, accessories and attachments for the articles in paragraphs (a) and (b) of this category, including but not limited to mounts and carriages for these articles.

Category III—Ammunition

*(a) Ammunition for the arms in Categories I and II of this section. (See § 211.6.)

(b) Components, parts, accessories, and attachments for articles in paragraph (a) of this category, including but not limited to cartridge cases, power bags, bullets, jackets, cores, shells (excluding shotgun shells), projectiles, boosters, fuzes and components therefor, primers, and other detonating devices for such ammunition. (See § 121.6.)

(c) Ammunition belting and linking machines.

*(d) Ammunition manufacturing machines and ammunition loading machines (except handloading ones).

Category IV—Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs and Mines

*(a) Rockets (including but not limited to meteorological and other sounding rockets), bombs, grenades, torpedoes, depth charges, land and naval mines, as well as launchers for such defense articles, and demolition blocks and blasting caps. (See § 121.11.)

*(b) Launch vehicles and missile and anti-missile systems including but not limited to guided, tactical and strategic missiles, launchers, and systems.

(c) Apparatus, devices, and materials for the handling, control, activation, monitoring detection, protection, discharge, or detonation of the articles in paragraphs (a) and (b) of this category. (See § 121.5.)

*(d) Missile and space vehicle powerplants.

*(e) Military explosive excavating devices.

*(f) Ablative materials fabricated or semi-fabricated from advanced composites (e.g., silica, graphite, carbon, carbon/carbon, and boron filaments) for the articles in this category that are derived directly from or specifically developed or modified for defense articles.

*(g) Non/nuclear warheads for rockets and guided missiles.

(h) All specifically designed or modified components, parts, accessories, attachments, and associated equipment for the articles in this category.

Category V—Explosives, Propellants, and Incendiary Agents

*(a) Military explosives. (See § 121.12.)

*(b) Military fuel thickeners. (See § 121.13.)

(c) Propellants for the articles in Categories III and IV of this section. (See § 121.14.)

(d) Military pyrotechnics, except pyrotechnic materials having dual military and commercial use.

(e) All compounds specifically formulated for the articles in this category.

Category VI—Vessels of War and Special Naval Equipment

*(a) Warships, amphibious warfare vessels, landing craft, mine warfare vessels, patrol vessels, auxiliary vessels and service craft, experimental types of naval ships and any vessels specifically designed or modified for military purposes. (See § 121.15.)

*(b) Turrets and gun mounts, arresting gear, special weapons systems, protective systems, submarine storage batteries, catapults and other components, parts, attachments, and accessories specifically designed or modified for combatant vessels.

(c)Mine sweeping equipment, components, parts, attachments and accessories specifically designed or modified therefor.

(d) Harbor entrance detection devices, (magnetic, pressure, and acoustic ones) and controls and components therefor.

*(e) Naval nuclear propulsion plants, their land prototypes, and special facilities for their construction support, and maintenance. This includes any machinery, device, component, or equipment specifically developed, designed or modified for use in such plants or facilities. (See § 123.21.)

Category VII—Tanks and Military Vehicles

*(a) Military type armed or armored vehicles, military railway trains, and vehicles specifically designed or modified to accommodate mountings for arms or other specialized military equipment or fitted with such items.

*(b) Military tanks, combat engineer vehicles, bridge launching vehicles, half-tracks and gun carriers.

*(c) Self-propelled guns and howitzers.

(d) Military trucks, trailers, hoists, and skids specifically designed, modified, or equipped to mount or carry weapons of Categories, I, II and IV or for carrying and handling the articles in paragraphs (a) of Categories III and IV.

*(e) Military recovery vehicles.

*(f) Amphibious vehicles. (See § 121.4.)

*(g) Engines specifically designed or modified for the vehicles in paragraphs (a), (b), (c), and (f) of this category.

(h) All specifically designed or modified components and parts, accessories, attachments, and associated equipment for the articles in this category, including but not limited to military bridging and deep water fording kits.

Category VIII—Aircraft, Spacecraft, and Associated Equipment

*(a) Aircraft, including but not limited to helicopters, non-expansive balloons, drones, and lighter-than-air aircraft, which are specifically designed, modified, or equipped for military purposes. This includes but is not limited to the following military purposes: gunnery, bombing, rocket or missile launching, electronic and other surveillance, reconnaissance, refueling, aerial mapping, military liaison, cargo carrying or dropping, personnel dropping, airborne warning and control, and military training. (See § 121.3.)

(b)*(1) Spacecraft, including manned and unmanned, active and passive satellites (except those listed in Category VIII(b)(2).

(2) Non-military communication satellites (excluding ground stations and associated equipment not enumerated elsewhere in § 121.1).

*(c) Military aircraft engines, except reciprocating engines, and spacecraft engines specifically designed or modified for the aircraft and spacecraft in paragraphs (a) and (b) of this category.

*(d) Cartridge-actuated devices utilized in emergency escape of personnel and airborne equipment (including but not limited to airborne refueling equipment) specifically designed or modified for use with the aircraft, spacecraft, and engines of the types in paragraphs (a), (b), and (c) of this category.

(e) Launching and recovery equipment for the articles in paragraphs (a) and (b) of this category, if the equipment is specifically designed or modified for military use or for use with spacecraft. Fixed land-based arresting gear is not included in this category.

(f) Power supplies and energy sources specifically designed or modified for spacecraft.

(g) Components, parts, accessories, attachments, and associated equipment (including ground support equipment) specifically designed or modified for the articles in paragraphs (a) through (f) of this category, excluding aircraft tires and propellors used with reciprocating engines.

(h) Developmental aircraft components which have a significant military application, excluding aircraft components concerning which Federal Aviation Agency certification has been granted.

*(i) Ground effect machines (GEMS) specifically designed or modified for military use, including but not limited to surface effect machines and other air cushion vehicles, and all components, parts, and accessories, attachments, and associated equipment specifically designed or modified for use with such machines.

*(j) Inertial navigation systems and components designed specifically for such systems. Systems or components which are standard equipment in civil aircraft, including spare parts and spare units to be used exclusively for the maintenance of inertial navigation equipment incorporated in civil aircraft, and which are certified by the Federal Aviation Administration as being an integral part of such aircraft are subject to export regulation by the Office of Munitions Control only if the export is intended for a controlled country described in section 620(f) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2370(f)) (except Yugoslavia). The Export Administration Act of 1979, as amended (50 U.S.C. App. section 2416(c)) deals with the export of such items to non-controlled countries. All exports of technical data (regardless of destination) relating to the design, development, production or manufacture of inertial navigation equipment (regardless of accuracies) or its related parts, components, or subsystems are subject to the requirements of the regulations contained in this subchapter. The export of technical data relating to the repair of parts, components, or subsystems of inertial navigation systems (including accelerometers and gyroscopes) which are not certified by the FAA as being an integral part of civil aircraft are subject to the requirements of this subchapter. The provisions of XI(e) and XII(c) are not applicable to such exports of technical data.

Category IX—Military Training Equipment

(a) Military training equipment including but not limited to attack trainers, radar target trainers, radar target generators, gunnery training devices, antisubmarine warfare trainers, target equipment, armament training units, operational flight trainers, air combat training systems, radar trainers, navigation trainers, and simulation devices related to defense articles.

(b) Components, parts, accessories, attachments, and associated equipment specifically designed or modified for the articles in paragraph (a) of this category.

Category X—Protective Personnel Equipment

(a) Body armor specifically designed, modified or equipped for military use; articles, including but not limited to clothing, designed, modified or equipped to protect against or reduce detection by radar, infrared (IR) or other sensors; military helmets equipped with communications hardware, optical sights, slewing devices or mechanisms to protect against thermal flash or lasers, excluding standard military helmets.

(b) Partial pressure suits and liquid oxygen converters used in aircraft in Category VIII(a).

(c) Protective apparel and equipment specifically designed or modified for use with the articles in paragraphs (a) through (d) in Category XIV.

(d) Components, parts, accessories, attachments, and associated equipment specifically designed or modified for use with the articles in paragraphs (a), (b), and (c) of this category.

Category XI—Military and Space Electronics

(a) Electronic equipment not included in Category XII of the Munitions List which is assigned a military designation or is specifically designed, modified or configured for military application. This includes but is not limited to the following:

*(1) Underwater sound equipment, including but not limited to towed arrays, electronic beam forming sonar, target classification equipment, and spectrographic displays; search, acquisition, tracking, moving target indication and imaging radar systems; active and passive countermeasures and counter-countermeasures equipment; electronic fuses; identification systems; command, control and communications systems; and, regardless of designation, any experimental or developmental electronic equipment specifically designed or modified for military application, or for use with a military system and

(2) Sonic depth finders; underwater telephones; electro-mechanical beam forming sonars and elementary sonobuoys; radios (including transceivers); weather, navigation, and air traffic control radar systems;

navigation, guidance, object-locating equipment; displays; and telemetering equipment.

(3) Armored coaxial cable capable of RF, optical, or high voltage power transmission.

(b) Space electronics:

*(1) Electronic equipment specifically designed or modified for spacecraft and spaceflight, and

(2) Electronic equipment specifically designed or modified for use with non-military communications satellites.

*(c) Electronic systems or equipment specifically designed, modified, configured, used or intended for use in search, reconnaissance, collection, monitoring, direction-finding, display , analysis and production of information from the electromagnetic spectrum for intelligence or security purposes and electronic systems or equipment designed or modified to counteract such surveillance and monitoring.

(d) Very High Speed Integrated Circuit (VHSIC) semiconductor devices that are specifically designed for military applications and which have a high-speed signal and image processing capability with an operational parameter (gate-time-clock-frequency) or greater than 10^{11} gates X hertz for an individual semiconductor device.

(e) Components, parts, accessories, attachments, and associated equipment specifically designed or modified for use or currently used with the equipment in paragraphs (a) through (c) of this category, except for such items as are in normal commercial use.

Category XII—Fire Control, Range Finder, Optical and Guidance and Control Equipment

*(a) Fire control systems; gun and missile tracking and guidance systems: military infrared, image intensifier and other night sighting and night viewing equipment; military masers and military lasers; gun laying equipments; range, position and height finders and spotting instruments; aiming devices (electronic, gyroscopic, optic, and acoustic); bomb sights, bombing computers, military television sighting and viewing units, inertial platforms, and periscopes for the articles of this section.

*(b) Inertial and other weapons or space vehicle guidance and control systems; spacecraft guidance, control and stabilization systems; astro compasses; and star trackers.

(c) Components, parts, accessories, attachments, and associated equipment specifically designed or modified for the articles in paragraphs (a) and (b) of this category, except for such items as are in normal commercial use.

Category XIII—Auxiliary Military Equipment

(a) Aerial cameras, space cameras, special purpose military cameras, and specialized processing equipment therefor; military photointerpretation, steroscopic plotting, and photogrammetry equipment, and components specifically designed or modified therefore.

(b) Speech scramblers, privacy devices, cryptographic devices and software (encoding and decoding), and components specifically designed or modified therefore, ancillary equipment, and protective appraratus specifically designed or modified for such devices, components, and equipment.

(c) Self-contained diving and underwater breathing apparatus specifically designed or modified for a military purpose and components specifically designed or modified therefore.

(d) Armor plate and structural materials (including but not limited to plate, rolled and extruded shapes, bars and forgings, castings, welding consumables, carbon/carbon and metal matrix composites) specifically designed or modified for defense articles.

(e) Concealment and deception equipment, including but not limited to special paints, decoys, and simulators and components, parts and accessories specifically designed or modified therefor.

(f) Energy conversion devices for producing electrical energy from nuclear, thermal, or solar energy, or from chemical reaction which are specifically designed or modified for military application.

(g) Chemiluminescent compounds and solid state devices specifically designed or modified for military application.

(h) Devices embodying particle beam and electromagnetic pulse technology.

(i) Metal embrittling agents.

Category XIV—Toxicological Agents and Equipment and Radiological Equipment

*(a) Chemical agents, including but not limited to lung irritants, vesicants, lachrymators, tear gases (except tear gas formulations containing 1% or less CN or CS), sternutators and irritant smoke, and nerve gases and incapacitating agents. (See § 121.7.)

*(b) Biological agents.

*(c) Equipment for dissemination, detection, and identification of, and defense against, the articles in paragraphs (a) and (b) of this category.

*(d) Nuclear radiation detection and measuring devices, manufactured to military specification.

(e) Components, parts, accessories, attachments, and associated equipment specifically designed or modified for the articles in paragraphs (c) and (d) of this category.

Category XV—[Reserved]

Category XVI—Nuclear Weapons Design and Test Equipment

*(a) Any article, material, equipment, or device which is specifically designed or modified for use in the design, development, or fabrication of nuclear weapons or nuclear explosive devices. (See § 123.21 and Department of Commerce Export Regulations, 15 CFR Part 378).

*(b) Any article, material, equipment, or device which is specifically designed or modified for use in the devising, carrying out, or evaluating of nuclear weapons tests or any other nuclear explosions, except such items as are in normal commercial use for other purposes.

Category XVII—Classified Articles Not Otherwise Enumerated

*All articles and technical data (as defined in § 120.21) relating thereto which are classified in the interests of national security and which are not otherwise enumerated in the U.S. Munitions List.

Category XVIII—Technical Data

Technical data (as defined in § 120.21) relating to the defense articles listed in the other categories of the United States Munitions List. (See § 125.4 for exemptions; see also § 123.21.)

Category XIX—Defense Services

Defense services (as defined in § 120.8) related to the defense articles listed in the other categories of the United States Munitions List.

Category XX—Submersible Vessels, Oceanographic and Associated Equipment

*(a) Submersible vessels, manned and unmanned, designed or modified for military purposes or having independent capability to maneuver vertically or horizontally at depths below 1,000 feet or powered by nuclear propulsion plants.

*(b) Submersible vessels, manned or unmanned, designed or modified in whole or in part from technology developed by or for the U.S. Armed Forces.

(c) Any of the articles in Categories VI, IX, XI, XIII, and elsewhere in this subchapter specifically designed or modified for use with submersible vessels, and oceanographic or associated equipment assigned a military designation.

(d) Equipment, components, parts, accessories, and attachments specifically designed or modified for any of the articles in paragraphs (a) and (b) of this category.

Category XXI—Miscellaneous Articles

Any article not specifically enumerated in the other categories of the U.S. Munitions List which has substantial military applicability and which has been specifically designed or modified for military purposes. The decision on whether any article may be included in this category shall be made by the Director of the Office of Munitions Control.

§ 121.2 Interpretations of the United States Munitions List.

The following interpretations (listed alphabetically) explain and amplify the terms used in § 121.1. These interpretations have the same force as if they were a part of the United States Munitions List category to which they refer.

§ 121.3 Aircraft and related articles.

In Category VIII, "aircraft" means aircraft designed, modified, or equipped for a military purpose, including aircraft described as "demilitarized." All aircraft bearing an original military designation are included in Category VIII. However, the following aircraft are not included so long as they have not been specifically equipped, re-equipped, or modified for military operations:

(a) Cargo aircraft bearing "C" designations and numbered C–45 through C–118 inclusive, C–121 through

C-125 inclusive, and C-131, using reciprocating engines only.

(b) Trainer aircraft bearing "T" designations and using reciprocating engines or turboprop engines with less than 600 horsepower (s.h.p.).

(c) Utility aircraft bearing "U" designations and using reciprocating engines only.

(d) All liaison aircraft bearing an "L" designation.

(e) All observation aircraft bearing "O" designations and using reciprocating engines.

§ 121.4 Amphibious vehicles.

An "amphibious vehicle" in Category VII(f) is an automotive vehicle or chassis which embodies all-wheel drive, is equipped to meet special military requirements, and which has sealed electrical systems or adaptation features for deep water fording.

§ 121.5 Apparatus and devices under Category IV(c).

Category IV includes but is not limited to the following: Fuzes and components for the items listed in that category, bomb racks and shackles, bomb shackle release units, bomb ejectors, torpedo tubes, torpedo and guided missile boosters, guidance system equipment and parts, launching racks and projectors, pistols (exploders), igniters, fuze arming devices, intervalometers, guided missile launchers and specialized handling equipment, and hardened missile launching facilities.

§ 121.6 Cartridges and shell casings.

Cartridge and shell casings are included in Category III unless, prior to export, they have been rendered useless beyond the possibility of restoration for use as a cartridge or shell casing by means of heating, flame treatment, mangling, crushing, cutting, or popping.

§ 121.7 Chemical agents.

A chemical agent in Category XIV(a) is a substance having military application which by its ordinary and direct chemical action produces a powerful physiological effect. The term "chemical agent" includes, but is not limited to, the following chemical compounds:

(a) Lung irritants:

(1) Diphenylcyanoarsine (DC).

(2) Fluorine (but not fluorene).

(3) Trichloronitro methane (chloropicrin PS).

(b) Vesicants:

(1) B-Chlorovinyldichloroarsine (Lewisite, L).

(2) Bis(dichloroethyl)sulphide (Mustard Gas, HD or H).

(3) Ethyldichloroarsine (ED).

(4) Methyldichloroarsine (MD).

(c) Lachrymators and tear gases:

(1) A-Bromobenzyl cyanide (BBC).

(2) Chloroacetophenone (CN).

(3) Dibromodimethyl ether.

(4) Dichlorodimethyl ether (ClCi).

(5) Ethyldibromoarsine.

(6) Phenylcarbylamine chloride.

(7) Tear gas solutions (CNB and CNS).

(8) Tear gas orthochlorobenzalmalononitrile (CS).

(d) Sternutators and irritant smokes:

(1) Diphenylamine chloroarsine (Adamsite, DM).

(2) Diphenylchloroarsine (BA).

(3) Liquid pepper.

(e) Nerve agents, gases and aerosols. These are toxic compounds which affect the nervous system, such as:

(1) Dimethylaminoethoxycyanophosphine oxide (GA).

(2) Methylisopropoxyfluorophosphine oxide (GB).

(3) Methylpinacolyloxyfluoriphosphine oxide (GD).

(f) Antiplant chemicals, such as: Butyl 2-chloro-4-fluorophenoxyacetate (LNF).

§ 121.8 End-items, components, accessories, attachments, parts, firmware, software and systems.

(a) An "end-item" is an assembled article ready for its intended use. Only ammunition, fuel or another energy source is required to place it in an operating state.

(b) A "component" is an item which is useful only when used in conjunction with an end-item. A major component includes any assembled element which forms a portion of an end-item without which the end-item is inoperable. (Example: airframes, tail sections, transmissions, tank treads, hulls, etc.) A minor component includes any assembled element of a major component.

(c) "Accessories" and "attachments" are associated equipment for any component, end-item or system, and which are not necessary for their operation, but which enhance their usefulness or effectiveness. (Examples: riflescopes, special paints, etc.)

(d) A "part" is any single unassembled element of a major or a minor component, accessory, or attachment which is not normally subject to disassembly without the destruction or the impairment of design use. (Examples: rivets, wire, bolts, etc.)

(e) Firmware and any related unique support tools (such as computers, linkers, editors, test case generators, diagnostic checkers, library of functions and system test diagnostics) specifically designed for equipment or systems covered under any category of the United States Munitions List are considered as part of the end-item or component. "Firmware" includes but is not limited to circuits into which software has been programmed.

(f) "Software" includes but is not limited to the system functional design, logic flow, algorithms, application programs, operating systems and support software for design, implementation, test, operation, diagnosis and repair. A person who intends to export software only should, unless it is specifically enumerated in § 121.1, apply for a technical data license pursuant to Part 125 of this subchapter.

(g) A "system" is a combination of end-items, components, parts, accessories, attachments, firmware or software, specifically designed, modified or adapted to operate together to perform a specialized military function.

§ 121.9 Firearms.

(a) Category I includes revolvers, pistols, rifles, carbines, fully automatic rifles, submachine guns, machine pistols and machine guns to caliber .50, inclusive. It includes combat shotguns. It excludes other shotguns with barrels 18" or longer, BB, pellet, and muzzle loading (black powder) firearms.

(b) A "firearm" is a weapon not over .50 caliber which is designed to expel a projectile by the action of an explosive or which may be readily converted to do so.

(c) A "rifle" is a shoulder firearm which can discharge a bullet through a rifled barrel 16 inches or longer.

(d) A "carbine" is a lightweight shoulder firearm with a barrel under 16 inches in length.

(e) A "pistol" is a hand-operated firearm having a chamber integral with or permanently aligned with the bore.

(f) A "revolver" is a hand-operated firearm with a revolving cylinder containing chambers for individual cartridges.

(g) A "submachine gun", "machine pistol" or "machine gun" is a firearm originally designed to fire, or capable of being fired, fully automatically by a single pull of the trigger.

§ 121.10 Forgings, castings and machined bodies.

Articles on the United States Munitions List include articles in a partially completed state (such as forgings, castings, extrusions and machined bodies) which have reached a stage in manufacture where they are clearly identifiable as defense articles. If the end-item is an article on the United

States Munitions List (including components, accessories, attachments and parts as defined in § 121.8), then the particular forging, casting, extrusion, machined body, etc., is considered a defense article subject to the controls of this subchapter, except for such items as are in normal commercial use.

§ 121.11 Military demolition blocks and blasting caps.

Military demolition blocks and blasting caps referred to in Category IV(a) do not include the following articles:

(a) Electric squibs.

(b) No. 6 and No. 8 blasting caps, including electric ones.

(c) Delay electric blasting caps (including No. 6 and No. 8 millisecond ones).

(d) Seismograph electric blasting caps (including SSS, Static-Master, Vibrocap SR, and SEISMO SR).

(e) Oil well perforating devices.

§ 121.12 Military explosives.

Military explosives in Category V include, but are not limited to, the following:

(a) Ammonium picrate.

(b) Black powder made with potassium nitrate or sodium nitrate.

(c) Cyclotetramethylenetetranitramine (HMX).

(d) Cyclotrimethylenetrinitramine (RDX, Cyclonite, Hexogen or T4).

(e) Dinitronaphthalene.

(f) Ethylenedinitramine.

(g) Hexanitrodiphenylamine.

(h) Nitroglycerin.

(i) Nitrostarch.

(j) Pentaerythritol tetranitrate (penthrite, pentrite or PETN).

(k) Tetranitronaphthalene.

(l) Trinitroanisol.

(m) Trinitronaphthalene.

(n) Trinitrophenol (picric acid).

(o) Trinitrophenylmethylnitramine (Tetryl).

(p) Trinitrotoluene (TNT).

(q) Trinitroxylene.

(r) Ammonium perchlorate nitrocellulose (military grade).

(s) Aluminum powder (spherical) with an average particle size of 100 micrometer diameter or less and a purity of 97% or greater.

(t) Any combinations of the above.

§ 121.13. Military fuel thickeners.

Military fuel thickeners in Category V include compounds (*e.g.*, octal) or mixtures of such compounds (*e.g.*, napalm) specifically formulated for the purpose of producing materials which, when added to petroleum products, provide a gel-type incendiary material for use in bombs, projectiles, flame throwers, or other defense articles.

§ 121.14 Propellants.

Propellants in Category V include, but are not limited to, the following:

(a) Propellant powders, including smokeless shotgun powder.

(b) Hydrazine (including Monomethyl hydrazine and symmetrical dimethyl hydrazine, but excluding hydrazine hydrate).

(c) Unsymmetrical dimethyl hydrazine.

(d) Hydrogen peroxide of over 85 percent concentration.

(e) Nitroguanidine or picrite.

(f) Nitrocellulose with nitrogen content of over 12.20 percent.

(g) Nitrogen tetroxide (nitrogen dioxide, dinitrogen tetroxide).

(h) Other solid propellant compositions, including but not limited to, the following:

(1) Single base (nitrocellulose).

(2) Double base (nitrocellulose, nitroglycerin).

(3) Triple base (nitrocellulose, nitroglycerin, nitroguanidine).

(4) Composite of nitroglycerin, ammonium perchlorate, potassium perchlorate, nitronium perchlorate, guanidine (guanidinium) perchlorate, nitrogen tetroxide, ammonium nitrite or nitrocellulose with plastics, metal fuels, or rubbers added; and compounds composed only of fluorine and halogens, oxygen, or nitrogen.

(5) Special purpose high energy solid military fuels with a chemical base.

(i) Other liquid propellant compositions, including but not limited to, the following:

(1) Monopropellants (hydrazine, hydrazine nitrate, and water).

(2) Bipropellants (hydrazine, fuming nitric acid HNO_3).

(3) Special purpose chemical base high energy liquid military fuels and oxidizers.

§ 121.15 Vessels of war and special naval equipment.

Vessels of war in Category VI include, but are not limited, to, the following:

(a) Combatant vessels:

(1) Warships (including nuclear-powered versions):

(i) Aircraft carriers (CV, CVN)

(ii) Battleships (BB)

(iii) Cruisers (CA, CG, CGN)

(iv) Destroyers (DD, DDG)

(v) Frigates (FF, FFG)

(iv) Submarines (SS, SSN, SSBN, SSG, SSAG)

(2) Other Combatant Classifications:

(i) Patrol Combatants (PG, PHM)

(ii) Amphibious Helicopter/Landing Craft Carriers (LHA, LPD, LPH)

(iii) Amphibious Landing Craft Carriers (LKA, LPA, LSD, LST)

(iv) Amphibious Command Ships (LCC)

(v) Mine Warfare Ships (MSO)

(b) Auxiliaries:

(1) Mobile Logistics Support:

(i) Under way Replenishment (AD, AF, AFS, AO, AOE, AOR)

(ii) Material Support (AD, AR, AS)

(2) Support Ships:

(i) Fleet Support Ships (ARS, SSR, ATA, ATF, ATS)

(ii) Other Auxiliaries (AG, AGDS, AGF, AGM, AGOR, AGOS, AGS, AH, AK, AKR, AOG, AOT, AP, APB, ARC, ARL, AVM, AVT)

(c) Combatant Craft:

(1) Patrol Craft:

(i) Coastal Patrol Combatants (PB, PCF, PCH, PTF)

(ii) River, Roadstead Craft (ATC, PBR)

(2) Amphibious Warfare Craft:

(i) Landing Craft (AALC, LCAC, LCM, LCPL, LCPR, LCU. LWT, SLWT)

(ii) Special Warfare Craft (LSSC, MSSC, SDV, SWCL, SWCM)

(3) Mine Warfare Craft:

(i) Mine Countermeasures Craft (MSB, MSD, MSI, MSM, MSR)

(d) Support and Service Craft:

(1) Tugs (YTB, YTL, YTM)

(2) Tankers (YO, YOG, YW)

(3) Lighters (YC, YCF, YCV, YF, YFN, YFNB, YFNX, YFR, YFRN, YFU, YG, YGN, YOGN, YON, YOS, YSR, YWN)

(4) Floating Dry Docks (AFDB, AFDL, AFDM, ARD, ARDM, YFD)

(5) Miscellaneous (APL, DSRV, DSV, IX, NR, YAG, YD, YDT, YFB, YFND, YEP, YFRT, YHLC, YM, YNG, YP, YPD, YR, YRB, YRBN, YRDH, YRDM, YRR, YRST, YSD)

(e) Coast Guard Patrol and Service Vessels and Craft:

(1) Coast Guard Cutters (CGC, WHEC, WMEC)

(2) Patrol Craft (WPB)

(3) Icebreakers (WAGB)

(4) Oceanography Vessels (WAGO)

(5) Special Vessels (WIX)

(6) Buoy Tenders (WLB, WLM, WLI, WLR, WLIC)

(7) Tugs (WYTM, WYTL)

(8) Light Ships (WLV)

PART 122—REGISTRATION OF MANUFACTURERS AND EXPORTERS

Sec.

122.1 Registration requirements.
122.2 Application for registration.
122.3 Refund of fee.
122.4 Notification of changes in information furnished by registrants.
122.5 Maintenance of records by registrants.
122.6 Submission of application.

Authority: Section 38, Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2778); E.O. 11958, 42 FR 4311; 22 U.S.C. 2658.

§ 122.1 Registration requirements.

(a) *General.* Any person who engages in the United States in the business of either manufacturing or exporting defense articles or furnishing defense services is required to register with the Office of Munitions Control. Manufacturers who do not engage in exporting must nevertheless register.

(b) *Exemptions.* Registration is not required for:

(1) Officers and employees of the United States Government acting in an official capacity.

(2) Persons whose pertinent business activity is confined to the production of unclassified technical data only.

(3) Persons all of whose manufacturing and export activities are licensed under the Atomic Energy Act of 1954, as amended.

(4) Persons who engage only in the fabrication of articles for experimental or scientific purposes, including research and development.

§ 122.2 Application for registration.

(a) *Fees.* A person who is required to register may do so for periods of from 1 to 5 years upon submission of a completed Form DSP–9, and payment of a fee as follows:

1 year	$250
2 years	500
3 years	700
4 Years	850
5 years	1,000

(b) *Lapses in registration.* A registrant who fails to renew a registration after its lapse and, after an intervening period, seeks to register again must pay registration fees for any part of such intervening period during which the registrant engaged in the business of manufacturing or exporting defense articles or defense services.

§ 122.3 Refund of fee.

Fees paid in advance for future years of a multiple year registration will be refunded upon request if the registrant ceases to engage in the manufacture or export of defense articles and defense services. A request for a refund must be submitted to the Office of Munitions Control prior to the beginning of any year for which a refund is claimed

§ 122.4 Notification of changes in information furnished by registrants

A registered person must notify the Department of State of material changes in the information contained in the registration. Examples of material changes include the establishment or acquisition of a subsidiary or of a foreign affiliate, a merger, a change of location, or dealing with an additional category of defense articles or defense services. Registrants must also inform the Office of Munitions Control thirty days in advance of any planned transfer of ownership or control of the registered corporation or entity to a foreign person. Such notice does not relieve the registrant from obtaining the approvals required under this subchapter for the export of defense articles and defense services to foreign persons.

§ 122.5 Maintenance of records by registrants.

(a) A person who is required to register must maintain records concerning the manufacture, acquisition and disposition of defense articles and the provision of defense services by the registrant. All such records must be maintained for a period of 6 years. The Director, Office of Munitions Control, may prescribe a longer or shorter period in individual cases.

(b) Records maintained under this section shall be available at all times for inspection and copying by the Director, Office of Munitions Control or a person designated by the Director, or the Commissioner of the U.S. Customs Service or a person designated by the Commissioner.

§ 122.6 Submission of application.

Department of State Form DSP–9, Registration Statement, must be submitted to the Cashier, ESC/C, Department of State, Washington, D.C. 20520, together with payment by check or money order payable to the Department of State of one of the fees prescribed in § 122.2(a). The Office of Munitions Control will return to the sender any registration statement which is incomplete or which is not accompanied by payment of a proper registration fee.

PART 123—LICENSES FOR THE EXPORT OF DEFENSE ARTICLES

Sec.

123.1 Requirement for export licenses.
123.2 Imports.
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123.27 Temporary exports.

Authority: Section 38, Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2778); E.O. 11958, 42 FR 4311; 22 U.S.C. 2658.

§ 123.1 Requirement for export licenses.

(a) Any person who intends to export a defense article must obtain a license from the Office of Munitions Control prior to the export unless the export qualifies for an exemption under the provisions of this subchapter.

(b) As a condition to the issuance of a license or other approval, the Office of Munitions Control may require all pertinent documentary information regarding the proposed transaction. It may also require that the applicant be a U.S. person (as defined in § 120.23).

(c) An application for a license under this part for the permanent export of defense articles sold commercially must be accompanied by a copy of a purchaser order, letter of intent or other appropriate documentation. In cases involving the U.S. Foreign Military Sales program, three copies of the relevant Department of Defense Form 1513 are required, unless the procedures of § 126.4(c) or § 126.6 are followed.

(d) Provisions for the export of classified defense articles and defense services are contained in Part 125 of this subchapter.

§ 123.2 Imports.

No defense article may be imported into the United States unless (a) it was previously exported temporarily under a license issued by the Office of Munitions Control; or (b) it constitutes a temporary import/intransit shipment licensed under § 123.3; or (c) its import is authorized by the Department of the Treasury (see 27 CFR Parts 47, 178 and 179).

§ 123.3 Temporary import (intransit) licenses.

A temporary import license (DSP–61) issued by the Office of Munitions Control is required for the intransit shipment of any unclassified defense article. This requirement applies to any temporary import into the United States of a defense article for overhaul, repair, modification, or other purposes, and the subsequent direct return of the defense article to the country from which it was sent. The Office of Munitions Control may require an appropriate bond. The temporary import license must also be used for other temporary unclassified imports, such as a temporary import of unclassified defense articles intransit to a third country. It may also be used if a defense article is imported into the United States for incorporation into another article and is then to be returned to the country of origin or transshipped to another country. (See § 125.8 for classified imports.)

§ 123.4 Temporary export licenses.

The Office of Munitions Control may issue a license for the temporary export of unclassified defense articles (DSP–73). Such licenses are valid only if (a) the article will be exported for a period of less than twenty-four months and will be returned to the United States and (b) transfer of title will not occur during the period of temporary export. Accordingly, articles exported pursuant to a temporary export license may not be sold or otherwise permanently transferred to a foreign person while they are overseas under a temporary export license. A renewal of the license or other written approval must be obtained from the Office of Munitions Control if the article is to remain outside the United States beyond the period for which the license is valid.

§ 123.5 [Reserved]

§ 123.6 Foreign trade zones and U.S. Customs bonded warehouses.

Foreign trade zones and U.S. Customs bonded warehouses are considered integral parts of the United States for the purpose of this subchapter. An export license is therefore not required for shipment between the United States and a foreign trade zone or a Customs bonded warehouse. However, an export license is required for all shipments of articles on the U.S Munitions List from foreign trade zones and U.S. Customs bonded warehouses to foreign countries, regardless of how the articles reached the zone or warehouse.

§ 123.7 Exports to warehouses or distribution points outside the United States.

A license to export defense articles to a warehouse or distribution point outside the United States for subsequent resale will normally be granted only if an agreement has been approved pursuant to § 124.14 of this subchapter.

§ 123.8 Special controls on vessels of war, military aircraft and satellites.

(a) Transferring registration or control to a foreign person of any aircraft, vessel, or satellite on the United States Munitions List is an export for purposes of this subchapter and requires a license or written approval from the Office of Munitions Control. This requirement applies whether the aircraft, vessel, or satellite is physically located in the United States or abroad.

(b) The registration in a foreign country of any aircraft, vessel or satellite on the United States Munitions List which is not registered in the United States but which is located in the United States constitutes an export. A license or written approval from the Office of Munitions Control is therefore required. Such transactions may also require the prior approval of the Maritime Administration, Department of Transportation, or the Federal Aviation Administration, Department of Transportation or other agencies of the U.S. Government.

§ 123.9 Country of ultimate destination.

(a) The country designated as the country of ultimate destination on an application for an export license, or on a shipper's export declaration where an exemption is claimed under this subchapter, must be the country of ultimate end-use. The written approval of the Department of State must be obtained before reselling, diverting, transferring, transshipping, or disposing of a defense article in any country other than the country of ultimate destination as stated on the export license, or on the shipper's export declaration in cases where an exemption is claimed under this subchapter. Exporters must ascertain the specific end-user and end-use prior to submitting an application to the Office of Munitions Control or claiming an exemption under this subchapter. End-use must be confirmed and should not be assumed.

(b) The exporter shall incorporate the following statement as an integral part of the shipper's export declaration, the bill of lading, and the invoice whenever defense articles on the U.S. Munitions List are to be exported:

These commodities are authorized by the U.S. Government for export only to *fcountry of ultimate destination]*. They may not be resold, diverted, transferred, transshipped, or otherwise be disposed of in any other country, either in their original form or after being incorporated through an intermediate process into other end-items, without the prior written approval of the U.S. Department of State.

§ 123.10 Non-transfer and use assurances and Congressional notification.

(a) An application for a license (Form DSP–5) to export significant military equipment defined in § 120.19 must be accompanied by a nontransfer and use certificate (Form DSP–83) at the time of submission to the Office of Munitions Control. This form is to be executed by the foreign consignee and foreign end-user. The certificate stipulates that, except as specifically authorized by prior written approval of the Department of State, the foreign consignee and foreign end-user will not reexport, resell or otherwise dispose of the significant military equipment enumerated in the application outside the country named as the location of the foreign end-use.

(b) The DSP–83 may be accepted at a time other than that specified in paragraph (a) of this section if there are special reasons for doing so. A statement of such reasons must accompany the application for a license.

(c) The Office of Munitions Control may also require a DSP–83 for the export of any other defense articles or defense services.

(d) When a DSP–83 is required for an export of any defense article or defense service to a non-governmental foreign end-user, the Office of Munitions Control may require as a condition of issuing the license that the appropriate authority of the government of the country of ultimate destination also execute the certificate. This means that the foreign government undertakes not to authorize the reexport, resale, or other disposition of the defense articles or defense service enumerated in the application without ensuring that the prior written consent of the U.S. Government has been obtained.

(e) All exports of significant military equipment sold under a contract in the amount of $14,000,000 or more or of defense articles and defense services sold under a contract in the amount of $50,000,000 or more may take place only after the Office of Munitions Control notifies the exporter that thirty calendar days have elapsed since receipt by the Congress of the certification required by the Arms Export Control Act. The issuance of a license or other written approval shall serve as notification that this period has elapsed. Persons who

intend to export defense articles and services pursuant to the exemption in § 126.5 under the circumstances described in the first sentence of this subsection must notify the Office of Munitions Control by letter of the intended export and provide a DSP–83 signed by the foreign consignee and end-user. Such exports may take place after the Office of Munitions Control notifies the exporter by letter that the thirty day period has elapsed.

§ 123.11 Movements of aircraft and vessels of war outside the United States.

(a) *General.* A license issued by the Office of Munitions Control is required whenever a privately-owned aircraft or vessel of war on the United States Munitions List makes a voyage outside the United States.

(b) *Exemption.* An export license is not required when a vessel or aircraft referred to in section (a) departs from the United States and does not enter the territorial waters or airspace of a foreign country if no defense articles are carried as cargo. Such a vessel or aircraft may not enter the territorial waters or airspace of a foreign country before returning to the United States, or carry as cargo any defense article, without a temporary export license (Form DSP–73) from the Department of State. (See § 123.4).

§ 123.12 Shipments between U.S. possessions.

An export license is not required for the shipment of defense articles between the United States, the Commonwealth of Puerto Rico, and U.S. possessions. A license is required, however, for the export of defense articles from these areas to foreign countries.

§ 123.13 Domestic aircraft shipments via a foreign country.

A license is not required for the shipment by air of a defense article from one location in the United States to another location in the United States via a foreign country. The pilot of the aircraft must, however, file a written statement with the district director of customs at the port of exit in the United States. The original statement must be filed at the time of exit with the district director of customs. A duplicate must be filed at the port of reentry with the district director of customs, who will duly endorse it and transmit it to the district director of customs at the port of exit. The statement will be as follows:

Statement

Domestic Shipment Via a Foreign Country of Articles on the U.S. Munitions List

Under penalty according to Federal law, the undersigned certifies and warrants that all the information in this document is true and correct, and that the equipment listed below is being shipped from *(U.S. port of exit)* via *(foreign county)* to *(U.S. port of entry)*, which is the final destination in the United States.

Description of Equipment

Quantity: _____
Equipment: _____
Value: _____
Signed: _____
Endorsement: Customs Inspector.
Port of Exit: _____
Date: _____
Signed: _____
Endorsement: Customs Inspector.
Port of Entry: _____
Date: _____

§ 123.14 Import certificate/delivery verification procedure.

The United States and a number of foreign countries have agreed on procedures designed to assure that a commodity imported into their territory will not be diverted, transshipped, or reexported to another destination except in accordance with export control regulations of the importing country. This is known as the Import Certificate/Delivery Verification Procedure (IC/DV) and may be invoked with respect to defense articles.

(a) *Exports.* The Department of State may require the IC/DV procedure on proposed exports of defense articles to non-government entities in the following countries: Austria, Belgium, Denmark, France, Federal Republic of Germany, Greece, Hong Kong, Italy, Japan, Luxembourg, the Netherlands, Norway, Portugal, Turkey, and the United Kingdom. In such cases, U.S. exporters must submit both an export license application (the completed Form DSP–5) and the original Import Certificate, which must be provided and authenticated by the government of the importing country. This document verifies that the foreign importer complied with the import regulations of the government of the importing country and that the importer declared the intention not to divert, transship or reexport the material described therein without the prior approval of that government. After delivery of the commodities to the foreign consignee, the Department of State may also require U.S. exporters to furnish Delivery Verification documentation from the government of the importing country. This documentation verifies that the delivery was in accordance with the terms of the approved export license. Both the "Import Certificate" and the "Delivery Verification" must be furnished to the U.S. exporter by the foreign importer.

(b) *Triangular transactions.* When a transaction involves three or more countries which have adopted the IC/DV procedure, the governments of these countries may stamp a triangular symbol on the Import Certificate. This symbol is usually placed on the Import Certificate when the applicant for the Import Certificate (the importer) stated either (1) that there is uncertainty whether the items covered by the Import Certificate will be imported into the country issuing the Import Certificate; (2) that he or she knows that the items will not be imported into the country issuing the Import Certificate; or (3) that, if the items are to be imported into the country issuing the Import Certificate, they will subsequently be reexported to another destination. Thus, it is possible that the ultimate consignee and the country of ultimate destination will not coincide with that of the importer. All parties, including the ultimate consignee in the country of ultimate destination, must be shown on the completed Import Certificate.

§ 123.15 [Reserved]

Exemptions

§ 123.16 Obsolete firearms and models.

(a) District directors of customs may permit the export without a license of nonautomatic firearms covered by Category I(a) of § 121.1 if they were manufactured in or before 1898, as well as replicas of such firearms.

(b) District directors of customs may permit the export without a license of unclassified models or mock-ups of defense articles provided that they are nonoperable and do not reveal any technical data in excess of that which is exempted from the licensing requirements of § 125.4(b). U.S. persons who avail themselves of this exemption must provide a written certification to the district director of customs that these conditions are met. This exemption does not imply that the Office of Munitions Control will approve the export of any defense articles for which models or mocks-ups have been exported pursuant to this exemption.

§ 123.17 Exports of firearms and ammunition for personal use.

(a) District directors of customs may permit U.S. persons to export temporarily from the United States without a license not more than three nonautomatic firearms in Category I(a)

of § 121.1 and not more than 1,000 cartridges therefor, provided that:

(1) A declaration by the U.S. person and an inspection by a customs officer is made;

(2) The firearms and accompanying ammunition must be with the U.S. person's baggage or effects, whether accompanied or unaccompanied (but not mailed); and

(3) They must be for that person's exclusive use and not for resale or other transfer of ownership. The foregoing exemption is not applicable to a crew-member of a vessel or aircraft unless the crew-member declares the firearms to a customs officer upon each departure from the United States, and declares that it is his or her intention to return the articles on each return to the United States. It is also not applicable to the personnel referred to in §123.18.

(b) District directors of customs may permit a foreign person to export without a license such firearms in Category I(a) of § 121.1 and ammunition therefor as the foreign person brought into the United States under the provisions of 27 CFR 178.115(d). (The latter provision specifically excludes from the definition of importation the bringing into the United States of firearms and ammunition by certain foreign persons for specified purposes.)

(c) District directors of customs may permit U.S. persons to export without a license ammunition for nonautomatic firearms referred to in paragraph (a) of this section if the quantity does not exceed 1,000 cartridges (or rounds) in any shipment. The ammunition must also be for personal use and not for resale or other transfer of ownership. The foregoing exemption is also not applicable to the personnel referred to in § 123.18.

§ 123.18 Firearms for personal use of members of the U.S. Armed Forces and civilian employees of the U.S. Government.

The following exemptions apply to members of the U.S. Armed Forces and civilian employees of the U.S. Government who are U.S. persons (both referred to herein as "personnel"). The exemptions apply only to such personnel if they are assigned abroad for extended duty. These exemptions do not apply to dependents.

(a) *Firearms.* District directors of customs may permit nonautomatic firearms in Category I(a) § 121.1 and parts therefor to leave (but not be mailed from) the United States without a license if:

(1) They are consigned to servicemen's clubs abroad for uniformed members of the U.S. Armed Forces; or,

(2) In the case of a uniformed member of the U.S. Armed Forces or a civilian employee of the Department of Defense, they are consigned to the personnel for personal use and not for resale or other transfer of ownership, and if the firearms are accompanied by a written authorization from the commanding officer concerned; or,

(3) In the case of other U.S. Government employees, they are consigned to such personnel for personal use and not for resale or other transfer of ownership, and the Chief of the U.S. Diplomatic Mission or his designee in the country of destination has approved in writing to Department of State the bringing of the specific types and quantities of firearms into that country.

(b) *Ammunition.* District directors of customs may permit not more than 1,000 cartridges (or rounds) of ammunition for the firearms referred to in paragraph (a) of this section to be exported (but not mailed) from the United States without a license when the firearms are on the person of the owner or with his baggage or effects, whether accompanied or unaccompanied (but not mailed).

§ 123.19 Minor components.

Except as provided in § 126.1, district directors of customs are authorized to permit the export without a license of components and parts for Category I(a) firearms, except barrels, cylinders, receivers (frames), or complete breech mechanisms, when the total value does not exceed $500 wholesale in any single transaction.

§ 123.20 Canadian and Mexican border shipments.

A shipment originating in Canada or Mexico which incidentally transits the United States enroute to a delivery point in the same country that originated the shipment is exempt from the requirement for an intransit license.

§ 123.21 Nuclear materials.

(a) The provisions of this subchapter do not apply to equipment in Category VI(e) and Category XVI of § 121.1 to the extent such equipment is under the export control of the Department of Energy or the Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, as amended, and the Nuclear Non-Proliferation Act of 1978.

(b) A license for the export of any machinery, device, component, equipment, or technical data relating to equipment referred to in Category VI(e) will not be granted unless the proposed export comes within the scope of an existing Agreement for Cooperation for Mutual Defense Purposes concluded pursuant to the Atomic Energy Act of 1954, as amended, with the government of the country to which the article is to be exported. Licenses may be granted in the absence of such an agreement only (1) if the proposed export involves an article which is identical to that in use in an unclassified civilian nuclear powerplant, (2) if the proposed export has no relationship to naval nuclear propulsion, and (3) if it is not for use in a naval propulsion plant.

Procedures

§ 123.22 Applications for licenses.

Applications for licenses for the export of defense articles and related technical data under this part must be made to the Office of Munitions Control as follows:

(a) Applications for licenses for permanent export must be made on Form DSP–5 (unclassified).

(b) Intransit license applications must be made on Form DSP–61 (unclassified).

(c) Temporary export license applications must be made on Form DSP–73 (unclassified).

(d) All applications involving the export or intransit shipment of classified defense articles or classified technical data must be made on Form DSP–85.

(e) The following specific procedures apply to the preparation and submission of applications:

(1) Applications for Department of State export licenses must be confined to proposed exports of defense articles and related technical data. Applications for licenses to export commodities under the regulatory jurisdiction of the Department of Commerce must be made directly to that Department.

(2) Form DSP–5, DSP–61, DSP–73, and DSP–85 applications must have an entry in each block where space is provided for an entry. Any supporting documentation concerning commodity, end-use, and specific purpose should be submitted in seven copies. Samples of properly executed applications are available from the Office of Munitions Control.

(3) Form DSP–83, duly executed, must accompany all license applications for the permanent export of significant military equipment except in the circumstances described in § 123.10(b).

(4) Applications for permanent export licenses should not be submitted until the applicant has a firm order, letter of intent or other appropriate documentation from the purchaser or consignee except in the circumstances described in § 123.1(c).

(5) A request under the provisions of section 38(e) of the Arms Export Control

Act (22 U.S.C. 2778(e)) for confidential treatment of information provided to the Department of State must be made by letter to the Office of Munitions Control.

§ 123.23 Renewal and disposition of licenses.

(a) A license is valid for a period of two years. The license expires if the defense articles described in the license are not shipped within the two-year period. Defense articles to be shipped thereafter require a new application and license. The new application should refer to the expired license. It should not include references to any defense articles other than those of the unshipped balance of the expired license.

(b) Unused, expired, expended, suspended, or revoked licenses must be returned immediately to the Department of State.

§ 123.24 Port of exit or entry.

An application for a license must state the proposed port of exit from the United States. If applicable, the port of entry must also be stated. After a license is issued, the person to whom the license was issued must notify the Office of Munitions Control in writing of any proposed change of the port prior to export. A copy of such written notification must be sent to the district director of customs at the new port.

§ 123.25 Filing of export and intransit licenses and shipper's export declarations with district directors of customs.

(a) The recipient of an export license must deposit the license with the district director of customs at the port of exit designated on the license before shipping the defense article in question. (For exports by mail, see § 123.26.) After a license has been so deposited, the export may be made through the designated port. If necessary, the export may be made through another port if the exporter complies with the procedures established by the U.S. Customs Service and § 123.24. Before shipping any defense article, the exporter must also file a shipper's export declaration (Department of Commerce Form 7525–V) with the district director of customs at the port of exit.

(b) Before any export occurs, the district director of customs at the port of exit must authenticate the shipper's export declaration, and endorse the license to show the shipments actually made. The district director of customs will return a copy of each authenticated shipper's export declaration to the Office of Munitions Control. Every license will also be returned upon the completion of the authorized export or upon the expiration date stated on the license, whichever occurs first.

(c) An exporter must also file a shipper's export declaration with district directors of customs or postmasters in those cases in which no export license is required because of an exemption in this subchapter. The exporter must certify that the export is exempt from the licensing requirements of this subchapter. This is done by writing "22 CFR (*identify section*) applicable" on the shipper's export declaration, and by identifying the section under which an exemption is claimed. A copy of each such declaration must be mailed immediately by the exporter to the Office of Munitions Control. This paragraph does not create an obligation to file a shipper's export declaration if (1) the export is exempt from the licensing requirements of this subchapter pursuant to § 126.4 and (2) it is not otherwise required by law or by regulations other than those contained in this subchapter.

(d) District directors of customs are authorized to permit the shipment of defense articles identified on any license when the total value of the export does not exceed the aggregate monetary value (not quantity) stated on the license by more than ten percent.

§123.26 Shipments by mail.

An export license for defense articles being sent abroad by mail must be filed with the postmaster at the post office where the equipment is mailed. A shipper's export declaration (U.S. Department of Commerce Form 7525–V) must be filed with and be authenticated by the postmaster before the article is actually sent. The postmaster will endorse each license to show the shipments made. Every license must be returned by the postmaster to the Office of Munitions Control upon completion of the mailings or the date that the license expires, whichever occurs first.

§123.27 Temporary exports.

(a) If defense articles are to be sent abroad for brief periods and returned to the United States in the same condition, a license for the temporary export of defense articles must be obtained from the Department of State (Form DSP–73).

(b) Defense articles authorized for temporary export under this section may be shipped only from a port in the United States where a district director of customs is available. The license for temporary export must be presented to the district director of customs who, upon verification, will endorse the exit column on the reverse side of the license. The endorsed license for temporary export is to be retained by the licensee. In the case of a military aircraft or vessel, the endorsed license must be carried on board such vessel or aircraft as evidence that it has been duly authorized by the Department of State to leave the United States temporarily.

(c) Upon the return to the United States of defense articles covered by a license for temporary export, the license will be endorsed in the entry column by the district director of customs. This procedure shall be followed for all exits and entries made during the period for which the license is valid. The licensee must send the used license to the Office of Munitions Control Immediately upon expiration or after the final return in the case of multiple exports under the same license, whichever occurs first.

PART 124—MANUFACTURING LICENSE AGREEMENTS, TECHNICAL ASSISTANCE AGREEMENTS, AND OTHER DEFENSE SERVICES

Sec.

124.1 Manufacturing license agreements and technical assistance agreements.
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Offshore Procurement and Warehousing Agreements

124.13 Procurement by United States persons in foreign countries (offshore procurement).
124.14. Exports to warehouses or distribution points outside the United States.

Authority: Section 38, Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2778); E.O. 11958, 42 FR 4311; 22 U.S.C. 2658.

§124.1 Manufacturing license agreements and technical assistance agreements.

(a) *General.* The approval of the Office of Munitions Control must be obtained before the defense services

described in § 120.8(a) of this subchapter may be furnished. In order to obtain such approval, the U.S. person must submit a proposed agreement with the foreign person concerned to the Office of Munitions Control. Such agreements are generally characterized as either "Manufacturing license agreements" or "technical assistance agreements" as defined in § 120.14 and § 120.20, and may not enter into force without the prior written approval of the Office of Munitions Control. Once approved, the defense services described in the agreements may generally be provided without further licensing in accordance with § 124.3 and § 125.4(b)(2). The requirements of this section apply whether or not technical data is to be disclosed or used in the performance of the defense services described in §120.8(a) (e.g., all the information relied upon by the U.S. person in performing the defense service is in the public domain or is otherwise exempt from the licensing requirements of this subchapter pursuant to §125.4). This requirement also applies to the training of foreign military forces, both regular and irregular, in the use of defense articles. Technical assistance agreements must be submitted in such cases. (In exceptional cases, the Office of Munitions Control, upon written request, will consider approving the provision of defense services described in §120.8(a) by granting a license under Part 125. Also, see §126.8 for the requirements for prior approval of proposals relating to significant military equipment.)

(b) *Amendments.* Proposed amendments, including extensions, to agreements subject to the requirements of this part must also be submitted for approval. The amendments may also not enter into force until approved by the Office of Munitions Control. Amendments which only alter delivery or performance schedules, or other minor administrative amendments which do not affect in any manner the duration of the agreement or the clauses or information which must be included in such agreements because of the requirements of this part, do not have to be submitted for approval. One copy of all such minor amendments must be submitted to the Office of Munitions Control within thirty days after they are concluded.

§ 124.2 Exemptions for training and military service.

(a) Technical assistance agreements are not required for the provision of training only in the basic operation and maintenance of defense articles lawfully exported or authorized for export to the same recipient.

(b) Services performed as a member of the regular military forces of a foreign nation by U.S. persons who have been drafted into such forces are not deemed to be defense services for purposes of § 120.8.

§ 124.3 Exports of technical data in furtherance of an agreement.

(a) *Unclassified technical data.* District directors of customs or postal authorities may permit the export without a license of unclassified technical data if the export is in furtherance of a manufacturing license or technical assistance agreement which has been approved in writing by the Office of Munitions Control. The export is not authorized without a license if it exceeds the scope or limitations of the relevant agreement. The U.S. party to the agreement must certify that the export does not exceed the scope of the agreement and any limitations imposed pursuant to this Part. The approval of the Office of Munitions Control must be obtained for the export of any unclassified technical data which may exceed the terms of the agreement.

(b) *Classified technical data.* The export of classified information in furthernance of an approved manufacturing license or technical assistance agreement which provides for the transmittal of classified information does not require further approval from the Office of Munitions Control when:

(1) The United States party certifies to the Department of Defense transmittal authority that the classified information does not exceed the technical or product limitaitons in the agreement; and

(2) The United States party complies with the requirements of the Department of Defense Industrial Security Manual concerning the transmission of classified information, and any othe requirements of cognizant U.S. departments or agencies.

§ 124.4 Deposit of signed agreements with the Office of Munitions Control.

The United States party to a manufacturing license or a technical assistance agreement must file one copy of the concluded agreement with the Office of Munitions Control not later than 30 days after it enters into force.

§ 124.5 Proposed agreements which are not concluded.

The United States party to any proposed manufacturing license agreement or technical assistant agreement must inform the Office of Munitions Control if a decision is made not to conclude the agreement. The information must be provided within 60 days of the date of the decision. These requirements apply only if the approval of the Office of Munitions Control was obtained for the agreement to be concluded (with or without any provisos).

§ 124.6 Termination of manufacturing license agreements and technical assistance agreements.

The United States party to a manufacturing license or a technical assistance agreement must inform the Office of Munitions Control in writing of the impending termination of the agreement not less than 30 days prior to the expiration date of such agreement.

Procedures

§ 124.7 Required information and clauses in proposed agreements.

In order to be approved, all proposed manufacturing license agreements and technical assistance agreements must contain certain information and clauses. The information required is specified in § 124.8. The information required should be provided in terms which are as precise as possible. The clauses which must be included in both manufacturing license agreements and technical assistance agreements are stated in § 124.9. The additional clauses which must be stated in manufacturing license agreements only are specified in § 124.10. If the United States party believes that a clause or some required information is not relevant or necessary in a particular agreement, the Office of Munitions Control may authorize the omission of the information or clause. The transmittal letter accompanying the agreement (see § 124.12) must state the reasons for any proposed variation in the required information or statements.

§ 124.8 Information required in all agreements.

The following information must be included in all manufacturing license agreements and technical assistance agreements:

(a) The agreement must describe the equipment and technology involved. They should be described by military nomenclature, contract number, Federal stock number, nameplate data, or other specific information;

(b) The agreement must describe the assistance and information to be furnished and the manufacturing rights to be granted, if any;

(c) The duration of the proposed agreement must be specified; and

(d) The agreement must specifically identify the countries or areas in which manufacturing, production, processing,

sale or other form of transfer is to be licensed.

§ 124.9 Clauses required both in manufacturing license agreements and technical assistance agreements.

The following statements must be included both in manufacturing license agreements and in technical assistance agreements:

(a) "This agreement shall not enter into force, and shall not be amended or extended, without the prior written approval of the Department of State of the U.S. Government."

(b) "This agreement is subject to all United States laws and regulations relating to exports and to all administrative acts of the U.S. Government pursuant to such laws and regulations."

(c) "The parties to this agreement agree that the obligations contained in this agreement shall not affect the performance of any obligations created by prior contracts or subcontracts which the parties may have individually or collectively with the U.S. Government."

(d) "No liability will be incurred by or attributed to the U.S. Government in connection with any possible infringement of privately owned patent or proprietary rights, either domestic or foreign, by reason of the U.S. Government's approval of this agreement."

(e) "The technical data or defense service exported from the United States in furtherance of this agreement and any defense article which may be produced or manufactured from such technical data or defense service may not be transferred to a person in a third country or to a national of a third country except as specifically authorized in this agreement unless the prior written approval of the Department of State has been obtained."

(f) "All provisions in this agreement which refer to the United States Government and the Department of State will remain binding on the parties after the termination of the agreement."

§ 124.10 Additional clauses required only in manufacturing license agreements.

(a) *Clauses for all manufacturing license agreements.* The following clauses must be included only in manufacturing license agreements:

(1) "No export, sale, transfer, or other disposition of the licensed article is authorized to any country outside the territory wherein manufacture or sale is herein licensed without the prior written approval of the U.S. Government. Sales or other transfers of the licensed article shall be limited to governments of countries wherein manufacture or sale is hereby licensed and to private entities seeking to procure the licensed article pursuant to a contract with any such government unless the prior written approval of the U.S. Government is obtained."

(2) "It is agreed that sales by licensee or its sublicensees under contracts made through the U.S. Government will not include either charges for patent rights in which the U.S. Government holds a royalty-free license, or charges for data which the U.S. Government has a right to use and disclose to others, which are in the public domain, or which the U.S. Government has acquired or is entitled to acquire without restrictions upon their use and disclosure to others."

(3) "If the U.S. Government is obligated or becomes obligated to pay to the licensor royalties, fees, or other charges for the use of technical data or patents which are involved in the manufacture, use, or sale of any licensed article, any royalties, fees or other charges in connection with purchases of such licensed article from licensee or its sublicensees with funds derived through the U.S. Government may not exceed the total amount the U.S. Government would have been obligated to pay the licensor directly."

(4) "If the U.S. Government has made financial or other contributions to the design and development of any licensed article, any charges for technical assistance or know-how relating to the item in connection with purchases of such articles from licensee or sublicensees with funds derived through the U.S. Government contributions, and subject to the provisions of paragraphs (a) (1) and (2) of this section, no other royalties, fees or other charges may be assessed against U.S Government funded purchases of such article. However, charges may be made for reasonable reproduction, handling, mailing, or similar administrative costs incident to the furnishing of such data."

(5) "The parties to this agreement agree that an annual report of sales or other transfers pursuant to this agreement of the licensed articles, by quantity, type, U.S. dollar value, and purchaser or recipient, shall be provided by *(applicant or licensee)* to the Department of State." This clause must specify which party is obligated to provide the annual report. Such reports may be submitted either directly by the licensee or indirectly through the licensor, and may cover calendar or fiscal years. Reports shall be deemed proprietary information by the Department of State and will not be disclosed to unauthorized persons. (See § 126.10(b).)

(6) "*(Licensee)* agrees to incorporate the following statement as an integral provision of a contract, invoice or other appropriate document whenever the licensed articles are sold or otherwise transferred:

> These commodities are authorized for export by the U.S. Government only to *(country of ultimate destination or approved sales territory)*. They may not be resold, diverted, transferred, transshipped, or otherwise be disposed of in any other country, either in their original form or after being incorporated through an intermediate process into other end-items, without the prior written approval of the U.S. Department of State.

(b) *Special clause for agreements relating to significant military equipment.* With respect to an agreement for the production of significant military equipment, the following additional provisions must be included in the agreement:

(1) "A completed nontransfer and use certificate (DSP–83) must be submitted by the recipient to the Department of State of the United States before any transfer under this agreement may take place."

(2) "The prior written approval of the U.S. Government must be obtained before entering into a commitment for the transfer of the licensed article by sale or otherwise to any person or government outside of the approved sales territory."

§ 124.11 Nontransfer and use assurances.

A nontransfer and use certificate (Form DSP–83) (see § 123.10) signed by the foreign party to a manufacturing license agreement or technical assistance agreement is required as a condition to the approval of any such agreement which relates to significant military equipment, classified articles or classified technical data. The Office of Munitions Control may at its option require that this certificate or a comparable undertaking be provided before approving any agreement that does not relate to significant military equipment. The Office of Munitions Control may also require as a condition to the approval of the agreement that an appropriate authority to the foreign party's government also execute the certificate, or that the foreign government concerned provide undertakings comparable to those contained in the Form DSP–83 (e.g., in a diplomatic note). Agreements involving classified articles or classified technical data must be accompanied by a nontransfer and use certificate signed by an authorized representative of the foreign government concerned. This

requirement may be waived by the Office of Munitions Control if the foreign party is a foreign government with which the United States has a General Security of Information Agreement or other foreign government security assurance.

§ 124.12 Required information in letters of transmittal.

(a) An application for the approval of a manufacturing license or technical assistance agreement with a foreign person must be accompanied by an explanatory letter. The original letter and seven copies of the letter and eight copies of the proposed agreement shall be submitted to the Office of Munitions Control. The explanatory letter shall contain:

(1) A statement giving the applicant's Munitions Control registration number.

(2) A statement identifying the licensee and the scope of the agreement.

(3) A statement identifying the U.S. Government contract under which the equipment or technical data was generated, improved, or developed and supplied to the U.S. Government, and whether the equipment or technical data was derived from any bid or other proposal to the U.S. Government.

(4) A statement giving the military security classification of the equipment or technical data.

(5) A statement identifying any patent application which discloses any of the subject matter of the equipment or technical data covered by an invention secrecy order issued by the U.S. Patent and Trademark Office.

(6) A statement of the actual or estimated value of the agreement. If the value exceeds $250,000, an additional statement must be made regarding the payment of political contributions, fees or commissions, pursuant to Part 130 of this subchapter.

(b) The following statements must be made in the letter of transmittal:

(1) "If the agreement is approved by the Department of State, such approval will not be construed by *(the applicant)* as passing on the legality of the agreement from the standpoint of antitrust laws or other applicable statutes, nor will *(the applicant)* construe the Department's approval as constituting either approval or disapproval of any of the business terms or conditions between the parties to the agreement."

(2) "The *(applicant)* will not permit the proposed agreement to enter into force until it has been approved by the Department of State."

(3) "The *(applicant)* will furnish the Department of State with one copy of the signed agreement (or amendment) within 30 days from the date that the agreement is concluded and will inform the Department of its termination not less than 30 days prior to expiration and provide information on the continuation of any foreign rights or the flow of technical data to the foreign party. If a decision is made not to conclude the proposed agreement, the *applicant* will so inform the Department within 60 days."

Offshore Procurement and Warehousing Agreements

§ 124.13 Procurement by United States persons in foreign countries (offshore procurement).

Notwithstanding the other provisions in Part 124, the Office of Munitions Control may authorize by means of a license (DSP–5) the export of unclassified technical data to foreign persons for offshore procurement of defense articles, provided that:

(a) The contract or purchase order for offshore procurement limits delivery of the defense articles to be produced only to the person in the United States or to an agency of the U.S. Government; and

(b) The technical data of U.S. origin to be used in the foreign manufacture does not disclose the details of the design, development, production or manufacture of defense articles; and

(c) The contract or purchase order between the person in the United States and the foreign person:

(1) Limits the use of the technical data to the manufacture of the defense articles required by the contract or purchase order only; and

(2) Prohibits the disclosure of the data to any other person except duly qualified subcontractors within the same country; and

(3) Prohibits the acquisition of any rights in the data by any foreign person; and

(4) Provides that any subcontracts between foreign persons in the approved country for manufacture of equipment for delivery pursuant to the contract or purchase order contain all the limitations of this paragraph (c); and

(5) Requires the foreign person, including subcontractors, to destroy or return to the person in the United States all of the technical data exported pursuant to the contract or purchase order upon fulfillment of their terms; and

(6) Requires delivery of the defense articles manufactured abroad only to the person in the United States or to an agency of the U.S. Government; and

(d) The person in the United States provides the Office of Munitions Control with a copy of each contract, purchase order or subcontract for offshore procurement at the time it is accepted. Each such contract, purchase order or subcontract must clearly identify the article to be produced and must identify the license number or exemption under which the technical data was exported; and

(e) Licenses issued pursuant to this section must be renewed upon their expiration if offshore procurement is to extend beyond the period of validity of the license.

If the technical data involved in an offshore procurement arrangement is otherwise exempt from the licensing requirements pursuant to 126.4 or 126.5, the DSP–5 referred to in the first sentence of this section is not required. However, the exporter must comply with the other requirements of this section.

§ 124.14 Exports to warehouses or distribution points outside the United States

(a) *General.* Agreements (e.g., contracts) between U.S. persons and foreign persons for the warehousing and distribution of defense articles must be approved by the Office of Munitions Control before they enter into force. Such agreements will be limited to unclassified defense articles and must contain conditions for special distribution, end-use and reporting. Licenses for exports pursuant to such ageements must be obtained prior to exports of the defense articles (see §123.7).

(b) *Required Information.* Proposed warehousing and distribution agreements (and amendments thereto) shall be submitted to the Office of Munitions Control for approval. The following information must be included in all such agreements:

(1) A precise description of the defense articles involved. This shall include when applicable the military nomenclature, the Federal stock number, nameplate data, and any control numbers under which the defense articles were developed or procured by the U.S. Government.

(2) A detailed statement of the terms and conditions under which the defense articles will be exported and distributed;

(3) The duration of the proposed agreement;

(4) Specific identification of the country or countries that comprise the distribution territory. Distribution must be specifically limited to the governments of such countries or to private entities seeking to procure defense articles pursuant to a contract with a government within the distribution territory. Consequently, any deviation from this condition must be

fully explained and justified. A nontransfer and use certificate (DSP–83) will be required to the same extent required in licensing agreements under § 124.10(b).

(c) *Required Statements.* The following statements must be included in all warehousing and distribution agreements:

(1) "This agreement shall not enter into force, and may not be amended or extended, without the prior written approval of the Department of State of U.S. Government."

(2) "This agreement is subject to all United Sates laws and regulations related to exports and to all administrative acts of the United States Government pursuant to such laws and regulations.

(3) "The parties to this agreement agree that the obligations contained in this agreement shall not affect the performance of any obligations created by prior contracts or subcontracts which the parties may have individually or collectively with the U.S. Government."

(4) "No liability will be incurred by or attributed to the U.S. Government in connection with any possible infringement of privately owned patent or proprietary rights, either domestic or foreign by reason of the U.S. Goverment's approval of this agreement."

(5) "No export, sale, transfer, or other disposition of the defense articles covered by this agreement is authorized to any country outside the distribution territory without the prior written approval of the Office of Munitions Control of the U.S. Department of State."

(6) "The parties to this agreement agree that an annual report of sales or other transfers pursuant to this agreement of the licensed articles, by quantity, type, U.S. dollar value, and purchaser or recipient shall be provided by *(applicant or licensee)* to the Department of State." This clause must specify which party is obligated to provide the annual report. Such reports may be submitted either directly by the licensee or indirectly through the licensor, and may cover calendar or fiscal years. Reports shall be deemed proprietary information by the Department of State and will not be disclosed to unauthorized persons. (See § 126.10(b)).

(7) "*(Licensee)* agrees to incorporate the following statement as an integral provision of a contract, invoice or other appropriate document whenever the articles covered by this agreement are sold or otherwise transferred:

These commodities are authorized for export by the U.S. Government only to *(country of ultimate destination or approved sales territory).* They may not be resold, diverted, transferred, transshipped, or otherwise be disposed of in any other country, either in their original form or after being incorporated through an intermediate process into other end-items, without the prior written approval of the U.S. Department of State.

(d) *Transmittal Letters.* Requests for approval of warehousing and distribution agreements with foreign persons must be made by letter. The original letter and seven copies of the letter and seven copies of the proposed agreement shall be submitted to the Office of Munitions Control. The letter shall contain:

(1) A statement giving the applicant's Munitions Control registration number.

(2) A statement identifying the foreign party to the agreement.

(3) A statement identifying the defense articles to be distributed under the agreement.

(4) A statement identifying any U.S. Government contract under which the equipment may have been generated, improved, developed or supplied to the U.S. Government, and whether the equipment was derived from any bid or other proposal to the U.S. Government.

(5) A statement that no classified defense articles or classified technical data are involved.

(6) A statement identifying any patent application which discloses any of the subject matter of the equipment or related technical data covered by an invention secrecy order issued by the U.S. Patent and Trademark Office.

(e) *Required Clauses.* The following statements must be made in the letter of transmittal:

(1) "If the agreement is approved by the Department of State, such approval will not be construed by *(applicant)* as passing on the legality of the agreement from the standpoint of antitrust laws or other applicable statutes, nor will *(the applicant)* construe the Department's approval as constituting either approval or disapproval of any of the business terms or conditions between the parties to the agreement.

(2) "The *(applicant)* will not permit the proposed agreement to enter into force until it has been approved by the Department of State."

(3) "The *(applicant)* will furnish the Department of State with one copy of the signed agreement (or amendments thereto) within 30 days from the date that the agreement is concluded, and will inform the Department of its termination not less than 30 days prior to expiration. If a decision is made not to conclude the proposed agreement, the *(applicant)* will so inform the Department within 60 days."

PART 125—LICENSES FOR THE EXPORT OF TECHNICAL DATA AND CLASSIFIED DEFENSE ARTICLES

Sec.

125.1 Exports subject to this Part.
125.2 Exports of unclassified technical data.
125.3 Exports of classified technical data and classified defense articles.

Exemptions

125.4 Exemptions of general applicability.
125.5 Exemptions for plant visits.
125.6 Certification requirements.

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125.7 Exports of unclassified technical data.
125.8 Exports of classified technical data and classified defense articles.
125.9 Filing of licenses for exports of unclassified technical data.
125.10 Filing of licenses for exports of classified technical data and classified defense articles.

Authority: Section 38, Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2778); E.O. 11958, 42 FR 4311; 22 U.S.C. 2658.

§ 125.1 Exports subject to this Part.

(a) The export controls of this Part apply to the export of technical data and the export of classified defense articles. Information which is in the "public domain" (see § 120.18) is not subject to the controls of this subchapter.

(b) A license for the export of technical data and the exemptions in § 125.4 may not be used for foreign production purposes or for technical assistance unless the approval of the Department of State has been obtained. Such approval is generally provided only pursuant to the procedures specified in Part 124 of this subchapter.

(c) Technical data authorized for export may not be diverted or transferred from the country of ultimate end-use (as designated in the license or approval for export) or disclosed to a national of another country without the prior written approval of the Department of State.

(d) The export controls of this Part apply to the exports referred to in paragraph (a) of this section regardless of whether the person who intends to export the technical data produces or manufactures defense articles if the technical data is determined by the Office of Munitions Control to be subject to the controls of this subchapter.

(e) The provisions of this subchapter do not apply to technical data related to articles in Category VI(e) and Category XVI. The export of such data is controlled by the Department of Energy

and the Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, as amended, and the Nuclear Non-Proliferation Act of 1978.

§ 125.2 Exports of unclassified technical data.

(a) *General.* A license issued by the Department of State is required for the export of unclassified technical data unless the export is exempt from the licensing requirements of this subchapter.

(b) *Patents.* A license issued by the Department of State is required for the export of technical data whenever the data exceeds that which is used to support a domestic filing of a patent application or to support a foreign filing of a patent application whenever no domestic application has been filed. The export of technical data to support the filing and processing of patent applications in foreign countries is subject to regulations issued by the U.S. Patent and Trademark Office pursuant to 35 U.S.C. 184.

(c) *Disclosures.* Unless otherwise expressly exempted in this subchapter, a license is required for the oral, visual or documentary disclosure of technical data to foreign nationals in connection with visits by U.S. persons to foreign countries, visits by foreign persons to the United States, or otherwise. A license is required regardless of the manner in which the technical data is transmitted (e.g., in person, by telephone, correspondence, electronic means, telex, etc.). A license is required for such disclosures in connection with visits by U.S. persons to foreign diplomatic missions and consular offices.

§ 125.3 Exports of classified technical data and classified defense articles.

(a) A request for authority to export defense articles or technical data classified pursuant to Executive Order 12356 or other legal authority must be submitted to the Office of Munitions Control for approval. The application must contain full details of the proposed transaction. A nontransfer and use certificate (Form DSP–83) executed by the foreign consignee, end-user and an authorized representative of the foreign government involved will be required. This requirement may be waived by the Office of Munitions Control if the end-user is a foreign government with which the United States has a General Security of Information Agreement or other foreign government security assurance (e.g., diplomatic note).

(b) Classified technical data which is approved by the Department of State either for export or reexport after a temporary import will be transferred or disclosed only in accordance with the requirements relating to the transmission of classified information in the Department of Defense Industrial Security Manual. Any other requirements imposed by cognizant U.S. departments and agencies must also be satisfied.

(c) The approval of the Department of State must be obtained for the export of technical data by a U.S. person to a foreign person in the U.S. or in a foreign country unless the proposed export is exempt under the provisions of this subchapter.

(d) All communications relating to a patent application covered by an invention secrecy order are to be addressed to the U.S. Patent and Trademark Office (See 37 CFR 5.11).

Exemptions

§ 125.4 Exemptions of general applicability.

(a) The following exemptions apply to exports of technical data for which no license or other approval is needed from the Office of Munitions Control. These exemptions do not apply to exports to proscribed destinations under § 126.1. Unless specifically indicated, these exemptions do not apply to classified information. Transmission of classified information must comply with the requirements of the Department of Defense Industrial Security Manual and the exporter must certify to the transmittal authority that the technical data does not exceed the technical limitation of the authorized export.

(b) The following exports are exempt from the licensing requirements of this subchapter:

(1) Technical data, including classified information, to be disclosed pursuant to an official written request or directive from the U.S. Department of Defense;

(2) Technical data, including classified information, in furtherance of a manufacturing license or technical assistance agreement approved by the Department of State under Part 124 of this subchapter and which meet the requirements of § 124.3;

(3) Technical data, including classified information, in furtherance of a contract between the exporter and an agency of the U.S. Government, if the contract provides for the export of the relevant technical data and such data does not disclose the details of design, development, production, or manufacture of any defense article;

(4) Additional copies of technical data, including classified information, previously exported or authorized for export to the same recipient. Revised copies of such technical data are also exempt if they pertain to the identical defense article, and if the revisions are solely editorial and do not add to the content of technology previously exported or authorized for export to the same recipient;

(5) Technical data in the form of operations, maintenance, and training information relating to a defense article lawfully exported or authorized for export to the same recipient. This exemption applies only to exports by the original exporter;

(6) Technical data related to firearms not in excess of caliber .50 and ammunition for such weapons, except detailed design, development, production or manufacturing information;

(7) Technical data being returned to the original source of import;

(8) Technical data directly related to classified information which has been previously exported in accordance with this Part to the same recipient, and which does not disclose the details of the design, development, production, or manufacture of any defense article;

(9) Technical data, including classified information, sent by a U.S. corporation to a U.S. person employed by that corporation overseas or to a U.S. Government agency. This exemption is subject to the limitations of § 125.1(b) and may be used only if (i) the technical data is to be used overseas solely by U.S. persons and (ii) if the U.S. person overseas is an employee of the U.S. Government or is directly employed by the U.S. corporation and not by a foreign subsidiary;

(10) Disclosures of technical data in the U.S. by U.S. institution of higher learning to foreign persons who are their bona fide and full time regular employees. This exemption is available only if (i) the employee's permanent abode throughout the period of employment is in the United States; (ii) the employee is not a national of a country to which exports are prohibited pursuant to § 126.1; and (iii) the institution informs the individual in writing that the technical data may not be transferred to other foreign persons without the prior written approval of the Office of Munitions Control;

(11) Technical data, including classified information, for which the exporter, pursuant to an arrangement with the Department of Defense or NASA which requires such exports, has been granted an exemption in writing from the licensing provisions of this Part by the Office of Munitions Control. Such an exemption will normally be granted only if the arrangement directly

implements an international agreement to which the United States is a party and if multiple exports are contemplated. The Office of Munitions Control, in consultation with the relevant U.S. Government agencies, will determine whether the interests of the United States Government are best served by expediting exports under an arrangement through an exemption. (See also paragraph (b)(3) of this section for a related exemption.);

(12) Technical data which is specifically exempt under Part 126 of this subchapter; or

(13) Technical data approved for public release (i.e., unlimited distribution) by the U.S. Government department or agency which originated or developed the information. This exemption is applicable to information approved by the cognizant U.S. Government department or agency for public release in any form (e.g., publications, speeches, conference papers, movies, etc.). It does not require that the information be published in order to qualify for the exemption.

§ 125.5 Exemptions for plant visits.

(a) A license is not required for the oral and visual disclosure of unclassified technical data during the course of a classified plant visit by a foreign person, provided (1) the classified visit has itself been authorized pursuant to a license issued by the Office of Munitions Control; or (2) the classified visit was approved in connection with an actual or potential government-to-government program or project by a U.S. Government agency having classification jurisdiction over the classified defense article or classified technical data involved under Executive Order 12356 or other applicable Executive Order; and (3) the unclassified information to be released is directly related to the classified defense article or technical data for which approval was obtained and does not disclose the details of the design, development, production or manufacture of any other defense articles. In the case of U.S. Government approved visits, the requirements of the Defense Industrial Security Manual (Department of Defense Manual 5220.22M) must be met.

(b) The approval of the Office of Munitions Control is not required for the disclosure of oral and visual classified information to a foreign person during the course of a plant visit approved by the appropriate U.S. Government agency if (1) the requirements of the Defense Industrial Security Manual have been met, (2) the classified information is directly related to that which was approved by the U.S. Government agency, (3) it does not exceed that for which approval was obtained, and (4) it does not disclose the details of the design, development, production or manufacture of any other defense articles.

(c) A license is not required for the documentary disclosure to a foreign person of unclassified technical data during the course of a plant visit (either classified or unclassified) approved by the Office of Munitions Control or a U.S. Government agency provided the documents do not contain technical data in excess of that approved for oral and visual disclosure. The documents must not contain technical data which could be used for design, development, production or manufacture of a defense article.

§ 125.6 Certification requirements.

To claim an exemption for the export of technical data under the provisions of § 125.4 and § 125.5, an exporter must certify that the proposed export is covered by a relevant paragraph of that section. This certification is not required if the technical data is only disclosed orally or visually. The certification referred to in this section consists of marking the package or letter containing the technical data: "22 CFR 125. (*identify subsection*) applicable" and identifying the specific paragraph under which the exemption is claimed. In the case of unclassified technical data, district directors of customs may require that the certification be made on a shipper's export declaration.

Procedures

§ 125.7 Exports of unclassified technical data.

(a) *General.* Unless an export is exempt from the licensing requirements of this subchapter, an application for the permanent export of unclassified technical data must be made to the Office of Munitions Control on Form DSP–5. If the technical data is to be returned to the United States, Form DSP–73 should be used instead. In the case of a visit, sufficient details of the proposed discussions must be transmitted for an adequate appraisal of the data. Seven copies of the data or the details of the discussions must be provided. Only one copy must be provided if a renewal of the license is requested.

(b) *Patents.* Requests for the filing of patent applications in a foreign country and requests for the filing of amendments, modifications or supplements to such patents must be directed to the U.S. Patent and Trademark Office in accordance with 37 CFR Part 5. If an applicant complies with the regulations of that office, the approval of the Office of Munitions Control is required only in the circumstance described in § 125.2(b). In such cases, an application must be submitted in accordance with the provisions of paragraph (a) of this section.

§ 125.8 Exports of classified technical data and classified defense articles.

All applications for the export or temporary import of classified technical data or classified defense articles must be submitted to the Office of Munitions Control on Form DSP–85. Applications will be accepted from U.S. nationals only. An application for the export of classified technical data must be accompanied by seven copies of the data and a completed Form DSP–83 (see § 123.10). An application for the export of classified defense articles must be accompanied by seven copies of descriptive information and a completed Form DSP–83. Only one copy of the data or descriptive literature must be provided if a renewal of the license is requested. All classified materials accompanying an application must be transmitted to the Office of Munitions Control in accordance with the requirements of section II of the Defense Industrial Security Manual (Department of Defense Manual Number 5220.22–M).

§ 125.9 Filing of licenses for exports of unclassified technical data.

Licenses for the export of unclassified technical data must be deposited with the appropriate district director of customs or postmaster at the time of shipment or mailing. The district director of customs or postmaster will endorse and transmit the licenses to the Office of Munitions Control in accordance with the instructions contained on the reverse side of the license. If a license for the export of unclassified technical data is used but not endorsed by U.S. Customs or a postmaster for whatever reason, the person exporting the data must self-endorse the license and return it promptly to the Office of Munitions Control.

§ 125.10 Filing of licenses for exports of classified technical data and classified defense articles.

Licenses for the export of classified technical data or classified defense articles will be forwarded by the Office of Munitions Control to the Defense Investigative Service of the Department of Defense in accordance with the provisions of the Department of Defense Industrial Security Manual. The Office of Munitions Control will forward a

copy of the license to the applicant for the applicant's information. The Defense Investigative Service will return the endorsed license to the Office of Munitions Control upon completion of the authorized export or expiration of the license, whichever occurs first.

PART 126—GENERAL POLICIES AND PROVISIONS

Sec.

126.1 Prohibited shipments to or from certain countries.
126.2 Temporary suspension or modification of this subchapter.
126.3 Waiver.
126.4 Shipments by or for United States Government agencies.
126.5 Canadian exemptions.
126.6 Foreign military aircraft and naval vessels, and the Foreign Military Sales program.
126.7 Denial, revocation, suspension or amendment of licenses and agreements.
126.8 Proposals to foreign persons relating to significant military equipment.
126.9 Advisory opinions.
126.10 Disclosure of information to the public.
126.11 Relation to other provisions of law.
126.12 Continuation in force.

Authority: Section 38, Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2778); 601, as amended, 47 Stat. 417 (31 U.S.C. 6a86); E.O. 11958 (42 FR 4311, January 18, 1977); E.O. 11322, 32 FR 119, 22 U.S.C. 2658.

§ 126.1 Prohibited shipments to or from certain countries.

(a) *General.* It is the policy of the United States to deny licenses and other approvals with respect to defense articles and defense services destined for or originating in certain countries or areas. This policy also applies to exports to and imports from these countries or areas. This policy applies to Albania, Bulgaria, Cuba, Czechoslovakia, East Germany, Estonia, Hungary, Kampuchea, Latvia, Lithuania, North Korea, Outer Mongolia, Poland, Rumania, the Soviet Union and Vietnam. This policy also applies to countries or areas with respect to which the United States maintains an arms embargo or whenever an export would not otherwise be in furtherance of world peace and the security and foreign policy of the United States. The exemptions provided in the regulations in this subchapter, except § 123.17 of this subchapter, do not apply with respect to exports to or originating in any of such proscribed countries or areas.

(b) *Shipments.* A defense article licensed for export under this subchapter may not be shipped on a vessel, aircraft or other means of conveyance which is owned or operated by, or leased to or from, any of the proscribed countries or areas.

§ 126.2 Temporary suspension or modification of this subchapter.

The Director, Office of Munitions Control, may order the temporary suspension or modification of any or all of the regulations of this subchapter in the interest of the security and foreign policy of the United States.

§ 126.3 Waiver.

In a case of exceptional or undue hardship, or when it is otherwise in the interest of the United States Government, the Director, Office of Munitions Control may make an exception to the provisions of this subchapter.

§ 126.4 Shipments by or for United States Government agencies.

(a) A license is not required for the export of any defense article or technical data by or for any agency of the U.S. Government (1) for official use by such an agency, or (2) for carrying out any foreign assistance, cooperative or sales program authorized by law and subject to control by the President by other means. This exemption applies only when all aspects of a transaction (export, carriage, and delivery abroad) are effected by a United States Government agency, or when the export is covered by a United States Government Bill of Lading. This exemption, however, does not apply when a U.S. Government agency acts as a transmittal agent on behalf of a private individual or firm, either as a convenience or in satisfaction of security requirements. The approval of the Office of Munitions Control must be obtained before defense articles exported pursuant to this exemption are permanently transferred to a foreign person (e.g., property disposal of surplus defense articles overseas) unless (i) the transfer is pursuant to a sale, lease, or loan under the Arms Export Control Act or the Foreign Assistance Act of 1961, as amended, or (ii) the defense articles have been rendered useless for military purposes beyond the possibility of restoration.

(b) This section does not authorize any department or agency of the U.S. Government to make any export which is otherwise prohibited by virtue of other administrative provisions or by any statute.

(c) A license is not required for the export of any defense article or technical data for end-use by a U.S. Government Agency under the following circumstances:

(1) The export is pursuant to a contract with, or written direction by, an agency of the U.S. Government; and

(2) The end-user is a U.S. Government agency or facility, and the defense articles or technical data will not be transferred to any foreign person; and

(3) The urgency of the U.S. Government requirement is such that the appropriate export license or U.S. Government Bill of Lading could not have been obtained in a timely manner. A written statement certifying that these requirements have been met will be presented at the time of export to the appropriate district director of customs or Department of Defense transmittal authority, and shall be provided to the Office of Munitions Control.

§ 126.5 Canadian exemptions.

(a) *General.* District directors of customs and postmasters may permit the export without a license of any unclassified defense article or any unclassified technical data to Canada for end-use in Canada or return to the United States, with the exception of the articles or technical data listed in paragraph (b) of this section.

(b) *Exceptions.* The exemptions of this section do not apply to the following articles and technical data:

(1) Fully automatic firearms in Category I(a) which are not for end-use by the Federal Government, or a Provincial or Municipal Government of Canada;

(2) Nuclear weapons strategic delivery systems and all components, parts, accessories, attachments specifically designed for such systems and associated equipment;

(3) Nuclear weapon design and test equipment listed in Category XVI;

(4) Naval nuclear propulsion equipment listed in Category VI(e);

(5) Aircraft listed in Category VIII(a);

(6) Submersible and oceanographic vessels and related articles listed in Category XX (a) through (e).

(c) *Related requirements.* The foregoing exemption from obtaining an export license does not exempt an exporter from complying with the requirements set forth in § 123.10(e) or from filing the shipper's export declaration required by § 123.25.

(d) *Part 124 agreements.* The requirements of Part 124 of this subchapter must be complied with in the situations contemplated in that Part. For example, the exemptions of this section may not be used for the manufacture in Canada of defense articles, except under the provisions of § 124.13.

§ 126.6 Foreign military aircraft and naval vessels, and the Foreign Military Sales program.

(a) *General.* A license is not required for the export of any defense article if:

(1) The article was sold, leased, or loaned by the Department of Defense to a foreign country or international organization pursuant to the Arms Export Control Act or the Foreign Assistance Act of 1961, as amended, and

(2) The article was delivered to representatives of such a country or organization in the United States; and

(3) The article is to be exported from the United States on a military aircraft or naval vessel of that government or organization.

(b) *Foreign military aircraft and naval vessels.* A license is not required for the entry into the United States of military aircraft of any foreign state if no overhaul, repair, or modification of the aircraft is to be performed. Department of State approval for overflight (pursuant to the 49 U.S.C. 1508) and naval visits must, however, be obtained.

(c) *Procedures for the Foreign Military Sales program.*

(1) *General.* District directors of customs are authorized to permit the export of unclassified defense articles, defense services, and technical data without a license if they were sold by the U.S. Department of Defense to foreign governments or international organizations under the Foreign Military Sales (FMS) program of the Arms Export Control Act. This procedure may be used only if a proposed export is:

(i) Pursuant to an executed U.S. Department of Defense Letter of Offer and Acceptance (DD Form 1513); and

(ii) Accompanied by a properly executed DSP–XX; and

(iii) Made by the relevant foreign diplomatic mission of the purchasing country or its authorized freight forwarder, provided that the freight forwarder is registered with the Office of Munitions Control pursuant to Part 122 of this subchapter.

(2) *Filing of documents.*

(i) The original copy of completed Form DSP–XX, together with one copy of the corresponding authenticated DD Form 1513 and a shipper's export declaration, must be filed with the District director of customs at the port of exit prior to actual shipment. An executed DD Form 1513 is one which has been signed by (A) an authorized Department of Defense representative and countersigned by the Comptroller, Defense Security Assistance Agency (DSAA), and (B) by an authorized representative of the foreign government, and which has been stamped:

Implemented *(date).*

(ii) *SED.* The shipper's export declaration must be annotated as follows:

This shipment is being exported under the authority of Department of State Form DSP–XX. It covers FMS Case *(case identification),* expiration date——. 22 CFR 126.6 applicable.

(iii) *Notification to the Office of Munitions Control.* Copy number two of the completed Form DSP–XX should be removed by the exporter and sent immediately, together with a copy of the applicable authenticated DD Form 1513 and the Shipper's export declaration, to the Office of Munitions Control. Form DSP–XX shall be valid for two years from the date on which it is executed.

§ 126.7 Denial, revocation, suspension, or amendment of licenses and agreements.

(a) *Policy.* An export license or a manufacturing license agreement or a technical assistance agreement may be disapproved and a previous approval or license or exemption under this subchapter may be revoked, suspended, or amended without prior notice whenever (1) the Department of State deems such action to be in furtherance of world peace, the national security or the foreign policy of the United States; or (2) whenever the Department of State believes that 22 U.S.C. 2778 or any regulation contained in this subchapter has been violated; or (3) whenever a party to the agreement has been debarred under § 127.6 of this subchapter; or (4) whenever an order of debarment or suspension has been made applicable to an applicant, licensee, or party to an approved or proposed agreement pursuant to Part 127 of this subchapter or pursuant to 15 CFR Part 388; or (5) whenever a person who has been debarred or suspended has a significant interest in the transaction.

(b) *Notification.* The Office of Munitions Control will notify applicants or licensees or other appropriate United States persons of actions taken pursuant to paragraph (a) of this section. The reasons for the action will be stated as specifically as security and foreign policy considerations permit.

(c) *Reconsideration.* If a written request for reconsideration of an adverse decision is made within 30 days after a person has been informed of the decision, the U.S. person will be accorded an opportunity to present additional information. The case will then be reviewed by the Office of Munitions Control.

§ 126.8 Proposals to foreign persons relating to significant military equipment.

(a) *General.* The approval of the Office of Munitions Control must be obtained before a proposal or presentation (with the exception of those listed in paragraph (g)) which has the following characteristics is made to any foreign person:

(1) The proposal or presentation is designed to constitute a basis for a decision on the part of the foreign person to either (i) purchase significant military equipment on the United States Munitions List pursuant to a contract for $14,000,000 or more; or (ii) enter into any manufacturing license agreement or technical assistance agreement for the production or assembly of significant military equipment; and

(2) The equipment is intended for use by the armed forces of a foreign country; and

(3) The sale or agreement would involve the export from the United States of any defense article or the furnishing of any defense service, including the furnishing of technical data.

(b) *Definition of "Proposal or Presentation".* The terms "proposal or presentation is designed to constitute a basis for a decision . . . to purchase" and "enter into any agreement" mean the communication of information in sufficient detail that the person communicating that information knows or should know that it would permit an intended purchaser to decide to either acquire the particular equipment in question or to enter into the manufacturing license agreement or technical assistance agreement. For example, a presentation which describes the equipment's performance characteristics, price, and probable availability for delivery would require prior approval in any case where the three criteria specified in paragraph (a) of this section are met. By contrast the following would not require prior approval: advertising or other reporting in a publication of general circulation; preliminary discussions to ascertain market potential; or merely calling attention to the fact that a company manufactures a particular item of significant military equipment.

(c) *Statement to accompany licensing requests.*

(1) Every application for an approval of an export license to implement a sale or agreement which meets the three criteria specified in paragraph (a) of this section must be accompanied by a statement from the applicant which either:

(i) Refers to a specific approval previously granted with respect to the transaction; or

(ii) Certifies that no proposal or presentation requiring prior approval has been made.

(2) The Department of State may require a similar statement from the Foreign Military Sales contractor concerned in any case where the United States Government receives a request for a letter of offer for a sale which meets the three criteria specified in paragraph (a) of this section.

(d) *Satisfaction of requirements.* The requirement of this section for prior approval is met by any of the following:

(1) A written statement from the Office of Munitions Control approving the proposed sale or agreement or approving the making of a proposal or presentation.

(2) A license issued under § 125.2 or § 125.3 for the export of technical data relating to the proposed sale or agreement to the country concerned.

(3) A temporary export license issued under § 123.27 relating to the proposed sale or agreement for a demonstration to the armed forces of the country of export.

(4) With respect to manufacturing license agreements or technical assistance agreements, the application for export licenses pursuant to the two preceding subparagraphs must state that they are related to possible agreements of this kind.

(e) *Penalties.* In addition to other remedies and penalties prescribed by law or this subchapter, a failure to obtain the approval required by paragraph (a) of this section may be considered to be a reason for disapproval of a license, agreement or sale under the Foreign Military Sales Program of the Department of Defense.

(f) *Procedures.* A request for an approval to make a proposal or presentation with respect to significant military equipment must be by letter to the Office of Munitions Control, unless a license has been obtained pursuant to § 126.8(d). The letter must outline in detail the intended transaction, including usage of the equipment involved and the country (or countries) involved. Seven copies of the letter should be provided as well as seven copies of suitable descriptive information concerning the equipment.

(g) *Exception.* The approval of the Office of Munitions Control is not required for purposes of paragraph (a) of this section if the proposed sale is to the armed forces of a member of NATO, Australia, Japan, or New Zealand. This exemption is not available with respect to manufacturing license agreements or technical assistance agreements.

§ 126.9 Advisory opinions.

A U.S. person desiring information as to whether the Office of Munitions Control would be likely to grant a license or other approval for the export of particular defense articles or defense services to a particular country may use the Office of Munitions Control's informal "Advisory Opinions" procedure. These opinions are advisory only. They are not binding on the Department of State and are revocable. A request for an advisory opinion must be by letter. It must outline in detail the equipment, its usage, the security classification, if any, of the articles or related technical data, and the country or countries involved. An original and seven copies of the letter must be provided along with seven copies of suitable descriptive information concerning the defense article or defense service. If a request for an advisory opinion involves more than one country, the letter should address only those countries in the same geographic area.

§ 126.10 Disclosure of information to the public.

(a) *General.* Subchapter R of this Title of CFR contains regulations on the availability to the public of information and records of the Department of State. The provisions of Subchapter R apply to such disclosures by the Office of Munitions Control.

(b) *Determinations required by law.* Section 38 of the Arms Export Control Act (22 U.S.C. 2778) provides that certain information required by the Department of State in connection with the licensing process may generally not be disclosed to the public unless certain determinations relating to the national interest are made in accordance with the procedures specified by that provision. Any determinations required by section 38(e) shall be made by the Under Secretary for Security Assistance, Science, and Technology.

(c) *Information required under Part 130.* Part 130 of this subchapter contains specific provisions on the disclosure of information described in that Part.

§ 126.11 Relation to other provisions of law.

The provisions in this subchapter are in addition to, and are not in lieu of, any other provisions of law or regulations. The sale of firearms in the United States, for example, remains subject to the provisions of the Gun Control Act of 1968 and regulations administered by the Department of the Treasury. The performance of defense services on behalf of foreign governments by retired military personnel continues to require consent pursuant to Part 3a of this Title. Persons who intend to export defense articles or furnish defense services should consequently not assume that satisfying the requirements of this subchapter relieves one of other requirements of law.

§ 126.12 Continuation in force.

All determinations, authorizations, licenses, approvals of contracts and agreements and other action issued, authorized, undertaken, or entered into by the Department of State pursuant to section 414 of the Mutual Security Act of 1954, as amended, or under the previous provisions of this subchapter, continue in full force and effect until or unless modified, revoked or superseded by the Department of State.

PART 127—VIOLATIONS AND PENALTIES

Sec.

127.1 Violations in general.
127.2 Misrepresentation and omission of facts.
127.3 Penalties for violations.
127.4 Authority of U.S. Customs Service officers.
127.5 Seizure and forfeiture in attempts at illegal exports.
127.6 Debarment.
127.7 Interim suspension.
127.8 Applicability of orders.
127.9 Civil penalty.

Authority: Section 38, Arms Export Control Act, 90 Stat. 744 (22. U.S.C. 2778); 601, as amended, 47 Stat. 417 (31 U.S.C. 686); E.O. 11958, 42 FR 4311, 22 U.S.C. 401; 22 U.S.C. 2658.

§ 127.1 Violations in general.

(a) It is unlawful (1) to export or attempt to export from the United States any defense article or technical data or to furnish any defense service for which a license or written approval is required by this subchapter; (2) to import or attempt to import any defense article whenever a license is required by this subchapter without first obtaining the required license or written approval from the Department of State; or (3) to violate any of the terms or conditions of licenses or approvals granted pursuant to this subchapter.

(b) Any person who is granted a license or other approval under this subchapter is responsible for the acts of employees, agents, and all authorized persons to whom possession of the licensed defense articles or technical data has been entrusted regarding the operation, use, possession, transportation, and handling of such defense articles or technical data abroad. All persons abroad subject to U.S. jurisdiction who obtain temporary

custody of a defense article exported from the United States or produced under an agreement described in Part 124 of this subchapter, and irrespective of the number of intermediate transfers, are bound by the regulations of this subchapter in the same manner and to the same extent as the original owner-transferor.

(c) A person with knowledge that another person is then subject to an order of debarment, or interim suspension, may not, directly or indirectly, in any manner or capacity, without prior disclosure of the facts to, and written authorization of, the Office of Munitions Control:

(1) Apply for, obtain, or use any export control document as defined in § 127.2(b) for such debarred or suspended person; or

(2) Order, buy, receive, use, sell, deliver, store, dispose of, forward transport, finance, or otherwise service or participate in any transaction which may involve any defense article or technical data or the furnishing of any defense service for which a license or approval is required by this subchapter for export from the United States, where such debarred or suspended person may obtain any benefit therefrom or have any direct or indirect interest therein.

(d) No person may willfully cause, or aid, abet, counsel, demand, induce, procure or permit the commission of any act prohibited by, or the omission of any act required by 22 U.S.C. 2778, 22 U.S.C. 2779, or any regulation, license, approval, or order issued thereunder.

§ 127.2 Misrepresentation and omission of facts.

(a) It is unlawful to use any export or intransit control document containing a false statement or misrepresenting or omitting a material fact for the purpose of exporting any defense article or technical data or the furnishing of any defense service for which a license or approval is required by this subchapter. Any false statement, misrepresentation, or omission of material fact in an export or intransit control document will be considered as made in a matter within the jurisdiction of a department or agency of the United States for the purposes of 18 U.S.C. 1001, 22 U.S.C. 2778 and 22 U.S.C. 2779.

(b) For the purpose of this section, "export or intransit control documents" include the following:

(1) An application for a permanent export or an intransit license and supporting documents.

(2) Shipper's export declaration.

(3) Invoice.

(4) Declaration of destination.

(5) Delivery verification.

(6) Application for temporary export.

(7) Application for registration.

(8) Purchase order.

(9) Foreign import certificate.

(10) Bill-of-lading.

(11) Air waybill.

(12) Nontransfer and Use Certificate.

(13) Any other document used in the regulation or control of defense articles, defense services and technical data for which license or approval is required by this subchapter.

§ 127.3 Penalties for violations.

Any person who willfully:

(a) Violates any provision of section 38 or section 39 of the Arms Export Control Act (22 U.S.C. 2778 and 2779), or any undertaking specifically required by Part 124 of this subchapter; or

(b) In a registration, license application or report required by section 38 or section 39 of the Arms Export Control Act (22 U.S.C. 2778 and 2779) or by any rule or regulation issued under either section, makes any untrue statement of a material fact or omits a material fact required to be stated therein or necessary to make the statements therein not misleading, shall, upon conviction, be subject to fine or imprisonment, or both, as prescribed by 22 U.S.C. 2778(c).

§ 127.4 Authority of U.S. Customs Service officers.

(a) U.S. Customs Service officers may take appropriate action to ensure observance of this subchapter as to the export or the attempted export of any defense article or technical data, including the inspection of loading or unloading of any vessel, vehicle, or aircraft. This applies whether the export is authorized by license or by written approval issued under this subchapter.

(b) Upon the presentation to a customs officer of a license or written approval authorizing the export of any defense article, the customs officer may require the production of other relevant documents and information relating to the proposed export. This includes an invoice, order, packing list, shipping document, correspondence, instructions, and the documents otherwise required by the U.S. Customs Service.

§ 127.5 Seizure and forfeiture in attempts at illegal exports.

(a) An attempt to export from the United States any defense articles in violation of the provisions of this subchapter constitutes an offense punishable under section 401 of Title 22 of the United States Code. Whenever it is known or there is probable cause to believe that any defense article is intended to be or is being or has been exported or removed from the United States in violation of law, such article and any vessel, vehicle or aircraft involved in such attempt is subject to seizure, forfeiture and disposition as provided in section 401 of Title 22 of the United States Code.

(b) Similarly, an attempt to violate any of the conditions under which a Temporary Export or Intransit License was issued pursuant to this subchapter or to violate the requirements of § 123.2 also constitutes an offense punishable under section 401 of Title 22 of the United States Code, and such article, together with any vessel, vehicle or aircraft involved in any such attempt is subject to seizure, forfeiture, and disposition as provided in section 401 of Title 22 of the United States Code.

§ 127.6 Debarment.

(a) The Director, Bureau of Politico-Military Affairs, Department of State may debar (i.e., prohibit) any person from participating directly or indirectly in the export of defense articles or technical data or in the furnishing of defense services for which a license or approval is required by this subchapter for any of the causes listed below. The following are causes for debarment:

(1) Conviction of a criminal offense as defined in § 127.3.

(2) Any violation of 22 U.S.C. 2778 or any rule or regulation issued thereunder when such a violation is of such character as to provide a reasonable basis to believe and determine that the violator cannot be relied upon to comply with the statute, rules, or regulations in the future, and when such violation is established in accordance with §§ 128.2–128.16 of this chapter.

(3) A decision by the Office of Export Administration of the International Trade Administration of the Department of Commerce to deny, suspend, or revoke export privileges to the person under 15 CFR Part 388 and the Export Administration Act of 1979, as amended, or to exclude the person from practice before the International Trade Administration under 15 CFR 390.2 and under the Export Administration Act of 1979, as amended, whenever the facts provide a reasonable basis for concluding that the person cannot be relied upon to comply in the future with 22 U.S.C. 2778 or with the rules or regulations issued thereunder.

(b) A person who has been debarred for more than 12 months may petition the Hearing Commissioner to vacate or modify the order of debarment. The petition must be filed with the Hearing Commissioner, and a copy simultaneously filed with the Office of

Munitions Control. At his or her discretion, the Hearing Commissioner may require the submission of evidence and arguments, oral or written or both. The Hearing Commissioner, after considering the petition and any evidence and arguments with respect thereto, shall at the earliest practicable date submit a report and recommendations to the Director, Bureau of Politico-Military Affairs, Department of State. The Director may issue an appropriate order disposing of the petition and the moving party will be informed.

§ 127.7 Interim suspension.

(a) The Director of the Office of Munitions Control is authorized to order the interim suspension of any person when the Director believes that grounds for debarment (as defined in § 127.6) exist and where and to the extent the Director finds that the interim suspension is reasonably necessary to protect world peace or the security or foreign policy of the United States, pending the final disposition of debarment proceedings. The interim suspension orders prohibit that person from participating directly or indirectly in the export of any defense article for which a license or approval is required by this subchapter. The suspended person shall be sent a charging letter as provided in § 128.3 of this subchapter. A copy of the interim suspension order will be served upon that person in the same manner as provided in § 128.3. The interim suspension order may be made effective immediately, without prior notice or hearing. The order will briefly recite the relevant facts, state the grounds for issuance of the order, and describe the nature and duration of the interim suspension. No person may be suspended for a period exceeding 60 days unless proceedings under §§ 128.2 through 128.16 of this subchapter or criminal proceedings are initiated before the expiration of that period.

(b) A motion or petition to vacate or modify an interim suspension order may be filed at any time with the Hearing Commissioner. A copy shall be filed with the Office of Munitions Control. An oral hearing, if requested, will be held before the Hearing Commissioner at the earliest practicable date. The Hearing Commissioner, after considering the assembled record, will submit a report and recommendations to the Director, Bureau of Politico-Military Affairs, Department of State. The Director will issue an appropriate order disposing of the motion or petition and will promptly inform the respondent accordingly.

(c) Except for the particular application or license which is itself the basis of any investigation or proceeding, no license application filed by any person may be returned without action, held without action, or rejected, solely because such person is under investigation, or because proceedings against that person are pending, other than in accordance with the terms of an interim suspension order issued under § 127.7(a).

§ 127.8 Applicability of orders.

For the purpose of preventing evasion, orders of the Director, Bureau of Politico-Military Affairs, debarring a person under § 127.6 and orders of the Director, Office of Munitions Control, suspending a person under § 127.7 may be made applicable to any other person who may then or thereafter (during the term of the order) be related to the debarred person by affiliation, ownership, control, position of responsibility, or other commercial connection. Appropriate notice and opportunity to respond to charges will be given.

§ 127.9 Civil penalty.

(a) The Director, Bureau of Politico-Military Affairs, Department of State is authorized to impose a civil penalty in an amount not to exceed that authorized by 50 U.S.C. Appendix 2410(c) for each violation of 22 U.S.C. 2778, or any regulation, order, license or approval issued thereunder. This civil penalty may be either in addition to, or in lieu of, any other liability or penalty which may be imposed.

(b) The Office of Munitions Control may make the payment of a civil penalty under this section a prior condition for the issuance, restoration, or continuing validity of any export license.

PART 128—ADMINISTRATIVE PROCEDURES

Sec.

128.1 Exclusion of functions from the Administrative Procedure Act.
128.2 Presiding Official.
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128.5 Answer and demand for oral hearing.
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128.12 Rehearings.
128.13 Appeals.
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128.15 Orders containing probationary periods.
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Authority: Section 38, Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2778); 601, as amended, 47 Stat. 417 (31 U.S.C. 686); E.O. 11958, 42 FR 4311; 22 U.S.C. 2658; E.O. 12291, 46 FR 1981.

§ 128.1 Exclusion of functions from the Administrative Procedure Act.

The functions conferred by section 38 of the Arms Export Control Act are excluded from 5 U.S.C. 553 and 554.

§ 128.2 Presiding Official.

The Presiding Official referred to in this Part is the Presiding Official of the International Trade Administration of the Department of Commerce, as provided in 15 CFR 388.2. The Presiding Official is authorized to exercise the powers and perform the duties provided for in §§ 127.6, 127.7 and 128.3 through 128.16.

§ 128.3 Institution of administrative proceedings.

(a) *Charging letters.* The Director, Office of Munitions Control, with the concurrence of the Office of the Legal Adviser, Department of State, may initiate debarment proceedings in accordance with § 127.6 of this subchapter or civil penalties in accordance with 127.9 of this subchapter. Administrative proceedings shall be initiated by means of a charging letter. The charging letter will state the essential facts constituting the alleged violation and refer to the regulatory or other provisions involved. It will give notice that if the respondent is found to have committed the alleged violation, he or she may be prohibited from participating in the export of any defense article or technical data or in the furnishing of any defense service, for which a license or approval is required by this subchapter, or that civil penalties may be imposed. The charging letter will require the respondent to answer the charges within 30 days, as provided in § 128.5(a), and indicate that a failure to answer will be taken as an admission of the truth of the charges. It will inform the respondent that he or she is entitled to an oral hearing if a written demand for one is filed with the answer or within 7 days after service of the answer. The respondent will also be informed that he or she may, if so desired, be represented by counsel of his or her choosing. Charging letters may be amended from time to time, upon reasonable notice.

(b) *Service.* A charging letter is served upon a respondent:

(1) If the respondent is a resident of the United States, when it is mailed postage pre-paid in a wrapper addressed to the respondent at his or

her last known address; or when left with the respondent or the agent or employee of the respondent; or when left at the respondent's dwelling with some person of suitable age and discretion then residing herein; or

(2) If the respondent is a non-resident of the United States, when served upon the respondent by any of the foregoing means. If such methods of service are not practicable or appropriate, the charging letter may be tendered for service on the respondent to an official of the government of the country wherein the respondent resides, provided that there is an agreement or understanding between the United States Government and the government of the country wherein the respondent resides permitting this action.

§ 128.4 Default.

(a) *Failure to answer.* If the respondent fails to answer the charging letter, the respondent may be held in default. The case shall then be referred to the Presiding Official for consideration in a manner as the Presiding Official may consider appropriate. Any order issued shall have the same effect as an order issued following the disposition of contested charges.

(b) *Petition to set aside defaults.* Upon showing good cause, any respondent against whom a default order has been issued may apply to set aside the default and vacate the order entered thereon. The petition shall be submitted in duplicate to the Director, Bureau of Politico-Military Affairs, U.S. Department of State, 2201 C Street, N.W., Washington, D.C. 20520. The Director will refer the petition to the Presiding Official for consideration and a recommendation. The Presiding Official will consider the application and may order a hearing and require the respondent to submit further evidence in support of his or her petition. The filing of a petition to set aside a default does not in any manner affect an order entered upon default and such order continues in full force and effect unless a further order is made modifying or terminating it.

§ 128.5 Answer and demand for oral hearing.

(a) *When to answer.* The respondent is required to answer the charging letter within 30 days after service.

(b) *Contents of answer.* An answer must be responsive to the charging letter. It must fully set forth the nature of the respondent's defense or defenses. In the answer, the respondent must admit or deny specifically each separate allegation of the charging letter, unless the respondent is without knowledge, in which case the respondent's answer shall so state and the statement shall operate as a denial. Failure to deny or controvert any particular allegation will be deemed an admission thereof. The answer may set forth such additional or new matter as the respondent believes supports a defense or claim of mitigation. Any defense or partial defense not specifically set forth in an answer shall be deemed waived. Evidence offered thereon by the respondent at a hearing may be refused except upon good cause being shown. If the respondent does not demand an oral hearing, he or she shall transmit, within 7 days after the service of his or her answer, original or photocopies of all correspondence, papers, records, affidavits, and other documentary or written evidence having any bearing upon or connection with the matters in issue. If any such materials are in a language other than English, translations into English shall be submitted at the same time.

(c) *Submission of answer.* The answer, written demand for oral hearing (if any) and supporting evidence required by § 128.5(b) shall be in duplicate and mailed or delivered to the Office of EAR Administrative Proceedings, United States Department of Commerce, Room 3810, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. A copy shall be simultaneously mailed or delivered to the Director, Office of Munitions Control, Department of State, Washington, D.C. 20520.

§ 128.6 Discovery.

(a) *Discovery by the respondent.* The respondent, through the Presiding Official, may request from the Office of Munitions Control any relevant information, not privileged, that may be necessary or helpful in preparing a defense. The Office of Munitions Control may supply summaries in place of original documents and may withhold information from discovery if the interests of national security so require, or if necessary to comply with any statute, executive order or regulation requiring that the information not be disclosed. The respondent may request the Presiding Officer to request any relevant information, books, records, or other evidence, from any other person or government agency so long as the request is reasonable in scope and not unduly burdensome.

(b) *Discovery by the Office of Munitions Control.* The Office of Munitions Control or the Presiding Official may request from the respondent admissions of facts, answers to interrogatories, the production of books, records, or other relevant evidence, so long as the request is relevant and material, reasonable in scope, and not unduly burdensome.

(c) *Subpoenas.* At the request of any party, the Presiding Official may issue subpoenas, returnable before him, requiring the attendance of witnesses and the production of books, records, and other documentary or physical evidence determined by the Presiding Official to be relevant and material to the proceedings, reasonable in scope, and not unduly burdensome.

(d) *Enforcement of discovery rights.* If the Office of Munitions Control fails to provide the respondent with information in its possession which is not otherwise available and which is necessary to the respondent's defense, the Presiding Official may dismiss the charges on her or his own motion or on a motion of the respondent. If the respondent fails to respond with reasonable diligence to the requests for discovery by the Office of Munitions Control or the Presiding Official, on her or his own motion or motion of the Office of Munitions Control, and upon such notice to the respondent as the Presiding Official may direct, may strike respondent's answer and declare the respondent in default, or make any other ruling which the Presiding Official deems necessary and just under the circumstances. If a third party fails to respond to the request for information, the Presiding Official shall consider whether the evidence sought is necessary to a fair hearing, and if it is so necessary that a fair hearing may not be held without it, the Presiding Official shall dismiss the charges.

§ 128.7 Prehearing conference.

(a) The Presiding Official may, upon his own motion or upon motion of any party, request the parties or their counsel to a prehearing conference to consider (1) simplification of issues; (2) the necessity or desirability of amendments to pleadings; (3) obtaining stipulations of fact and of documents to avoid unnecessary proof; or (4) such other matter as may expedite the disposition of the proceeding. The Presiding Official will prepare a summary of the action agreed upon or taken at the conference, and will incorporate therein any written stipulations or agreements made by the parties. The conference proceedings may be recorded magnetically or taken by a reporter and transcribed, and filed with the Presiding Official.

(b) If a conference is impracticable, the Presiding Official may request the parties to correspond with him or her to

achieve the purposes of a conference. The Presiding Official shall prepare a summary of action taken as in the case of a conference.

§ 128.8 Hearings.

(a) A respondent who had not filed a timely written answer is not entitled to a hearing, and the case may be considered by the Presiding Official as provided in § 128.4(a). If an answer is filed, but no oral hearing demanded, the Presiding Official may proceed to consider the case upon the written pleadings and evidence available. The Presiding Official may provide for the making of the record in such manner as the Presiding Official deems appropriate. If respondent answers and demands an oral hearing, the Presiding Official, upon due notice, shall set the case for hearing, unless a respondent has raised in his answer no issues of material fact to be determined. If respondent fails to appear at a scheduled hearing, the hearing nevertheless may proceed in respondent's absence. The respondent's failure to appear will not affect the validity of the hearing or any proceedings or action thereafter.

(b) Hearings will be conducted by the Presiding Official in a fair and impartial manner. The rules of evidence prevailing in courts of law do not apply, but all evidentiary material relevant and material to the inquiry will be received and given appropriate weight. Diligent effort shall be made to declassify or to secure unclassified summaries or extracts of classified materials, when not contrary to any statute or security regulation. The Presiding Official will compare an unclassified summary or extract with the related classified materials. If he finds that the summary or extract is supported by the classified materials and omits only so much as remains classified, he may admit the unclassified summary or extract as part of the record, to the extent that such summary or extract is relevant and material. The respondent may submit evidence in explanation or contradiction thereof. The respondent is not entitled to inspect classified materials.

(c) The Presiding Official may administer oaths and affirmations. Respondent may be represented by counsel. Unless otherwise agreed by the parties and the Presiding Official, the proceeding will be taken by a reporter or by magnetic recording, transcribed, and filed with the Presiding Official. Respondent may examine the transcript and may obtain a copy upon payment of proper costs.

§ 128.9 Proceedings before and report of Presiding Official.

(a) The Presiding Official may conform any part of the proceedings before him or her to the Federal Rules of Civil Procedure. The record may be made available in any other administrative or other proceeding involving the same respondent.

(b) The Presiding Official, after considering the record, will prepare a written report. The report will include findings of fact, findings of law, a finding whether a law or regulation has been violated, and the Presiding Official's recommendations. It shall be transmitted to the Director, Bureau of Politico-Military Affairs, Department of State.

§ 128.10 Disposition of proceedings.

Where the evidence is not sufficient to support the charges, the Director, Office of Munitions Control or the Presiding Official will dismiss the charges. Where the Presiding Official finds that a violation has been committed, the Presiding Official's recommendation shall be advisory only. The Director, Bureau of Politico-Military Affairs will review the record, consider the report of the Presiding Official, and make an appropriate disposition of the case. The Director may issue an order debarring the respondent from participating in the export of defense articles or technical data or the furnishing of defense services as provided in § 127.6 of this subchapter, impose a civil penalty as provided in § 127.9 of this chapter or take such other action as the Presiding Official deems appropriate. Any debarment order will be effective for the period of time specified therein and may contain such additional terms and conditions as are deemed appropriate. A copy of the order together with a copy of the Presiding Official's report will be served upon the respondent.

§ 128.11 Consent agreements.

(a) The Office of Munitions Control and the respondent may, by agreement, submit to the Presiding Official a proposal for the issuance of a consent order. The Presiding Official will review the facts of the case and the proposal and may conduct conferences with the parties and may require the presentation of evidence in the case. If the Presiding Official does not approve the proposal, the Presiding Official will notify the parties and the case will proceed as though no consent proposal had been made. If the proposal is approved, the Presiding Official will report the facts of the case along with recommendations to the Director, Bureau of Politico-Military Affairs. If the Director does not approve the proposal, the case will proceed as though no consent proposal had been made. If the Director approves the proposal, an appropriate order may be issued.

(b) Cases may also be settled prior to service of a charging letter. In such an event, a proposed charging letter shall be prepared, and a consent agreement and order shall be submitted for the approval and signature of the Director, Bureau of Politico-Military Affairs, and no action by the Presiding Official shall be required. Cases which are settled may not be reopened or appealed.

§ 128.12 Rehearings.

The Presiding Official may grant a rehearing or reopen a proceeding at any time for the purpose of hearing any relevant and material evidence which was not known or obtainable at the time of the original hearing. A report for rehearing or reopening must contain a summary of such evidence, and must explain the reasons why it could not have been presented at the original hearing. The Presiding Official will inform the parties of any further hearing, and will conduct such hearing and submit a report and recommendations in the same manner as provided for the original proceeding (described in § 128.10).

§ 128.13 Appeals.

(a) *Filing of appeals.* An appeal must be in writing, and be addressed to and filed with the Under Secretary of State for Security Assistance, Science and Technology, Department of State, Washington, D.C. 20520. An appeal from a final order denying export privileges or imposing civil penalties must be filed within 30 days after receipt of a copy of the order. If the Under Secretary cannot for any reason act on the appeal, he or she may designate another Department of State official to receive and act on the appeal.

(b) *Grounds and conditions for appeal.* The respondent may appeal from a debarment or from the imposition of a civil penalty (except the imposition of civil penalties pursuant to a consent order pursuant to § 128.11) upon the ground: (1) That the findings of a violation are not supported by any substantial evidence; (2) that a prejudicial error of law was committed; or (3) that the provisions of the order are arbitrary, capricious, or an abuse of discretion. The appeal must specify upon which of these grounds the appeal is based and must indicate from which provisions of the order the appeal is taken. An appeal from an order issued upon default will not be entertained if

the respondent has failed to seek relief as provided in § 128.4(b).

(c) *Matters considered on appeal.* An appeal will be considered upon the basis of the assembled record. This record consists of (but is not limited to) the charging letter, the respondent's answer, the transcript or magnetic recording of the hearing before the Presiding Official, the report of the Presiding Official, the order of the Director, Bureau of Politico-Military Affairs, and any other relevant documents involved in the proceedings before the Presiding Official. The Under Secretary for Security Assistance, Science and Technology may direct a rehearing and reopening before the Presiding Official if he or she finds that the record is insufficient or that new evidence is relevant and material to the issues and was not known and was not available to the respondent at the time of the original hearings.

(d) *Effect of appeals.* The taking of an appeal will not stay the operation of any order.

(e) *Preparation of appeals.*

(1) General requirements. An appeal shall be in letter form. The appeal and accompanying material should be filed in duplicate, unless otherwise indicated, and a copy simultaneously mailed or delivered to the Director, Office of Munitions Control, Department of State, Washington, D.C. 20520.

(2) Oral presentation. The Under Secretary for Security Assistance, Science and Technology may grant the appellant an opportunity for oral argument and will set the time and place for oral argument and will notify the parties, ordinarily at least 10 days before the date set.

(f) *Decisions.* All appeals will be considered and decided within a reasonable time after they are filed. An appeal may be granted or denied in whole or in part, or dismissed at the request of the appellant. The decision of the Under Secretary for Security Assistance, Science and Technology will be final.

§ 128.14 Confidentiality of proceedings.

Proceedings under this Part are confidential. The documents referred to in § 128.17 are not, however, deemed to be confidential. Reports of the Presiding Official and copies of transcripts or recordings of hearings will be available to parties and, to the extent of their own testimony, to witnesses. All records are available to any U.S. Government agency showing a proper interest therein.

§ 128.15 Orders containing probationary periods.

(a) *Revocation of probationary periods.* A debarment or interim suspension order may set a probationary period during which the order may be held in abeyance for all or part of the debarment or suspension period, subject to the conditions stated therein. The Director, Office of Munitions Control, may apply, without notice to any person to be affected thereby, to the Presiding Official for an order revoking probation when it appears that the conditions of the probation have been breached. The facts in support of the application will be presented to the Presiding Official, who will report thereon and make a recommendation to the Director, Bureau of Politico-Military Affairs. The latter will make a determination whether to revoke probation and will issue an appropriate order.

(b) *Hearing.*

(1) Objections upon notice. Any person affected by an application upon notice to revoke probation, within the time specified in the notice, may file objections with the Presiding Official.

(2) Objections to order without notice. Any person adversely affected by an order revoking probation, without notice may request that the order be set aside by filing his objections thereto with the Presiding Official. The request will not stay the effective date of the order or revocation.

(3) Requirements for filing objections. Objections filed with the Presiding Official must be submitted in writing and in duplicate. A copy must be simultaneously submitted to the Office of Munitions Control. Denials and admissions, as well as any mitigating circumstances, which the person affected intends to present must be set forth in or accompany the letter of objection and must be supported by evidence. A request for an oral hearing may be made at the time of filing objections.

(4) Determination. The application and objections thereto will be referred to the Presiding Official. An oral hearing, if requested, will be conducted at an early convenient date, unless the objections filed raise no issues of material fact to be determined. The Presiding Official will report the facts and make a recommendation to the Director, Bureau of Politico-Military Affairs, who will determine whether the application should be granted or denied and will issue an appropriate order. A copy of the order and of the Presiding Official's report will be furnished to any person affected thereby.

(c) *Effect of revocation on other actions.* The revocation of a probationary period will not preclude any other action concerning a further violation, even where revocation is based on the further violation.

§ 128.16 Extension of time.

The Presiding Official, for good cause shown, may extend the time within which to prepare and submit an answer to a charging letter or to perform any other act required by Part 128 of this subchapter.

§ 128.17 Availability of orders.

All charging letters, debarment orders, orders imposing civil penalties, probationary periods, and interim suspension orders are available for public inspection in the Public Reading Room of the Department of State.

PART 129—[RESERVED]

PART 130—POLITICAL CONTRIBUTIONS, FEES, AND COMMISSIONS

Sec.

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Authority: Sec. 39, Arms Export Control Act, 90 Stat. 767 (22 U.S.C. 2779); EO 11958, 42 FR 4311; 22 U.S.C. 2658.

§ 130.1 Purpose.

Section 39(a) of the Arms Export Control Act (22 U.S.C. 2779) provides that the Secretary of State shall prescribe regulations with respect to reporting on certain payments relating to sales of defense articles and defense services. The provisions of this Part implement this requirement. Definitions

which apply to this Part are contained in §§ 130.2 through 130.8.

Definitions

§ 130.2 Applicant.

"Applicant" means any person who applies to the Office of Munitions Control for any license or approval required under this subchapter for the export of defense articles or defense services valued in an amount of $250,000 or more which are being sold commercially to or for the use of the armed forces of a foreign country or international organization. This term also includes a person to whom the required license or approval has been given.

§ 130.3 Armed forces.

"Armed forces" means the army, navy, marine, air force, or coast guard, as well as the national guard and national police, of a foreign country. This term also includes any military unit or military personnel organized under or assigned to an international organization.

§ 130.4 Defense articles and defense services.

"Defense articles" and "defense services" have the meaning given those terms in paragraphs (3), (4) and (7) of section 47 of the Arms Export Control Act (22 U.S.C. 2794 (3), (4), (7)). When used with reference to commercial sales, the definitions in § 120.7 and 120.8 apply.

§ 130.5 Fee or commission.

(a) "Fee or commission" means, except as provided in paragraph (a)(1) of this section, any loan, gift, donation or other payment of $1,000 or more made, or offered or agreed to be made directly or indirectly, whether in cash or in kind, and whether or not pursuant to a written contract, which is:

(1) To or at the direction of any person, irrespective of nationality, whether or not employed by or affiliated with an applicant, a supplier or a vendor; and

(2) For the solicitation or promotion or otherwise to secure the conclusion of a sale of defense articles or defense services to or for the use of the armed forces of a foreign country or international organization.

(b) The term "fee or commission" does not include:

(1) A political contribution or a payment excluded by § 130.6 from the definition of political contribution;

(2) A normal salary (excluding contingent compensation) established at an annual rate and paid to a regular employee of an applicant, supplier or vendor;

(3) General advertising or promotional expenses not directed to any particular sale or purchaser; or

(4) Payments made, or offered or agreed to be made, solely for the purchase by an applicant, supplier or vendor of specific goods or technical, operational or advisory services, which payments are not disproportionate in amount with the value of the specific goods or services actually furnished.

§ 130.6 Political contribution.

"Political contribution" means any loan, gift, donation or other payment of $1,000 or more made, or offered or agreed to be made, directly or indirectly, whether in cash or in kind, which is:

(a) To or for the benefit of, or at the direction of, any foreign candidate, committee, political party, political faction, or government or governmental subdivision, or any individual elected, appointed or otherwise designated as an employee or officer thereof; and

(b) For the solicitation or promotion or otherwise to secure the conclusion of a sale of defense articles or defense services to or for the use of the armed forces of a foreign country or international organization. Taxes, customs duties, license fees, and other charges required to be paid by applicable law or regulation are not regarded as political contributions.

§ 130.7 Supplier.

"Supplier" means any person who enters into a contract with the Department of Defense for the sale of defense articles or defense services valued in an amount of $250,000 or more under section 22 of the Arms Export Control Act (22 U.S.C. 2762).

§ 130.8 Vendor.

"Vendor" means any distributor or manufacturer who, directly or indirectly, furnishes to an applicant or supplier defense articles valued in an amount of $250,000 or more which are end-items or major components as defined in § 121.8. It also means any person who, directly or indirectly, furnishes to an applicant or supplier defense articles or services valued in an amount of $250,000 or more when such articles or services are to be delivered (or incorporated in defense articles or defense services to be delivered) to or for the use of the armed forces of a foreign country or international organization under:

(a) A sale requiring a license or approval from the Office of Munitions Control under this subchapter; or

(b) A sale pursuant to a contract with the Department of Defense under section 22 of the Arms Export Control Act (22 U.S.C. 2762).

Procedures

§ 130.9 Obligation to furnish information to the Office of Munitions Control.

(a)(1) Each applicant must inform the Office of Munitions Control as to whether applicant or its vendors have paid, or offered or agreed to pay, in respect of any sale for which a license or approval is requested:

(i) Political contributions in an aggregate amount of $5,000 or more, or

(ii) Fees or commissions in an aggregate amount of $100,000 or more.

If so, applicant must furnish to the Office of Munitions Control the information specified in § 130.10. The furnishing of such information or an explanation satisfactory to the Director of the Office of Munitions Control as to why all the information cannot be furnished at that time is a condition precedent to the granting of the relevant license or approval.

(2) The requirements of this paragraph do not apply in the case of an application with respect to a sale for which all the information specified in § 130.10 which is required by this section to be reported shall already have been furnished.

(b) Each supplier must inform the Office of Munitions Control as to whether the supplier or its vendors have paid, or offered or agreed to pay, in respect of any sale:

(1) Political contributions in an aggregate amount of $5,000 or more, or

(2) Fees or commissions in an aggregate amount of $100,000 or more.

If so, supplier must furnish to the Office of Munitions Control the information specified in § 130.10. The information required to be furnished pursuant to this paragraph must be so furnished no later than 30 days after the contract award to such supplier, or such earlier date as may be specified by the Department of Defense. For purposes of this paragraph, a contract award includes a purchase order, exercise of an option, or other procurement action requiring a supplier to furnish defense articles or defense services to the Department of Defense for the purposes of section 22 of the Arms Export Control Act (22 U.S.C. 2762).

(c) In determining whether an applicant or its vendors, or a supplier or its vendors, as the case may be, have paid, or offered or agreed to pay, political contributions in an aggregate amount of $5,000 or more in respect of any sale so as to require a report under this section, there must be included in

the computation of such aggregate amount any political contributions in respect of the sale which are paid by or on behalf of, or at the direction of, any person to whom the applicant, supplier or vendor has paid, or offered or agreed to pay, a fee or commission in respect of the sale. Any such political contributions are deemed for purposes of this part to be political contributions by the applicant, supplier or vendor who paid or offered or agreed to pay the fee or commission.

(d) Any applicant or supplier which has informed the Office of Munitions Control under this section that neither it nor its vendors have paid, or offered or agreed to pay, political contributions or fees or commissions in an aggregate amount requiring the information specified in § 130.10 to be furnished, must subsequently furnish such information within 30 days after learning that it or its vendors had paid, or offered or agreed to pay, political contributions or fees or commissions in respect of a sale in an aggregate amount which, if known to applicant or supplier at the time of its previous communication with the Office of Munitions Control, would have required the furnishing of information under § 130.10 at that time. Any report furnished under this paragraph must, in addition to the information specified in § 130.10 include a detailed statement of the reasons why applicant or supplier did not furnish the information at the time specified in paragraph (a) or paragraph (b) of this section, as applicable.

§ 130.10 Information to be furnished by applicant or supplier to the Office of Munitions Control.

(a) Every person required under § 130.9 to furnish information specified in this section in respect to any sale must furnish to the Office of Munitions Control:

(1) The total contract price of the sale to the foreign purchaser;

(2) The name, nationality, address and principal place of business of the applicant or supplier, as the case may be, and, if applicable, the employer and title;

(3) The name, nationality, address and principal place of business, and if applicable, employer and title of each foreign purchaser, including the ultimate end-user involved in the sale;

(4) Except as provided in paragraph (c) of this section, a statement setting forth with respect to such sale:

(i) The amount of each political contribution paid, or offered or agreed to be paid, or the amount of each fee or commission paid, or offered or agreed to be paid;

(ii) The date or dates on which each reported amount was paid, or offered or agreed to be paid;

(iii) The recipient of each such amount paid, or intended recipient if not yet paid;

(iv) The person who paid, or offered or agreed to pay such amount; and

(v) The aggregate amounts of political contributions and of fees or commission, respectively, which shall have been reported.

(b) In responding to paragraph (a)(4) of this section, the statement must:

(1) With respect to each payment reported, state whether such payment was in cash or in kind. If in kind, it must include a description and valuation thereof. Where precise amounts are not available because a payment has not yet been made, an estimate of the amount offered or agreed to be paid must be provided;

(2) With respect to each recipient, state:

(i) Its name;

(ii) Its nationality;

(iii) Its address and principal place of business;

(iv) Its employer and title; and

(v) Its relationship, if any, to applicant, supplier, or vendor, and to any foreign purchaser or end-user.

(c) In submitting a report required by § 130.9, the detailed information specified in paragraphs (a)(4) and (b) of this section need not be included if the payments do not exceed.

(1) $2,500 in the case of political contributions; and

(2) $50,000 in the case of fees or commissions. In lieu of reporting detailed information with respect to such payments, the aggregate amount thereof must be reported, identified as miscellaneous political contributions or miscellaneous fees or commissions, as the case may be.

(d) Every person required to furnish the information specified in paragraphs (a) and (b) of this section must respond fully to each subdivision of those paragraphs and, where the correct response is "none" or "not applicable," must so state.

§ 130.11 Supplementary reports.

(a) Every applicant or supplier who is required under § 130.9 to furnish the information specified in § 130.10 must submit a supplementary report in connection with each sale in respect of which applicant or supplier has previously been required to furnish information if:

(1) Any political contributions aggregating $2,500 or more or fees or commissions aggregating $50,000 or more not previously reported or paid, or offered or agreed to be paid by applicant or supplier or any vendor;

(2) Subsequent developments cause the information initially reported to be no longer accurate or complete (as in the case where a payment actually made is substantially different in amount from a previously reported estimate of an amount offered or agreed to be paid); or

(3) Additional details are requested by the Office of Munitions Control with respect to any miscellaneous payments reported under § 130.10(c).

(b) Supplementary reports must be sent to the Office of Munitions Control within 30 days after the payment, offer or agreement reported therein or, when requested by the Office of Munitions Control, within 30 days after such request, and must include:

(1) Any information specified in § 130.10 required or requested to be reported and which was not previously reported; and

(2) The Munitions Control license number, if any, and the Department of Defense contract number, if any, related to the sale.

§ 130.12 Information to be furnished by vendor to applicant or supplier.

(a) In order to determine whether it is obliged under § 130.9 to furnish the information specified in § 130.10 with respect to a sale, every applicant or supplier must obtain from each vendor, from or through whom the applicant acquired defense articles or defense services forming the whole or a part of the sale, a full disclosure by the vendor of all political contributions or fees or commission paid, by vendor with respect to such sale. Such disclosure must include responses to all the information pertaining to vendor required to enable applicant or supplier, as the case may be, to comply fully with §§ 130.9 and 130.10. If so required, they must include the information furnished by each vendor in providing the information specified.

(b) Any vendor which has been requested by an applicant or supplier to furnish an initial statement under paragraph (a) of this section must, except as provided in paragraph (c), furnish such statement in a timely manner and not later than 20 days after receipt of such request.

(c) If the vendor believes that furnishing information to an applicant or supplier in a requested statement would unreasonably risk injury to the vendor's commercial interests, the vendor may furnish in lieu of the statement an abbreviated statement disclosing only

the aggregate amount of all political contributions and the aggregate amount of all fees or commissions which have been paid, or offered or agreed to be paid, by the vendor with respect to the sale. Any abbreviated statement furnished to an applicant or supplier under this paragraph must be accompanied by a certification that the requested information has been reported by the vendor directly to the Office of Munitions Control. The vendor must simultaneously report fully to the Office of Munitions Control all information which the vendor would otherwise have been required to report to the applicant or supplier under this section. Each such report must clearly identify the sale with respect to which the reported information pertains.

(d)(1) If upon the 25th day after the date of its request to vendor, an applicant or supplier has not received from the vendor the initial statement required by paragraph (a) of this section, the applicant or supplier must submit to the Office of Munitions Control a signed statement attesting to:

(i) The manner and extent of applicant's or supplier's attempt to obtain from the vendor the initial statement required under paragraph (a) of this section;

(ii) Vendor's failure to comply with this section; and

(iii) The amount of time which has elapsed between the date of applicant's or supplier's request and the date of the signed statement;

(2) The failure of a vendor to comply with this section does not relieve any applicant or supplier otherwise required by § 130.9 to submit a report to the Office of Munitions Control from submitting such a report.

§ 130.13 Information to be furnished to applicant, supplier or vendor by a recipient of a fee or commission.

(a) Every applicant or supplier, and each vendor thereof;

(1) In order to determine whether it is obliged under §§ 130.9 or 130.12 to furnish information specified in § 130.10 with respect to a sale; and

(2) Prior to furnishing such information, must obtain from each person, if any, to whom it has paid, or offered or agreed to pay, a fee or commission in respect of such sale, a timely statement containing a full disclosure by such a person of all political contributions paid, or offered or agreed to be paid, by it or on its behalf, or at its direction, in respect of such sale. Such disclosure must include responses to all the information required to enable the applicant, supplier or vendor, as the case may be, to comply fully with §§ 130.9, 130.10, and 130.12.

(b) In obtaining information under paragraph (a) of this section, the applicant, supplier or vendor, as the case may be, must also require each person to whom a fee or commission is paid, or offered or agreed to be paid, to furnish from time to time such reports of its political contributions as may be necessary to enable the applicant, supplier or vendor, as the case may be, to comply fully with §§ 130.9, 130.10, 130.11, and 130.12.

(c) The applicant, supplier or vendor, as the case may be, must include any political contributions paid, or offered or agreed to be paid, by or on behalf of, or at the direction of, any person to whom it has paid, or offered or agreed to pay a fee or commission in determining whether applicant, supplier or vendor is required by §§ 130.9, 130.11, and 130.12 to furnish information specified in § 130.10.

§ 130.14 Recordkeeping.

Each applicant, supplier and vendor must maintain a record of any information it was required to furnish or obtain under this Part and all records upon which its reports are based for a period of not less than six years following the date of the report to which they pertain.

§ 130.15 Confidential business information.

(a) Any person who is required to furnish information under this Part may identify any information furnished hereunder which the person considers to be confidential business information. No person, including any applicant or supplier, shall publish, divulge, disclose, or make known in any manner, any information so identified by a vendor or other person unless authorized by law or regulation.

(b) For purposes of this section, "confidential business information" means commercial or financial information which by law is entitled to protection from disclosure. (See, e.g., 5 U.S.C. 552(b) (3) and (4); 18 U.S.C. 1905; 22 U.S.C. 2778(e); Rule 26(c)(7), Federal Rules of Civil Procedure).

§ 130.16 Other reporting requirements.

The submission of reports under this Part does not relieve any person of any requirements to furnish information to any federal, state, or municipal agency, department or other instrumentality as required by law, regulation or contract.

§ 130.17 Utilization of and access to reports and records

(a) All information reported and records maintained under this Part will be made available, upon request, for utilization by standing committees of the Congress and subcommittees thereof, and by United States Government agencies, in accordance with section 39(d) of the Arms Export Control Act (22 U.S.C. 2779(d)), and reports based upon such information will be submitted to Congress in accordance with sections 36(a)(8) and 36(b)(1) of that Act (22 U.S.C. 2776(a)(8) and (b)(1)).

(b) All confidential business information provided pursuant to this Part shall be protected against disclosure to the extent provided by law.

(c) Nothing in this section shall preclude the furnishing of information to foreign governments for law enforcement or regulatory purposes under international arrangements between the United States and any foreign government.

Dated: November 20, 1984.

George P. Shultz,

The Secretary of State.

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Thursday
December 6, 1984

Part III

Department of Energy

10 CFR Part 960

Nuclear Waste Policy Act of 1982; General Guidelines for the Recommendation of Sites for the Nuclear Waste Repositories; Final Siting Guidelines

DEPARTMENT OF ENERGY

10 CFR Part 960

Nuclear Waste Policy Act of 1982; General Guidelines for the Recommendation of Sites for the Nuclear Waste Repositories

AGENCY: Department of Energy.

ACTION: Final siting guidelines.

SUMMARY: In accordance with the requirements of the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425) (the Act), the Department of Energy (DOE) is issuing general guidelines for the recommendation of sites for repositiories for the disposal of high-level radioactive waste and spent nuclear fuel in geologic formations. These guidelines will be used in the various steps of the site-selection process, as required by the Act. They are compatible with the regulations issued by the Nuclear Regulatory Commission (NRC) in 10 CFR Part 60 and those proposed by the Environmental Protection Agency (EPA) in 40 CFR Part 191. The guidelines establish performance objectives for a geologic repository system, define the basic technical requirements that candidate sites must meet, and specify how the DOE will implement its site-selection process.

These guidelines were developed by the DOE through the consultation process required by the Act (i.e., consultation with affected and interested States, the Council on Environmental Quality, the Administrator of the EPA, and the Director of the U.S. Geological Survey) as well as extensive review and comment by interested members of the public, affected Indian tribes, and interested Federal agencies. They have received the concurrence of the NRC, in accordance with the requirements of the Act. The NRC's concurrence decision was rendered on June 22, 1984, and published on July 10, 1984 (49 FR 28130).

EFFECTIVE DATE: January 7, 1985.

FOR FURTHER INFORMATION CONTACT:

Carol L. Hanlon, Office of Geologic Repositories, Office of Civilian Radioactive Waste Management, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone: (202) 252–1224.

Robert Mussler, Esq., Deputy Assistant General Counsel for Environment, Office of General Counsel, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone: (202) 252–6947.

For additional copies of this rule contact: Susan Grodin, c/o Roy F. Weston, Inc., 2301 Research Boulevard, Rockville, MD 20850, Telephone: (301) 963–6870.

SUPPLEMENTARY INFORMATION: This supplementary information, also referred to as the "preamble" and the "statement of basis and purpose," explains the DOE siting process, the development of the guidelines, the general issues raised about the guidelines, and the structure of the guidelines. It also presents a detailed analysis of each guideline. A table of contents is listed below.

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I. Background Information

The Department of Energy (DOE), pursuant to the Atomic Energy Act of 1954 as amended, the Energy Reorganization Act of 1974, the Department of Energy Organization Act of 1977, and the Nuclear Waste Policy Act of 1982 (the Act), has the responsibility to provide for the disposal of high-level radioactive waste and spent nuclear fuel.[1] The DOE selected mined geologic repositories as the preferred means for the disposal of commercially generated high-level radioactive waste and spent fuel (46 FR 26677, May 14, 1981) after evaluating various alternative means for the disposal of these materials and issuing an environmental impact statement (1). To carry out this decision, the DOE has been conducting research and development and performing siting studies.

The Act, signed into law on January 7, 1983, establishes a process and schedule for siting two mined geologic repositories.[2] It also, in Section 112(a), requires that the Secretary of Energy "issue general guidelines for the recommendation of sites for repositories." The guidelines issued under this notice are the general guidelines called for in the Act.

A. Requirements Established by the Act

As described below, the Act requires specific steps in the process of selecting repository sites. The implementation of guidelines in terms of those steps is discussed in the next section.

The initial steps required by the Act have been completed: the Secretary of Energy has identified the States with one or more potentially acceptable sites for the first repository and has so notified the Governors and the State legislatures, and the tribal council of any affected Indian tribe of the potentially acceptable sites within these States.

After issuing the siting guidelines, the Secretary is to nominate at least five sites as suitable for site characterization. The nomination of each site is to be accompanied by an environmental assessment that includes an evaluation of the site in terms of the guidelines.

The Act contains requirements for the DOE to continue its consultation and cooperation with the States and to specifically consult with the Governors of the States that contain potentially acceptable sites.

The Act requires the Secretary of Energy to recommend three of the nominated sites to the President for characterization as candidate sites. Site

[1] For brevity, the terms "radioactive waste" and "waste" are frequently used in this notice and in the siting guidelines to mean "high-level radioactive waste and spent nuclear fuel."

[2] The Act requires the President to evaluate, by January 7, 1985, the use of one or more of these repositories for the disposal of high-level radioactive waste resulting from atomic energy defense activities.

characterization is defined as activities "undertaken to establish the geologic conditions and the ranges of the parameters . . . relevant to the location of a repository, including borings, surface excavations, excavations of exploratory shafts, limited subsurface lateral excavations and borings, and in-situ testing. . . ."

The President may approve or disapprove the recommendation submitted by the DOE or may permit the characterization to proceed by failing to act within 60 days. He may also delay the decision for 6 months if, in his opinion, insufficient information is available for a decision.

The information to be collected during site characterization will be specified in a site-characterization plan that is to be submitted for review and comment to the Nuclear Regulatory Commission (NRC), the State in which the site is located, and the governing body of any affected Indian tribe. The plan will also be made available for public review and comment.

Before proceeding to sink the exploratory shafts needed for tests and studies at the proposed depth of the repository, the DOE is to hold a public hearing in the vicinity of the site to inform the residents of the site-characterization plan and to receive their comments. When the site characterization itself has been completed, public hearings are to be held in the vicinity of each site being considered for development as a repository to inform the residents of the area that the site is under consideration and to obtain their comments on the possible recommendation of the site.

After completing site characterizations and conducting hearings, the Secretary is to recommend to the President the first site to be developed as a repository. This recommendation is to be accompanied by a final environmental impact statement in accordance with the requirements of the National Environmental Policy Act as modified by Section 114(f) of the Act.

After a site is recommended to Congress for development as a repository, the State in which the site is located or the affected Indian tribe on whose reservation the site is located may submit, within 60 days, a notice of disapproval to Congress. This disapproval prevents the use of the site for a repository unless Congress passes a joint resolution approving the President's recommendation within the next 90 days of continuous session.

If the site designation becomes effective, the DOE is to seek, from the NRC, authorization to construct the repository. The Act requires that the application for this authorization be submitted not later than 90 days after the effective date of the site designation. When a construction authorization has been received from the NRC, the construction of the repository will begin.

The Act requires the promulgation of regulations by two other Federal agencies—the NRC and the Environmental Protection Agency (EPA). The NRC is required to issue technical requirements and criteria to be used in approving or disapproving DOE applications for the construction and operation of repositories; these regulations have been issued as 10 CFR Part 60. The EPA is required to promulgate generally applicable standards for protecting the public from the radioactive material in repositories; these regulations (40 CFR Part 191) have been released in draft form for public comment (47 FR 58196). Both sets of regulations were used in developing the DOE siting guidelines (see also Sections II.A and III.A).

To provide the information base needed for informed decisions in carrying out the repository program, the Act requires the Secretary of Energy to prepare a comprehensive mission plan. The topics covered in the mission plan are to include the information needed for the siting and construction of repositories; the significant results of research and development programs, and their implications for each of the host rocks being considered; the financial, political, legal, or institutional problems that may impede the implementation of the Act; the adverse economic and other impacts that may result from the development of a repository; and the siting guidelines. A draft of the mission plan (2), dated April 1984, was issued for review and comment by the States, affected Indian tribes, the NRC, other Government agencies, and the public. The DOE is now in the process of reviewing the comments that have been received. Once finalized, the mission plan will be submitted to Congress in accordance with the requirements of the Act.

B. The DOE Siting Process

Before the Act was passed, the Federal Government had been carrying out a program for the development of geologic repositories. Directed primarily by the DOE and its predecessor agencies, the program had begun about three decades earlier. The Act established a process for the siting of repositories by integrating the then-existing DOE siting program into its requirements and procedures. To help the reader understand how the guidelines will be used, this section explains an important part of the program—the siting process—as it and the plans for it now stand, after modification by the Act and the consultation process.

In seeking sites for radioactive-waste repositories, the DOE divides the siting process into the following phases: (1) screening, (2) site nomination, (3) site recommendation for characterization, (4) site characterization, and (5) site selection (recommendation for development as a repository).

1. The Screening Phase

During the screening phase, the DOE identifies potential sites for characterization. This phase provides the information needed for judging which of these sites appear to justify the investment in characterizing them.

a. *General description.* The screening phase may consist of up to four stages, each of which narrows to a land unit of smaller size:

(1) A survey of the Nation or geologic provinces, narrowing to regions.

(2) A survey of the regions, narrowing to areas.

(3) A survey of the areas, narrowing to locations.

(4) A survey of the locations, narrowing to sites.

Screening can begin with one or more of the 17 physiographic provinces identified in the contiguous 48 States. The landforms in a province possess similarities resulting from corresponding similarities in the geologic and hydrologic processes and conditions throughout the province. Regions are normally smaller than provinces, but may also extend across several States. The sizes of areas, locations, and sites are not exact. Areas encompass hundreds to thousands of square miles, and locations are typically tens to hundreds of square miles. While a location may be large enough to contain several sites, only one potential site is usually identified in a single location.

During the early screening stages, it may be necessary to divide a particularly large geographic unit and identify an intermediate set of smaller units before proceeding to the next stage. A geographic stage may be deleted if the early survey reveals that smaller land units are obviously suitable for further study. For example, in a search for suitable salt domes, which are discrete geologic formations, the completion of regional surveys led next to the study of specific individual salt domes and their environs, rather than to some undifferentiated general area of hundreds to thousands of square miles.

Within each screening stage, the DOE identifies as many potentially suitable land units as judged to be necessary for an adequate sample to be studied in the next stage. Only the regions, areas, and locations believed most likely to contain suitable sites receive further study; all others are deferred. Although the deferred land units may contain suitable sites, studying every possible candidate would not be practicable. Even though some suitable sites may be dropped, this allows more-thorough investigation of the remaining candidates.

Data for comparing regions, areas, and locations become increasingly detailed as progressively smaller land units are considered and as exploration and testing concentrate on them. National, province, and regional surveys are based on information available in the open literature—for example, national maps of faults, earthquake epicenters, land use, recent volcanic activity, and locations of potential host rocks. Areas, locations, and sites require more-thorough investigation, including field exploration, field testing, and increasingly refined laboratory analyses of rock and water characteristics. Finally, after the first three phases (screening, site nomination, and site recommendation for characterization) have been completed, site characterization will be performed to collect the data needed for a rigorous evaluation and comparison of candidate sites.

It is prudent that screening be conducted in a way that will lead to nominations and recommendations of sites in diverse geohydrologic settings and types of rock. Such screening increases the probability that sites suitable for characterization will be available even if studies should reveal a generic deficiency in a type of rock or a geohydrologic setting. The principle of seeking diversity in types of rock is a central theme of the siting provisions in the Act (Sections 112(a) and 113(a)); it has been part of the geologic repository program since its inception.

Before the Act was passed, the site screening conducted by the DOE evaluated and compared progressively smaller land units according to geologic criteria or other factors described in References 3 through 8. This process led to the identification of the potentially acceptable sites considered for the first repository. During the development of the Act, the status of the DOE's siting program, including the screening studies conducted to date, was well documented before Congress. Congress, as evidenced by its structuring of the Act, did not intend the DOE to revisit screening decisions that preceded the Act. Section 116(a) of the act requires that States containing "potentially acceptable sites" be identified within 90 days of the passage of the Act, but allows 180 days for issuing the siting guidelines. Future screening for the second repository will be based on the siting guidelines issued by this notice.

b. *Current status of screening.* At the time the Act was passed, the DOE was studing nine sites for the first repository and had begun regional surveys for the second repository. The nine sites for the first repository are in three different host rocks (basalt, salt, and tuff) and in six States; they are distributed as follows: two sites in the bedded salt of the Palo Duro Basin in Texas; two sites in the bedded salt of the Paradox Basin in Utah; two salt domes in Mississippi and one in Louisiana; a site in basalt in the Pasco Basin in Washington; and a site in tuff in the Southern Great Basin in Nevada. (For the bedded salt in Texas; the DOE identified two potentially acceptable sites of about 190 and 300 square miles each. In March 1984, the DOE issued, for public review and comment, a draft report on a screening study that narrowed the size of the two sites for further consideration to about 9 square miles for each location. The final report, *Identification of Sites Within the Palo Duro Basin*, was issued by the DOE in November 1984.) After the passage of the Act, in accordance with Section 116(a), the DOE, on February 2, 1983, formally identified these nine sites as being potentially acceptable. From these nine sites, in accordance with the Act, the DOE will nominate at least five sites and recommend no fewer than three for characterization.

The bedded-salt sites under consideration in Texas and Utah were found by the general siting process described above, beginning with national surveys and progressively narrowing to locations and sites. The salt domes were selected by a screening that began with more than 200 domes and ended with the three sites under consideration.

The selection of sites in basalt and tuff began on the basis of land use: the DOE began to search for suitable repository sites on some Federal lands where radioactive materials were already present; this approach was recommended by the Comptroller General of the United States (9) and a House resolution (10). Although land use was the beginning basis for this screening of Federal lands, the subsequent progression to smaller land units was based primarily on evaluations of geologic and hydrologic suitability. The studies began at roughly the area stage, and the screening has now progressed to two sites: the site in basalt is on the Hanford Site, and the site in tuff is adjacent to the Nevada Test Site.

The site-screening process for the second repository began with a national survey of crystalline rocks. This survey identified for further study near-surface and exposed crystalline rocks in 17 States divided into three regions: northeastern (Maine, Vermont, New Hampshire, New York, Pennsylvania, Connecticut, Massachusetts, New Jersey, and Rhode Island), north central (Michigan, Minnesota, and Wisconsin), and southeastern (Maryland, Virginia, North Carolina, South Carolina, and Georgia).

The site-screening process for the second repository is now in the regional phase. Being developed in consultation with the 17 States listed above, the screening approach is based on the siting guidelines published in this notice: first the disqualifying conditions in the guidelines are applied to eliminate land units and then the favorable and potentially adverse conditions of the guidelines are applied to identify preferred land units. The objective is to use the existing evidence to evaluate the favorability of each land unit, selecting the most favorable land units for further study.

2. The Site-Nomination Phase

The nomination process begins with the DOE examining the data for each potentially acceptable site to be sure that no site contains an obvious flaw that would disqualify it without further consideration. After this preliminary examination, the DOE begins its more-detailed evaluation by grouping the potentially acceptable sites according to the geohydrologic settings in which they are located. Choices among sites require comparisons that can be made more easily and accurately when the sites are in similar settings than when they are in dissimilar settings: the significance of differences among settings is more difficult to determine than the significance of differences among sites in the same setting. The grouping therefore places the subsequent siting choices on a basis that is technically more defensible.

After a comparative evaluation of all the sites within each setting, the DOE will select a preferred site within each setting. If fewer than five settings are available, the DOE will select additional sites from settings containing more than one site, as needed to obtain the

required number of sites for nomination. The sites selected by this process will be the sites considered for nomination; each will be subjected to two separate evaluations. The first evaluation will be based on the siting guidelines that do not require site characterization for their application; it will focus on the suitability of the site for development as a repository, considering activities from the start of site characterization through decommissioning. The second evaluation will be based on the guidelines that do require site characterization for their application; its objective will be to establish that the site is suitable for characterization—that is, suitable for further study.

The Secretary will nominate no fewer than five of these sites. Each site nomination is to be accompanied by an environmental assessment, which must include a number of evaluations and descriptions listed in the Act and differs in procedure, format, and content from an environmental assessment prepared under the National Environmental Policy Act of 1969. For the nine sites identified as potentially acceptable for the first repository, the DOE has held the required public hearings in the vicinity of the sites to inform residents of the proposed nomination and to solicit and receive any recommendations on issues to be addresed in the environmental assessment as well as the site-characterization plan.

The environmental assessments will report the analyses made in the nomination steps described above. They will describe the bases on which the decisions were made, including the results of preliminary performance assessments, with emphasis on the natural barriers, for each site. In addition, each will include a summary of how the potentially acceptable sites were selected. A chapter common to all the assessments will contain a comparative evaluation of the sites considered for nomination.

The environmental assessment for each site being considered for nomination will be made available in draft form for public comment. After the final environmental assessments have been prepared, the Secretary will select at least five sites as suitable for characterization and, before nominating a site, will notify the Governors and the legislators of the States in which the sites are located or the governing body of any affected Indian tribe, as appropriate, of the nominations and the basis for the nomination. The Secretary will publish in the **Federal Register** a notice specifying the sites nominated and announcing the availability of the final environmental assessments for those sites.

3. The Site-Recommendation Phase

The site-recommendation phase will occur subsequent to site nomination, when the Secretary recommends to the President that three of the nominated sites be characterized as candidate sites. The decision to recommend a site will be based on (1) the available geophysical, geologic, geochemical, and hydrologic data (unless the Secretary certifies, pursuant to Section 112(b) (3) of the Act, that such available data will not be adequate to satisfy applicable requirements of the Act in the absence of further preliminary borings or excavations); (2) other information; and (3) the associated evaluations and findings reported in the environmental assessments. The decision will also consider the diversity of geohydrologic settings, the diversity of rock types, and, after the first repository, regionality, as specified by §§ 960.3–1–1, 960.3–1–2, and 960.3–1–3, respectively, of the implementation guidelines (see Section IV.B).

4. The Site-Characterization Phase

Site characterization will occur only at the sites recommended to, and approved by, the President. It will involve studies that are much more detailed than those conducted during the screening phase. As already discussed in Section I.B., the DOE will develop a site-characterization plan for each of the three sites selected for characterization.

During site characterization, the DOE will collect detailed information on the geologic, hydrologic, and other characteristics that determine compliance with the siting guidelines requiring site characterization for their application. Standard geophysical tests and exploratory drilling from the surface will continue throughout site characterization. For subsurface investigations, exploratory shafts will be constructed to the depth at which a repository would be built. Limited subsurface excavations (tunnels and rooms) for testing purposes will be made in the host rock in the immediate vicinity of the shafts. The shafts will be large enough to allow people and test equipment to be transported from the surface to the rooms. The shafts, tunnels, and rooms will allow detailed study of the host rock, including lateral exploratory drilling. A variety of tests will be performed in these underground facilities, including, for example, measurements of in-situ stress and permeability and heat-transfer experiments. Every 6 months, the DOE will report to the NRC and to the affected States and Indian tribes on the nature and the extent of the site-characterization activities and the information obtained from these activities.

In parallel with site characterization, the DOE will collect additional information about other aspects of the site. This activity, informally called site investigation, will be carried out in order to establish compliance with the guidelines that do not require site characterization (e.g., demographic, socioeconomic, and ecological characteristics) and to comply with the National Environmental Policy Act of 1969.

5. The Site-Selection Phase

When site characterization is completed, the site-selection phase will begin. During this phase, the sites that have been characterized will again be evaluated to determine whether they are suitable for the development of a repository. As required by Section 114(a) of the Act, a comparison of these sites will be reported in an environmental impact statement.

An important part of this analysis will be a detailed performance assessment; that is, for each site, the DOE will predict the effects of a repository as an entire system, during the time it is open for the emplacement of waste and after it has been closed. This assessment will evaluate the responses of the repository to the conditions that might affect its performance: natural events and processes, human actions, and the interactions between the waste and the repository. In the entire process of narrowing the number of potentially acceptable sites to one, this phase will be the first time it is possible to conduct such a complete performance assessment. This assessment requires the detailed information that can be obtained only during site characterization.

Before preparing a draft environmental impact statement the DOE will hold a scoping meeting in the vicinity of each site to receive comments on the issues that should be addressed. The draft environmental impact statement will be released for public review and comment. After preparing a final environmental impact statement, the Secretary will recommend that the President approve one of the sites for development as a repository. This environmental impact statement will be submitted to the President and to the public as part of a comprehensive statement of the basis for this recommendation. This statement will

also contain specific technical material and comments by outside parties (Federal agencies, States, and affected Indian tribes), as required by the Act.

If the President approves the recommendation, he will recommend the site to Congress, and the DOE will have completed its part of the site-selection phase. The remainder of the process of obtaining final approval of the site and final authority for constructing a repository was described above in Section I.A. The DOE's schedule and cost estimates for the repository program are presented in the draft mission plan (2), which was released for review and comment in April 1984.

II. Development of the Guidelines Through Consulation, Public Comment, and NRC Concurrence

After explaining the original basis for the guidelines, this section discusses the process of consultation and comment as well as NRC concurrence. It also summarizes the major changes that resulted from these processes.

A. Basis for the Proposed Guidelines

After the Act was passed, the DOE assembled a task force of program experts to prepare proposed guidelines.[3] The task force began by considering the criteria used earlier in the National Waste Terminal Storage (NWTS) Program, including its own program objectives, system performance criteria, and site performance criteria (3,4); other sets of criteria defined for geologic repositories by the National Academy of Sciences (5), the International Atomic Energy Agency (6), and earlier programs in the United States (7,8); advance information made available by the NRC (11); and the requirements of the Act.

Requirements for the content of the guidelines are given in Section 112(a) of the Act. The guidelines are to specify "detailed geologic considerations that shall be primary criteria" for site selection; the Act also requires the guidelines to specify "factors that qualify or disqualify any site from development as a repository" and lists the factors to be included.

In developing the proposed guidelines, great care was taken to make them compatible with existing applicable regulations (12,13) and with the regulations that had been recently proposed by the NRC and the EPA concerning the disposal of high-level radioactive waste and spent nuclear fuel in geologic repositories. The NRC had by then nearly completed the pertinent technical criteria (14), and the EPA had issued, for public comment, proposed environmental standards (15). The proposed guidelines referred frequently to these criteria and standards through direct quotations and paraphrasing.

B. Consultation and Public Comment

Section 112(a) of the Act requires that, before issuing siting guidelines, the DOE (1) consult with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Director of the Geological Survey, and interested Governors and (2) obtain the concurrence of the NRC. To comply more effectively with these requirements, the DOE developed the guidelines through a notice-and-comment procedure that enhanced the opportunity for general public participation. On February 7, 1983, the proposed guidelines were published in the **Federal Register** (48 FR 5670) for public review and comment. The notice that accompanied the publication specified a 45-day public-comment period ending on March 24, 1983. The formal comment period was subsequently extended (48 FR 8289) to April 7, 1983, in response to numerous requests for additional time.[4]

In addition to publishing the proposed guidelines in the **Federal Register** of February 7, 1983, the DOE specifically solicited review and comment by mailing copies of the guidelines to the Governors of the 6 States previously identified as having potentially acceptable sites for the first repository (Louisiana, Mississippi, Texas, Utah, Nevada, and Washington) and the 17 States containing crystalline-rock formations being studied for the second repository; to interested Federal agencies; to more than 4000 individuals who had previously commented on, or inquired about, various aspects of the NWTS Program; and to approximately 200 public-interest and consumer groups.

During the public-comment period, the DOE held a series of regional public hearings to receive comments on the guidelines. These hearings were held in Chicago, Illinois, on March 4, 1983; in New Orleans, Louisiana, on March 7; in Washington, D.C., on March 10; in Salt Lake City, Utah, on March 14; and in Seattle, Washington, on March 21. Record transcripts were prepared for all of the hearings, and the panels that had conducted the hearings prepared summary reports for DOE review.

To explain and discuss the guidelines, the DOE staff met individually with officials from the six States with potentially acceptable sites. These consultations included meetings in Louisiana on February 25, 1983, in Mississippi on March 3 and March 25, in Utah on March 3, in Texas on March 18, in Nevada on March 23, and in Washington State on March 25. Also, on February 10, 1983, a group meeting with representatives of interested crystalline-rock states was held in Chicago to discuss the provisions of the Act as well as the proposed guidelines.

During this period of comment and consultation, the DOE received 119 written replies containing about 2000 separate comments; at the 5 public hearings, 57 persons provided oral comments. Among the commenters were private citizens and representatives of Federal, State, and local governments; Native American groups; and organizations that could be classified as special-interest or public-interest groups.

Near the end of the comment period for the proposed guidelines of February 1983, the DOE reconvened the task force that had developed the proposed guidelines. After categorizing and analyzing the comments, the task force drafted a set of alternative guidelines and a comment-response document (16) that summarized the comments, discussed the issues raised in the comments, and showed how the comments had been addressed in the alternative guidelines.

The interested States (i.e., the States containing potentially acceptable sites and the States containing the crystalline-rock formations under consideration for the second repository) had commented that they needed more than the notice-and-comment procedure if the consultation afforded by the Act were to meet their needs. Therefore, on May 11, 1983, the DOE sponsored a plenary consultation meeting with the interested States to set up a framework for continued consultation. At this meeting, held in Dallas, Texas, the States expressed a strong desire for additional opportunities to comment on the guidelines. To accommodate this request, an expanded consultation program was developed; it was structured around consultation meetings with the individual States and a plenary session when the guidelines neared their

[3] As described in Section II.B, several draft versions of the siting guidelines have been released: the proposed guidelines of February 1983 and the alternative guidelines of May 1983, both of which were issued for public review and comment; the revised guidelines of August 1983, which served as a basis for additional consultation with States, Indian tribes, and Federal agencies; and the revised guidelines of November 1983, which were sent to the NRC for concurrence. The final guidelines issued herewith reflect the NRC's final concurrence decision.

[4] The DOE was actually able to consider all late comments, some of which were not received until as late as May 20.

final form. The States requested that sufficient time be allowed for the review and that additional opportunity for public involvement be provided. On May 27, 1983, copies of the draft comment-response document and the alternative guidelines were forwarded to the States and Federal agencies.

The DOE also made these documents available to the public for review and comment. A notice of availability, published in the Federal Register on June 7, 1983 (48 FR 26441), announced a 30-day comment period, the second such period in the development of the guidelines. The notice made it clear that these alternative guidelines were intended not to supersede the proposal of February 7, 1983, but rather to serve as an alternative to the guidelines originally prepared that would be considered in writing the final guidelines. Copies of the alternative guidelines were mailed to the persons and groups who had been on the mailing list for the proposed guidelines, to anyone who had asked to be added to the list, to those who had submitted comments on the proposed guidelines, to participants in the public hearings on the guidelines, and to the participants in hearings held to scope the environmental assessments. Moreover, copies of both the draft comment-response document and the alternative guidelines were placed in 10 DOE reading rooms across the country as well as in 156 libraries in 23 States.

Individual consultation meetings were then scheduled with the six States containing potentially acceptable sites, and both individual and group meetings were scheduled with the States containing crystalline-rock formations. The purpose of these meetings was to discuss the differences between the proposed guidelines and the alternative guidelines and to identify and discuss outstanding issues. The meetings were held on the following dates: Texas on June 27 and 28, 1983, Nevada on June 29, Mississippi on June 29 and 30, Washington on June 30, Louisiana on July 6, and Utah on July 8, Vermont on June 14, Maine on June 15, New York on June 16, Wisconsin on June 20, Michigan on June 21, and Minnesota on June 27. In addition, a group meeting attended by eleven of the crystalline-rock States was held in Columbus, Ohio, on June 29.

The DOE conducted similar consultation meetings with several Federal agencies: the Council on Environmental Quality (June 21), the U.S. Geological Survey (June 24), the NRC (June 26), the Department of the Interior (June 28), and the Department of Transportation and the EPA (June 29).

After these consultation meetings and the end of the second public-comment period on July 7, 1983, the DOE task force reconvened to analyze and consider the additional comments received. Some 75 written responses arrived during the second comment period; they contained about 900 separate comments. Revised guidelines that reflected the comments on both the proposed and the alternative guidelines were then drafted. In addition, the comment-response document which explains the disposition of comments on the proposed guidelines of February 1983, was prepared for publication in final form (16); it had been released in draft form on May 27, 1983.

On August 1, 1983, the revised guidelines were forwarded to the States for their information, and on August 19 a second plenary consultation meeting was held in Dallas, Texas, to receive comments on the remaining issues that were of general concern to the States. Modified as necessary in response to comments from the States, these revised guidelines of August 1983 were later sent to the States for their information and submitted to DOE management for review and approval. The DOE-approved guidelines were thus developed after two formal public-comment periods and two rounds of consultation with the interested States, including both individual and plenary sessions. Numerous changes were made to the guidelines in response to comments from the public, State consultations, and the NRC concurrence interactions, but, with respect to scope and issues, the guidelines being finalized here do not differ substantially from those that were initially proposed.

C. NRC Concurrence

On November 22, 1983, the DOE submitted the guidelines to the NRC for concurrence. At the same time, the DOE mailed copies to States and to more than 1200 persons and organizations on the guidelines mailing list; copies were also placed in DOE reading rooms and State libraries.

The NRC had earlier found (48 FR 39536) that its concurrence proceeding is not a rulemaking and hence did not require notice and opportunity for public comment. Nevertheless, in order to accommodate requests to structure the concurrence process on a notice-and-comment rulemaking and to crystallize the issues, the NRC decided to accept written comments and to conduct a public meeting on the siting guidelines. On December 15, 1983, the NRC described its decision-making process and set forth the procedural format for a public meeting on the siting guidelines (48 FR 55789). In this notice, the NRC scheduled the public meeting for January 11, 1984, and requested that any written comments on the guidelines be submitted to the NRC by January 9, 1984. At the public meeting on January 11, the period for receiving written comments on the guidelines was extended to February 1, 1984.

The NRC applied the following criteria in making its preliminary concurrence decision:

1. The siting guidelines must not be in conflict with 10 CFR Part 60.

2. The siting guidelines must not contain provisions that might lead the DOE to select sites that would not be reasonable alternatives for an environmental impact statement.

3. The siting guidelines should not contain provisions that are in conflict with the Act.

On March 14, 1984, the NRC announced (49 FR 9650) that, on the basis of these criteria, the NRC would concur in the siting guidelines provided that the DOE met the following conditions:

1. Amended the siting guidelines to recognize NRC's jurisdiction for the resolution of differences between the guidelines and 10 CFR Part 60.

2. Committed to obtain the NRC's concurrence on revisions to the siting guidelines that relate to NRC jurisdiction.

3. Revised the siting guidelines as follows:

a. Modified its use of high effective porosity to limit its use to those situations that could be considered as a favorable siting condition.

b. Committed to revise its siting guidelines on the unsaturated zone so that they are consistent with the final NRC amendments on the unsaturated zone.

c. Moved the favorable condition on ground-water with a high total-dissolved-solids concentration from § 960.4–2–1(b) to Section 960.4–2–8–1, where effects on natural resources are considered.

d. Did not frame its guidelines such that a 1000-year ground-water travel time (10 CFR 60.113) would be adjusted, particularly in the early stages of site selection.

e. Deleted the word "permanently" from its definition of "disturbed zone."

f. Clarified the meaning of "short-term" extreme erosion and revised the guidelines as appropriate.

g. Deleted the word "significant" from § 960.4–2–8–1(c)(2)) of the siting guidelines, where reference is made to "evidence of *significant* subsurface mining."

h. Modified the guidelines so that they are consistent with the Commission's definition of "anticipated" and "unanticipated" processes and events.

i. Modified the guidelines so that potentially adverse conditions would be considered if they affect isolation within the controlled area even though the condition may occur outside the controlled area.

4. Modified the siting guidelines to make clear that engineered barriers cannot constitute a compensating measure for deficiencies in the geologic media during site screening.

5. Specified in greater detail how the guidelines will be applied at each siting stage, including site nomination and characterization (for example, specified in the implementation guidelines which guidelines would be applied at each stage of site screening).

6. Supplemented the guidelines to indicate the kinds of information necessary for DOE to make decisions on the nomination of at least five repository sites and subsequently recommending three sites to the President for characterization.

7. Added additional disqualifying conditions to the guidelines with sufficient specificity to ensure that unacceptable sites are eliminated as early as practicable. Disqualifying conditions should be provided for those factors specified in Section 112(a) of the Act, including seismic activity, atomic energy defense activities, proximity to water supplies, the effect upon the rights of users of water, the location of valuable natural resources, hydrology, geophysics, proximity to populations, and proximity to components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, and National Forest Lands.

In announcing its preliminary concurrence decision, the NRC invited public comment on the preceding conditions. Copies of all comments submitted to the NRC were provided to the DOE and considered in developing this final rule. The NRC also instructed its staff to meet with DOE representatives to discuss the NRC's conditions and the DOE's proposals for their resolution. Six meetings were subsequently held, beginning on March 14, 1984, and ending on May 3, 1984; these meetings were open to the public, which was invited to comment at the end of each meeting. To accommodate those interested in the transactions of these meetings, the DOE made copies of the transcripts or minutes of the meetings available to the public in the DOE public reading rooms.

The preliminary concurrence conditions and ensuing meetings between the NRC and DOE staffs resulted in a number of changes to the guidelines (see Sections III.A and IV.B). The guidelines, reflecting the DOE's response to the NRC's concurrence conditions, were forwarded to the NRC for its final concurrence on May 14, 1984, with copies mailed to the interested States, affected Indian tribes, and appropriate Federal agencies.

On June 11, 1984, the NRC's Executive Director for Operations submitted to the Commissioners a policy paper (SECY–84–233) proposing a final decision (concurrence) on the guidelines of May 1984. The Commission then scheduled a meeting on this subject on June 22, 1984. At this meeting, the Commissioners heard comments on the guidelines by several interested States and Indian tribes as well as a presentation by the DOE. The Commissioners then reviewed and discussed the issues raised about the guideline revisions made in response to the NRC's preliminary concurrence conditions. As a result of these discussions, the NRC and the DOE agreed to make three changes in the guidelines (see Section IV.B for more detailed discussions):

1. Revise § 960.1 of the guidelines to agree to submit to the NRC for its concurrence all future revisions of the guidelines rather than only the "revisions relating to NRC jurisdiction."

2. Delete from § 960.3–2–3, which specifies the procedure to be followed in recommending sites for characterization, the following sentence: "Such recommendation shall include a preliminary determination by the Secretary, referred to in Section 114(f) of the Act, that such sites are suitable for the development of repositories under the guidelines of Subparts C and D."

3. Revise § 960.3–1–5, "Basis for Site Evaluations," to clarify that, in considering engineered barriers for the purpose of obtaining realistic source terms, it is necessary to establish the sensitivity of the natural barriers to the engineered barriers.

The Commissioners then voted unanimously to grant concurrence on the guidelines submitted by the DOE on May 14, 1984, as revised at the June 22 meeting. In the formal statement of their final decision, dated July 3, 1984, and published on July 10 (49 FR 28130), the Commissioners concluded "on the basis of a review of the public comments, that the preliminary decision need not be modified nor is there a need to add new conditions" and that the DOE had "satisfactorily resolved the conditions set forth in the Commission's preliminary decision."

D. Major Changes in Guideline Structure and Format Resulting From the Comment, Consultation, and Concurrence Process

The consultation, comment, and concurrence process produced changes in the format and structure of the guidelines. These changes are discussed below. (See also Section III for responses to general comments on the guidelines.)

The commenters generally supported the structure of the alternative guidelines. After considering the comments received, the DOE task force decided to retain the structure of the alternative guidelines issued on May 27, 1983. The task force had altered the basic structure of the guidelines in response to many comments requesting an explanation of the relative importance of the various guidelines and the order in which they will be used. The revised organization separates the guidelines into two distinct sets governing the postclosure and the preclosure periods. This separation makes clear the differences in the roles played by the individual guidelines that pertain to the siting, construction, operation, closure, and decommissioning of a repository (preclosure guidelines in Subpart D) and by those that pertain to the long time periods after a repository is closed (postclosure guidelines in Subpart C). The reorganization allows the DOE—in evaluating safety, environmental impacts, socioeconomic effects, and costs—to clearly distinguish the unique concerns about a repository from the more common and more familiar concerns about constructing and operating large-scale mining projects and nuclear facilities. The reorganization thus emphasizes the unique mission of a geologic repository. As explained in Section IV.A, it also makes explicit the priorities that the DOE intends to assign to the guideline groupings in making siting decisions.

Another general change was made in response to comments on the alternative guidelines. As discussed in more detail in Section III, this change was a revision in format, particularly the addition of explicit qualifying conditions.

Other changes, made in response to a number of comments and the NRC's preliminary concurrence conditions, were to define more precisely the way in which the guidelines are to be applied. The directions for their application are given in the implementation guidelines (§ 960.3), which have been revised to satisfy the NRC's concerns and amplified with two new appendices. Section IV.B of this notice explains both

the implementation process and how the DOE intends to apply the guidelines.

The changes described above revised the format of the guidelines, refined their structure, and clarified how they will be applied. They did not change the content or the meaning of the individual guidelines. Changes in content stemmed from the comments about individual guidelines or the NRC's preliminary concurrence conditions; they are addressed in the comment-response document (16) and in Section IV.B. However, throughout the guideline-development process, the scope of the guidelines and the issues associated with the guidelines remained substantially the same.

III. General Issues Raised in the Consultation, Comment, and Concurrence Process

Many of the comments on both the proposed and the alternative guidelines were highly specific, dealing with particular guidelines; these are discussed in the comment-response document (16) and in Section IV. Other comments were general, covering many or all of the guidelines, or they were directed at the consultation process itself; these comments are discussed below. Many of the comments, however, were concerned with issues that are not related to the guidelines; among them were issues that pertained to the geologic repository program, such as the need for additional research on waste disposal; questions about the properties of a specific rock type; and statements against the use of nuclear power plants. Since these issues lie outside the scope of the guidelines, they are not addressed in this notice.

A. General Comments on the Guidelines

The general comments on the guidelines were divided into five categories: the use of proposed EPA and NRC regulations, the vagueness and lack of specificity in the guidelines, the lack or inadequacy of qualifying and disqualifying conditions, the lack of weighting factors, and the lack of definition of the site-screening process. The sections that follow contain brief summaries of, and responses to, the comments received on both the proposed and the alternative guidelines as well as the NRC's preliminary concurrence conditions.

1. The Use of Proposed EPA and NRC Regulations

Many comments objected to the DOE's basing its guidelines on proposed NRC and EPA regulations. Some comments expressed concern that guidelines based on those regulations might be defective because the regulations had not yet been issued in final form. Others felt that the DOE should not use standards issued by other agencies but should develop the guidelines independently. The EPA and NRC staffs found the use of their proposed regulations in the DOE guidelines appropriate. Some commenters requested that the guidelines be made more explicitly consistent with the proposed EPA standards and with the NRC criteria and that they be modified in the future when the final EPA standards are issued.

Geologic repositories must be constructed, operated, and closed in accordance with the EPA and NRC regulations. The central fixture of both of these regulations is the chosen site; the NRC, through a licensing action that will permit repository construction, will make the ultimate decision on the technical adequacy of the site proposed by the DOE. A site is therefore the objective of the DOE siting program, and the guidelines could not guide the siting process without reference to every particular of that objective. The NRC criteria (10 CFR Part 60) have now been published in final form (17), and their compatibility with the guidelines has been verified by the NRC, which used absence of conflict with 10 CFR Part 60 as one of the criteria for concurrence. In the event of a conflict between the guidelines and either 10 CFR Part 60 or 40 CFR Part 191, these NRC and EPA regulations will supersede the guidelines and constitute the operative requirement in any application of the guidelines.

2. Vagueness and Lack of Specificity in the Guidelines

A large number of commenters felt that the guidelines were too vague to be useful. A nearly equal number requested more-specific wording and additional quantitative values; among them were numerous general suggestions for changes in the guidelines. Several commenters felt that the guidelines did not cover enough topics. Some, however, expressed satisfaction with the level of detail in the guidelines, feeling that site-specific numerical criteria are inappropriate in general guidelines that are to be used in various stages of the site-selection process and applied to the evaluations of different host rocks. A few suggested that rock-specific guidelines should be developed for each rock type under consideration, especially for the early stages of screening.

Several comments indicated that the alternative guidelines represented a significant improvement over the proposed guidelines in terms of specificity.

In developing the guidelines, there were two possible approaches: (1) to develop, for each guideline, numerical limits that must be met for a site to be acceptable or (2) to develop generic qualitative guidelines to be used as a basis for comparing sites.

The first approach would require setting numerical limits on the characteristics of a site—for example, on its geometrical configuration and the geologic, geochemical, and hydrologic characteristics of the host rock. This approach would disqualify sites with characteristics that fail to meet the limits; only sites that met the numerical limits would remain under consideration. Though appearing to sharply discriminate against unacceptable sites, such an approach would ignore the most important aspect of a repository—that is, the ability of its parts to work together.

For example, the time it would take radionuclides to travel from a repository to the accessible environment, once they were released from a waste package, depends on (1) the length of the path traveled; (2) the retardation of radionuclides, which depends, in a complex way, on the physical and chemical properties of the geologic environment; and (3) the velocity of ground-water flow, which in turn depends on the hydraulic conductivity, the hydraulic gradient, and the porosity of the geohydrologic system. In a host rock with a low retardation potential, a long path or a low velocity can provide long travel times and, hence, confidence that a site is safe. In a host rock with a more rapid flow, a long path or a high retardation potential can provide this confidence. No single numerical value for any one of these three features is either necessary or sufficient for safety; to determine whether a respository site is safe, the three features must be considered in combination.

As this simple example illustrates, the geologic, hydrologic, and geochemical conditions of a site will interact in affecting the performance of a repository. An assessment of the performance of a complete repository must take into account these and other conditions. A detailed assessment of this performance will not be possible until after site characterization, because the performance depends on many complex, interdependent conditions, such as the lengths of time the waste canisters can be expected to remain intact, the rates at which the waste might be leached from the waste form, and the rates of radionuclide transport

discussed earlier. Independently establishing numerical requirements for parts of the site without recognizing that they are interdependent would severely limit the flexibility of the DOE in designing the most effective waste-isolation system and of the NRC in licensing it.

The DOE, therefore, selected the second approach—developing generic qualitative guidelines as a basis for comparing sites. The DOE believes that generic qualitative guidelines are most appropriate for comparing and evaluating sites that are in different geohydrologic settings and host rocks, especially where the features of each site must work together, as a complete system, to prevent the release of radioactive material. Comparative evaluations must therefore consider the interactive elements in coming to a definitive finding with regard to each feature or each guideline. To make the guidelines useful and directly applicable early in the siting process, the DOE identified conditions that qualify and disqualify sites, as well as conditions that are considered to be favorable and conditions that are considered to be potentially adverse. These four conditions are explained in Section IV.A.

Some commenters appeared not to realize that the general guidelines will be the basis for more quantitative analyses in the later phases of siting. The site-characterization plans to be prepared before sinking exploratory shafts at candidate sites will identify site-specific issues, derived from the guidelines, that affect the suitability of each site for development as a repository. Furthermore, an important basis for the final selection of a site for development will be detailed performance assessments (Section I.B.4), which will be fully quantitative evaluations of the ability of the characterized sites to meet the system guidelines.

3. Lack or Inadequacy of Qualifying and Disqualifying Conditions

Many commenters objected to the lack of explicitly labeled qualifying conditions in the proposed guidelines; many felt that the guidelines should contain more disqualifying conditions and that they should be strengthened. Others suggested that qualifying and disqualifying conditions should be stated in qualitative terms. The comments contained numerous suggestions for rewording these conditions and for adding new statements to them. Some comments indicated that each guideline should contain a specific disqualifying condition, and some suggested that the DOE state the inverse of the qualifying condition as a disqualifying condition. The comments revealed an apparent misunderstanding about the purposes of the qualifying and the disqualifying conditions.

In response to these comments, qualifying conditions were added for all guidelines, additional disqualifying conditions were developed, and the format was revised to indicate explicitly which conditions are required for the qualification of a site and which conditions would be disqualifying. To answer the questions raised in the comments and to help clear up the apparent misunderstanding, a discussion of the structure of the guidelines and the meaning of the conditions is presented in Section IV.A of this notice.

A request for additional disqualifying conditions with sufficient specificity to ensure that unacceptable sites are eliminated as early as practicable was one of the seven NRC preliminary concurrence conditions (see Section II.C). Specifically, the NRC asked that disqualifying conditions be provided for all the factors specified in Section 112(a) of the Act. All of the factors specified in the Act had been accounted for in the qualifying conditions, but, as explained in Section IV.A, these conditions cannot be used early in the siting process.

In developing the guidelines, the philosophy of the DOE had been to develop for system and technical guidelines qualifying conditions stating those conditions that a site must meet in order to be considered adequate in terms of that guideline. Failure to meet the qualifying condition of any guideline would disqualify a site. In addition, the DOE identified explicit disqualifying conditions that were considered to be so adverse as to disqualify a site without further investigation if they were present. The number of these very serious disqualifying conditions was limited. However, in view of the NRC's concurrence condition 7 and the continuing requests by the States and the public to include disqualifying conditions for at least each of the factors specified in the Act, the DOE reevaluated the factors in an attempt to develop additional applicable disqualifying conditions. As a result of this reevaluation and discussions with the NRC staff, the DOE added new disqualifying conditions for two postclosure guidelines (§ 960.4-2-7, Tectonics, and § 960.2-4-8-1, Natural Resources) and four preclosure guidelines (§ 960.5-2-4, Offsite Installations and Operations; § 960.5-2-6, Socioeconomic Impacts; § 960.5-2-10, Hydrology; and § 960.5-2-11, Tectonics). In addition, the DOE revised the disqualifying conditions for two postclosure guidelines (§ 960.4-2-1, Geohydrology, and § 960.4-2-6, Dissolution) and one preclosure guideline (§ 960.5-2-5, Environmental Quality). The specific changes are discussed in the section-by-section analysis of Section IV.B. Furthermore, 10 of the 17 disqualifying conditions included in the final guidelines can be applied at the first stage of the site-selection process; they are identified in Appendix III to the guidelines.

4. Lack of Weighting Factors

Among the comments that appeared most frequently were suggestions for a weighting system for using the guidelines. Many commenters felt that a weighting system would make it easier to review and control decisions made in the siting process. Many pointed out that some guidelines will be more important than others in evaluating sites and that to rank them according to priority would make the weighting explicit. Others suggested that the guidelines be grouped qualitatively—for example, into collections of primary and secondary importance. Still others warned against the ranking of general guidelines intended to cover interacting features of complex systems in diverse media.

The DOE agrees that a qualitative grouping may be useful in guiding the application of the guidelines at certain steps in the siting process. The implementation guidelines now specify steps at which particular guidelines are to be grouped according to primary and secondary significance as well as the order of importance to be assigned to the three groups of preclosure guidelines.

5. Lack of Definition of the Siting Process

Many commenters felt that the DOE had not explained its siting process well enough to make the proposed or alternative guidelines understandable. The comments contained a number of questions about the history of the siting process before the Act was passed; they also questioned its relationship to the process outlined in the Act.

Agreeing that further explanation of the siting process would be helpful, the DOE has provided it in two sections of this notice: Section I.B, which explains the process, and Section IV.B, which discusses the application of the guidelines during the siting process.

B. Comments on the Consultation Process

1. Adequacy of the Consultation Process

Many of the comments on the proposal of February 7, 1983, criticized the consultation process for the guidelines. Some said that consultation with the States and Federal agencies had not been adequate and had not begun early enough, and some stated that early consultation would have improved the proposed guidelines. One commenter suggested an additional series of hearings in States with potentially acceptable sites after final guidelines have been prepared. A number of commenters also requested specific details of the process the DOE intends to follow for consultation with the States during the implementation of the guidelines.

Many of the commenters complained that the time allowed for review and comment on the guidelines was too short, that the public had not been adequately notified of public hearings, that the location and the scheduling of the hearings were inconvenient, and that, before publishing final guidelines, the DOE should release for another round of public comment guideline revisions resulting from public comments on the proposed guidelines. Also raised were questions about the process of obtaining NRC concurrence and future revisions of the guidelines as allowed by the Act, especially revisions made to reflect possible changes in the EPA and the NRC regulations (see Section III.A.1).

The Act prescribed a time period within which the DOE was to issue final guidelines and a process for consulting on guideline development. As explained in Section II, the DOE greatly expanded this process to allow wide opportunity for review and comment on the draft guidelines and to provide for continued consultation with States and Indian tribes (see also the comment-response document (16) for more-detailed responses to the comments on consultation). The process to be followed for consultation with the States during the implementation of the final guidelines will be specified in the consultation-and-cooperation agreements that will be negotiated with the affected States and affected Indian tribes in accordance with the provisions of the Act.

The Act allows the guidelines to be revised as necessary. Such revisions will be made through a process of notice and comment in accordance with the Administrative Procedure Act. In response to the NRC's preliminary concurrence condition 2 (Section II.C) and concerns expressed during the NRC's meeting on June 22, 1984, the DOE has made a commitment in § 960.1, "Applicability," to submit all guideline revisions to the NRC for its review and concurrence before issuance.

2. Endorsement of the Alternative Guidelines

Several comments asked why the alternative guidelines of May 27, 1983, were attributed to the DOE-appointed task force and had not been endorsed by the DOE. Many of the comments stated that the alternative guidelines represented a very significant improvement over the proposed guidelines. Some requested that the DOE formally reissue the alternative guidelines as a DOE proposal and allow another full round of public comment. Many parties stated that the DOE's consultation process on the guidelines had greatly improved and expressed the hope that similar consultations would continue through all phases of the DOE's siting investigations for repositories.

The DOE wished to allow the task force the greatest flexibility in developing alternative guidelines that met the requirements of the Act and responded to the comments on the original proposal of February 7, 1983. Moreover, the DOE wished to involve the States and Act-designated Federal agencies in the development of the guidelines at the earliest possible time. Therefore, the alternative guidelines were provided to States and agencies for review and comment and were made available to the public as well. Because of the generally favorable comments from States, Federal agencies, and the public, the DOE used the alternative guidelines as the basis for preparing the guidelines that were submitted to the NRC for concurrence (see Section II for a more detailed discussion).

IV. Overview of the Guidelines

The process of consultation, comment, and NRC concurrence (Section II) led to revisions in the guidelines. This section explains the final guidelines in detail, giving the reasons for the choices that the DOE made in developing their form and content. In addition to the changes described in this section, many editorial changes were made in response to suggestions for making the guidelines clearer and easier to understand.

A. Structure of the Guidelines

The guidelines are presented in three major categories: implementation guidelines, postclosures guidelines, and preclosure guidelines.

The implementation guidelines govern the application of all other guidelines in the evaluation of sites and establish general rules to be followed during site screening, nomination, recommendation for characterization, and recommendation for repository development.

The postclosure guidelines govern the siting considerations that deal with the long-term behavior of a repository—that is, its behavior after waste emplacement and repository closure. These are the considerations most important for ensuring the long-term protection of the health and safety of the public.

The preclosure guidelines govern the siting considerations that deal with the operation of the repository before its is closed, while waste is being received and emplaced. These are the considerations important in protecting the public and the repository workers from exposures to radiation during repository operations. They are also the most important considerations in protecting the quality of the environment and in mitigating socioeconomic impacts, because most of the environmental and the socioeconomic effects of a repository will occur during its construction and operation.

The purpose of separating the preclosure and the postclosure guidelines is to make clear the differences in the roles played by these guidelines. This separation is consistent with the structure of the proposed EPA standards (40 CFR Part 191), which establish different radiological-safety objectives for the preclosure and the postclosure periods, and the NRC criteria (10 CFR Part 60), which are similarly separated.

Both the postclosure and the preclosure guidelines are divided into system and technical guidelines. The postclosure system guideline states broad requirements that are based generally on the objective of protecting public health and safety and the environment and are based specifically on applicable regulatory standards. The postclosure system guideline states such requirements for the repository system, and each of the corresponding postclosure technical guidelines specifies requirements for one or more elements of the repository system—the physical properties and physical phenomena at the site. The three preclosure system guidelines state broad requirements for three different systems. These systems include, in addition to some characteristics of the site and more engineered components, the people and the environment near the site. Each of the corresponding preclosure technical guidelines specifies requirements on one or more elements

of those systems; these elements are defined in Section III.B.4. Both the postclosure and the preclosure technical guidelines specify conditions that would qualify or disqualify sites, and they specify conditions that would be considered favorable to potentially adverse.

Each technical guideline contains a *qualifying* condition. Taken together, these qualifying conditions are the minimum conditions for site qualification. A site will be qualified only if it meets all of the qualification conditions; no single qualification condition is sufficient to qualify a site. A site will be disqualified if site characterization shows that it fails to meet any one of the qualifying conditions. Failure to meet a qualifying condition can usually be determined only after site characterization and the concurrent investigations of environmental and socioeconomic conditions: qualifying conditions must generally be stated in terms of specifications that require analyses of the repository system, and data for such analyses will be available only after site characterization and investigation. Before site characterization, however, evaluations that compare sites will be able to reveal the relative potential of those sites to meet the qualifying conditions of the technical guidelines. The findings that can be made during various stages of the site-selection process are defined and listed in Appendix III to the guidelines.

Twelve technical guidelines also contain *disqualifying* conditions. Each describes a condition that is considered so adverse as to constitute sufficient evidence to conclude, without further consideration, that a site is disqualified. Almost all of the 17 disqualifying conditions pertain to conditions whose presence or absence may be verifiable at a site without extensive data gathering or complex analysis; ten of them can be applied in the first phase of the site-selection process (see Appendix III to the guidelines). Application of the disqualifying condition on ground-water travel time (§ 960.4–2–1) may, however, require data collected during site characterization. It is because of the intent that the qualifying conditions should be useful early in the siting process that the converse of each qualifying condition was not listed as a disqualifying condition.

The inclusion of the favorable and potentially adverse conditions is based on the NRC's 10 CFR Part 60. These conditions can be used to predict the suitability of a site before detailed studies of the site have been performed. They provide preliminary indications of system performance.

Although favorable conditions need not exist at a given site for that site to meet the qualifying condition, the existence of such conditions leads to an expectation that subsequent evaluations will yield enhanced confidence in a site's suitability. Similarly, the purpose of determining whether any potentially adverse conditions exist at a site is to provide an early indication of conditions that must be examined carefully before judging the acceptability of that site. Such examinations must evaluate the effects of other, possibly compensatory, conditions present at a site. Thus, a site that has most of the favorable conditions may be presumed likely to meet the system guidelines, while a site with many potential adverse conditions may not meet them.

By providing preliminary indications of system performance, favorable and potentially adverse conditions are intended to be used primarily in the screening phase of site selection, during the search for potentially acceptable sites. They will also help determine the most effective use of available resources for site investigation when those resources are limited. Some level of system evaluation may later be required to determine whether a potentially adverse condition so identified is actually adverse and, if so, to what extent it affects site suitability.

At some point, available evidence may be sufficient to conclude that a potentially adverse condition is, in fact, so seriously adverse as to support a conclusion that the related qualifying condition is not, and will not, be satisfied. In such a case, the site will be disqualified. For example, potentially adverse conditions related to the possibility of requirements for engineering measures beyond reasonably available technology may, upon sufficient study, be found to impose with certainty such extraordinary engineering measures and as a result cause disqualification.

In the guidelines of November 1983, the technical guidelines in both the postclosure and the preclosure sections were subdivided into smaller groups. The postclosure guidelines were organized into two groups: (1) guidelines for the conditions and processes that would be expected to affect the performance of a repository and (2) guidelines for potentially disruptive processes and events that, though not expected, might disrupt the repository. The first group was to be assigned greater importance in site evaluations.

This grouping and the hierarchy of importance were objectionable to the NRC because the grouping was not strictly consistent with the NRC's categories of "anticipated" and "unanticipated" processes and events. Furthermore the NRC was concerned that not all of the guidelines assigned to the second group (potentially disruptive processes and events) could be considered to be of secondary importance, and thus in the site-selection process the DOE may overlook "some site characteristics that are important to repository performance." In its preliminary concurrence condition 3(h), the NRC asked the DOE to make the postclosure guidelines consistent with the NRC's categories of "anticipated" and "unanticipated" processes and events. In response, the DOE, after evaluating the hierarchy of the postclosure guidelines, decided to delete the subcategories.

As a consequence, the postclosure guidelines are no longer ranked, but they continue to retain precedence over the preclosure guidelines. The elimination of ranking for the postclosure guidelines was acceptable to the NRC, which had stated in its preliminary concurrence decision that it "sees no explicit requirement for this or any other ranking" in the Act and that "the issue of ranking or ordering the guidelines will not materially affect NRC in carrying out its statutory responsibilities" (49 FR 9659). Furthermore, the NRC considers (49 FR 28135) that arguments for guideline ranking are motivated by the need for some assurance that the DOE's site-selection process will proceed in a "logical and verifiable fashion." The DOE's response to preliminary concurrence condition 5 provides such assurance, by specifying during which phase of the siting process specific guidelines are to be applied and the findings to be made in these applications. (See Section IV.B for a more detailed discussion.)

The preclosure guidelines are grouped into three categories, which separately address concerns about radiological safety; environmental impacts, socioeconomics, and transportation; and the ease and cost of repository siting construction, operation, and closure. These categories of guidelines are evaluated by different techniques, and the separation is intended to facilitate their application.

The organization of the guidelines, therefore, is intended to make clear how they can be used during the siting process. Early in the process, when data are few, the disqualifying conditions are

to be applied to eliminate unsuitable land units, and then the favorable and potentially adverse conditions must be applied to the remaining land units to provide the best approximations of suitability. As more data become available, the qualifying conditions of the technical guidelines can be used as standards for approximating suitability. The process will culminate after site characterization and investigation, when enough data are available to reliably establish whether the system guidelines are met.

B. Section-by-Section Analysis

As explained in Section II, the DOE submitted the guidelines to two rounds of public review and comment. The first followed the publication of the proposed guidelines on February 7, 1983; the second followed the publication of the alternative guidelines on May 27, 1983. The comments received on the proposed guidelines were considered in developing the alternative guidelines; the disposition of these comments is discussed in detail in the comment-response document (16). Comments on the alternative guidelines were considered in developing the final guidelines, whose structure and format were adopted from the alternative guidelines. The resolution of these comments is discussed in the sections that follow, which also present the purpose and intent of each final guideline and describe the changes that resulted from the NRC concurrence process. Comments on the proposed guidelines of February 1983 are discussed here only when necessary to elucidate the development of the final guidelines.

1. General Provisions (Subpart A)

This section of the guidelines consists of the statement of applicability of the guidelines and the definitions.

Section 960.1 Applicability. As specified in Section 112(a) of the Act, the Secretary of Energy shall use these guidelines in evaluating the suitability of sites for development as repositories. The guidelines will be used for all suitability determinations made pursuant to Section 112(b) and preliminary suitability determinations required by Section 114(f).

In the November 1983 guidelines, this section stated that, in applying the guidelines, the DOE will resolve any inconsistencies with the Act, 10 CFR Part 60 and 40 CFR Part 191 "in a manner determined by the DOE to most closely agree with the intent of the Act." In its preliminary decision, the NRC pointed out that its interpretation of 10 CFR Part 60 is binding on the DOE and requested, in preliminary concurrence condition 1, the DOE to recognize the NRC's jurisdiction over the resolution of differences between the guidelines and 10 CFR Part 60. The DOE responded by revising Section 960.1 to acknowledge the jurisdiction of the NRC in this matter. Further, because of the necessity for any site selected by the DOE to ultimately comply with 10 CFR Part 60 and 40 CFR Part 191, in the event of a conflict between the guidelines and either 10 CFR Part 60 or 40 CFR Part 191, these NRC and EPA regulations will supersede the guidelines and constitute the operative requirement in any application of the guidelines.

In the guidelines of May 1984, the DOE also made the commitment, in response to the NRC's preliminary concurrence condition 2, to obtain the NRC's concurrence on revisions to the siting guidelines that relate to NRC jurisdiction. The DOE had always intended to submit guideline revisions to the NRC for concurrence but had not explicity stated this intention, assuming that, since it was required by the Act, submittal of revisions for NRC concurrence was understood.

The NRC had explained (49 FR 9650) that it would have jurisdiction to review the guidelines insofar as they might bear on the exercise of NRC responsibility under the Atomic Energy Act, the Energy Reorganization Act, the National Environmental Policy Act, and the Nuclear Waste Policy Act. In view of the broadness of this jurisdiction and comments made by the States at the June 22, 1983, NRC meeting, the Commission requested, and the DOE agreed, that all revisions of the guidelines would be submitted for NRC concurrence.

Section 960.2 Definitions. To clarify the intent of the guidelines, the DOE has included an extensive list of definitions. The sources of the definitions are the Nuclear Waste Policy Act of 1982; the NRC's 10 CFR Part 60 (17), the EPA's proposed 40 CFR Part 191 (15), Water-Supply Paper 1988 of the U.S. Geological Survey (18), and the *Glossary of Geology* of the American Geological Institute (19). Some of the definitions obtained from these sources were slightly modified to enhance clarity or ease of application. Where the NRC and the Act provided differing definitions, an attempt was made to incorporate the intent of both definitions. If a given term was defined differently by the NRC and a source other than the Act, the NRC definition was used for consistency and to facilitate future NRC reviews of siting and licensing documents. For terms that had not been previously defined, new definitions appropriate to the guidelines were formulated.

Many commenters complained that the terms "reasonable expectation" and "beyond the state of the art" were difficult to understand or to demonstrate. "Reasonable expectation" has been eliminated because the DOE has changed the approach to reaching a decision on suitability: instead of demonstrating reasonable expectation, the DOE will make a comprehensive evaluation of the compliance of the site with all guidelines.

"Beyond the state of the art" has been replaced with "reasonably available technology," which is defined to mean "technology which exists and has been demonstrated" or for which the results of any requisite development, demonstration, or confirmatory testing efforts before application will be available within the required time periods.

The term "disturbed zone" elicited a large number of comments, most of which questioned how this three-dimensional "zone" could be considered a part of a two-dimensional "area." Reference to the definition of a "controlled area," which specifically includes the underlying subsurface, should help clarify the issue. "Disturbed zone" had been defined to mean that portion of the controlled area whose physical or chemical properties are projected to change permanently as a result of the construction of the underground facility and the emplacement of heat-producing waste such that the resultant change of properties could have a significant effect on the performance of the repository. Thus the definition includes both mechanical disturbances, which will occur during construction and operation, and heat-induced disturbances, which will occur after closure. The definition of this term is important because the boundary of the disturbed zone (i.e., the boundary between the altered and the unaltered host rock) is the starting point in calculating the time of ground-water and radionuclide travel to the accessible environment. Excluded from the disturbed zone as defined in the guidelines are the shafts from the surface to the underground facility. Although they will be considered as potential flow paths for radionuclide travel, they are explicitly excluded from the definition of "disturbed zone" because they are not realistically the starting point for radionuclide travel. (The shafts will be sealed after closure, and the seals will be part of the engineered-barrier system.)

In its preliminary concurrence condition 3(e), the NRC requested that the word "permanently" be deleted from the definition of "disturbed zone" because the "disturbed zone," as defined in 10 CFR Part 60, is not limited to areas that have changed "permanently." The NRC was therefore concerned that the DOE might neglect transient changes that could have a significant effect on repository performance or that the DOE might make siting decisions on the basis of a disturbed zone that is different from that specified in 10 CFR Part 60. Since the purpose of the DOE's definition is accomplished by the NRC's definition in 10 CFR Part 60 and by the phrase "such that the resultant change of properties could have a significant effect on the performance of the geologic repository," the DOE agreed to delete the word "permanently."

The definitions of "accessible environment" and "controlled area" elicited approximately 20 comments. Because of the relationship between these two terms, they are discussed here in terms of concerns about the controlled area. The comments indicated considerable misunderstanding of the concepts and expressed concern about (1) the releases of radionuclides in the controlled area, both underground and on the surface; (2) the level or levels of control over access and future use; and (3) the extent of the controlled area (i.e., the distance from the underground facility to the accessible environment).

The concept of a controlled area was developed by the NRC in 10 CFR Part 60 to exclude incompatible activities before and after permanent closure: the outer boundary of the controlled area is the accessible environment. Radionuclide releases underground in the controlled area will be controlled by the waste package during its effective lifetime; after the package containment is lost, they are to be limited to the allowable rate of release from the engineered system (1 part in 100,000 per year). Containment by the waste package is required to be essentially complete during the first several hundred years, when most of the radiation and heat in the engineered-barrier system comes from the radioactive decay of fission products. The containment period and the low release rate after containment, combined with the retardation of radionuclide migration through the host rock and the surrounding geologic formations, will drastically limit the concentration of radionuclides that can reach ground-water and thus be transported to the accessible environment.

During operation, surface releases within restricted areas of the controlled area will be governed by 10 CFR Part 20, the NRC's standards for protection against radiation. Surface releases outside the restricted areas will be governed by 10 CFR Part 60, the NRC's criteria for geologic repositories, and 40 CFR Part 191, Subpart A, the EPA's environmental standards for waste management and storage.

Access to the surface facilities will be restricted (the "restricted area"). The controlled area will be subject to lesser controls. Outside the restricted area, activities that could affect the performance of the repository, such as deep drilling, will be prohibited, but surface activities could be permitted by the DOE. Additional information on site ownership and control is found in §§ 960.4–2–8–2 and 960.5–2–2. The size of the controlled area, at a given site, will depend mainly on the rate of radionuclide movement through ground-water and will be established on a site-by-site basis to ensure that releases to the accessible environment will not exceed those permitted by 40 CFR Part 191. It can extend to as much as 10 kilometers in any direction from the underground facility, but it need not be this large if the EPA standards can be met in a shorter distance.

Nearly 20 commenters requested particular definitions of "high-level waste." The definition of "high-level waste" was taken from the Act and is slightly different from the definition used by the NRC in 10 CFR Part 60 in that high-level radioactive waste is not considered to include spent nuclear fuel. The Act always refers to high-level radioactive waste and spent nuclear fuel separately. However, since the spent fuel transferred to the DOE for disposal will have been declared to be waste by its owners, such spent fuel is included in the broader category of "radioactive waste" that will be disposed of at the repository. For brevity, therefore, the terms "radioactive waste" and "waste" are frequently used in the guidelines to denote "high-level radioactive waste and spent nuclear fuel."

More than 20 new terms were defined to clarify the intent of the guidelines; many of these definitions were requested by commenters. Among them are geologic terms (e.g., "active fault" and "lithosphere"); geohydrologic terms (e.g., "confining unit," "ground-water flux," "ground-water travel time," "hydraulic gradient," and "hydraulic conductivity"); terms related to the performance of the repository (e.g., "cumulative releases of radionuclides," "expected repository performance," "geohydrologic system"); and terms related to the development and operation of a repository (e.g., "restricted area," "site characterization," "surface facilities," and "closure").

For consistency with revisions in the postclosure guidelines (Subpart C), the terms "characteristics and processes affecting expected repository performance" and "potentially disruptive process and events" were deleted. To clarify revisions of the implementation guidelines (Subpart B) made in response to the NRC's concurrence conditions 4 and 5, four terms were added: "application," "evaluation," "finding," and "source term." Also deleted from the definitions was the term "capillary fringe" because it is not used in the NRC's proposed modification to 10 CFR Part 60 for disposal in the unsaturated zone; the definition of "unsaturated zone" was modified accordingly.

2. Implementation Guidelines (Subpart B, Section 960.3)

Although the proposed guidelines discussed in general terms their application during siting, many commenters requested a more detailed description of the procedures to be used and a fuller discussion of a number of issues. Because of the numerous requests for a clearer, more specific discussion, the task force developed, for the alternative proposal of May 27, 1983, implementation guidelines that specified the procedures for applying the rest of the guidelines.

The comments on the implementation guidelines in the alternative proposal of May 27, 1983, included several that disagreed with particular provisions, but again many commenters requested additional clarification. The DOE therefore revised the implementation guidelines and prepared a description of the process by which they will be applied. That description is presented in this section, after a discussion of the NRC's preliminary concurrence conditions for the implementation guidelines.

Two of the comments on the implementation guidelines did not address any particular provision. One of these was concerned with the favorable and potentially adverse conditions: one commenter interpreted the implementation guidelines to require that the favorable and potentially adverse conditions be simply counted up to determine site suitability. This is not at all the intent. The mere presence

of a potentially adverse condition requires an evaluation of its influence on ability to comply with the qualifying conditions of the pertinent system guideline and a determination that it is mitigated by related favorable conditions or some other site-specific factors. Such evaluations are not restricted to the form of simple counting since the significance of each of these conditions may be amplified or diminished by other site-specific conditions.

The second general comment was a request, from many States, that the guidelines (or later amendments) include a numerical (or equivalent) method for "computing" compliance with the guidelines and for the resulting site-recommendation decisions, thereby ensuring that future findings and decisions are "objective." The DOE has not found support in the technical community, in particular in consultation with the U.S. Geological Survey, for such a method nor has the DOE been able to determine the framework for a predetermined method that would be sufficiently complete to eliminate the exercise of judgment on the part of the Federal officials who will make these decisions after consultation with the States. The DOE does not believe that the performance of a system as complex as a repository site, taking the natural structures and systems alone, can be represented by arithmetic formulas without seriously distorting critical synergies among the component elements. The DOE has, in the guidelines, made an effort to provide guidance by prescribing the relative importance of subsets of the guidelines, with the postclosure guidelines being assigned primary importance.

In its meeting on June 22, 1984, the NRC requested the DOE to delete from § 960.3–2–3, "Recommendation of Sites for Characterization," the statement that the basis for the recommendation decision will include "a preliminary determination, referred to in Section 114(f) of the Act, that such sites are suitable for development of repositories." This statement had been added to the May 1984 guidelines in an effort to clarify the siting process, but several States objected that the provision could not be implemented before site characterization. The DOE agreed that the discussion of the preliminary determination was outside the scope of the guidelines and accordingly revised § 960.3–2–3 by deleting the above-mentioned statement.

Three of the NRC's preliminary concurrence conditions were related to the implementation guidelines: condition 4, which asked the DOE to clarify the role of engineered barriers in site evaluations; condition 5, which asked the DOE to specify in greater detail how the guidelines will be applied; and condition 6, which asked the DOE to indicate the kinds of information needed for decisions about site nomination and recommendation for site characterization. In response to these conditions, the DOE revised and expanded the implementation guidelines. The principal changes are discussed below. This discussion is followed by a detailed explanation of the revised implementation guidelines.

Summary of Revisions Made in Response to the NRC's Concurrence Conditions

Engineered barriers. In its preliminary concurrence condition 4, the NRC asked the DOE to modify the siting guidelines to make clear that "engineered barriers cannot constitute a compensating measure for deficiencies in the geologic media during site screening." Furthermore, during the public meeting held by the NRC on January 11, 1984, the EPA testified that, in making comparative performance assessments for potential sites, the DOE should assume that the performance of engineered barriers (i.e., waste packages and waste forms) is at least 10 times less effective than that required by 10 CFR Part 60 in order to compare the isolation capabilities of the sites.

The DOE had never intended that engineered barriers be used to compensate for site deficiencies. These barriers were mentioned in the guidelines because the EPA's proposed standards in 40 CFR Part 191 specify requirements for the total repository system, which includes engineered barriers. Furthermore, the role of engineered barriers as part of the total system is recognized by the NRC, which has established specific performance requirements for the waste package in 10 CFR 60.113. In response to comments on the alternative guidelines of May 1983 and to comments received during subsequent meetings with the States (see Section II), the DOE had revised § 960.3 in the November 1983 guidelines to clarify the role assigned to engineered barriers. However, the revision was apparently not explicit enough to satisfy the concerns of those who objected to the use of engineered barriers as compensating measures.

Therefore, to satisfy the NRC's condition 4, the DOE revised implementation guideline § 960.3–1–5 (formerly § 960.3–1–4) to state that in comparative site evaluations engineered barriers "shall be considered only to the extent necessary to obtain realistic course terms for site evaluations" and "shall not be used to (1) compensate for an inadequate site; (2) mask the innate deficiencies of a site; (3) disguise the strength and weaknesses of a site and the overall system; and (4) mask differences between sites when they are compared." Furthermore, to accommodate the EPA's proposal, the DOE added to this implementation guideline requirements about the assumptions to be used about engineered barriers in comparative evaluations, specifying that "a range of levels in the performance of engineered barriers" is to be used (the performance varying by at least a factor of 10 above and below the requirements of 10 CFR 60.113).

At the June 22, 1984, meeting of the NRC, the DOE agreed to further clarify the role assigned to engineered barriers in site evaluations (see Section II.C).

Application of guidelines at each siting stage. In its preliminary concurrence condition 5, the NRC asked the DOE "to specify in greater detail how the guidelines will be applied at each siting stage, including site nomination and characterization." The creation of a standard for determining the DOE's level of confidence in data supporting site nomination had also been raised by several commenters. Throughout the guideline-development process, the DOE had intended that each site would be evaluated against all guidelines in the siting stages applicable to the first or the second repository—that is, to apply all guidelines throughout the siting process. However, during the concurrence meetings, the NRC staff suggested that the term "apply" be used to mean "evaluate and make a finding against." After considering this suggestion, the DOE agreed that this definition would be helpful in clarifying the guideline-application process. This suggestion was implemented by preparing a new appendix (Appendix III) for the siting guidelines and revising the implementation guidelines, especially § 960.3–1–5, "Basis for Site Evaluations."

Appendix III specifies how the guidelines are to be applied at the principal decision points of the siting process: site identification as potentially acceptable, nomination as suitable for characterization or recommendation for characterization, and recommendation for development as a repository. In particular, this appendix specifies the types of findings that are to result from the applications of the disqualifying conditions and the qualifying conditions. Two levels of finding, one showing an

increased level of confidence over the other, are specified for both the disqualifying and the qualifying conditions. For the disqualifying conditions, a level 1 finding (i.e., the evidence does *not* (or conversely, does) support a finding that the site is disqualified) must be made at the nomination stage, while a level 2 finding (i.e., the evidence supports a finding that the site is *not* disqualified and is *not* likely to be disqualified, or that the site is disqualified or is likely to be disqualified) must be made and supported at the time of recommendation for repository development (site selection). For the qualifying conditions, a level 3 finding (i.e., the evidence does *not* (or, conversely, does) support a finding that the site is *not* likely to meet the qualifying condition) must be made at the nomination stage, while a level 4 finding (i.e., the site meets the qualifying condition and is likely to continue to meet it or that the site cannot meet the qualifying condition or is unlikely to be able to meet it) must be made and supported at the recommendation for repository development.

Section 960.3–1–5 was revised (1) to delete the grouping of the postclosure guidelines into two categories (see Section III); (2) to clarify the role of engineered barriers in site evaluation, as already explained above; and (3) to make various editorial changes for greater clarity of meaning and intent. In its final concurrence decision, the NRC agreed that the DOE's additions and modifications satisfy the requirements of condition 5 and the revised guidelines describe an implementation process that "provides confidence that alternative sites will be selected in a manner that meets the requirements of the National Environmental Policy Act."

Kinds of information. The NRC's preliminary concurrence condition 6 states that the "DOE should supplement the guidelines to indicate the kinds of information necessary for DOE to make decisions on the nomination of at least five repository sites and subsequently recommending these sites to the President for characterization. . . ." Similar questions on the data to support nomination had been presented to the DOE by several commenters. The DOE agreed that such information would be helpful and in response added a new appendix (Appendix IV) and a new section (§ 960.3–1–4) to the implementation guidelines. The new section, "Evidence for Siting Decisions," is discussed in the subsequent explanation of the implementation guidelines.

Appendix IV specifies the types of information the DOE expects to be included in the evidence used for the guideline applications set forth in Appendix III at the time of site nominations as suitable for characterization. The appendix presents these information elements for each technical guideline; the types of information listed are considered to be the most significant for the evaluation of a site against that particular guideline. For example, for guideline § 960.4–2–5, Erosion, Appendix IV requires "a description of the structure, stratigraphy, and geomorphology of the site, in context with the geologic setting" and states that the types of information that would support this description would include "the depth, thickness, and lateral extent of the host rock and the overlying rock mass; the lithology of the stratigraphic units above the host rock; and nature and rates of geomorphic processes during the Quaternary Period."

Where necessary, Appendix IV allows the use of technically conservative assumptions or extrapolations of regional data to supplement the information collected for the site, since this stage of the site-selection process precedes site characterization. Furthermore, it is recognized that the specific information for the guideline applications set forth in Appendix III is expected to differ from site to site, both with regard to favorable and potentially adverse conditions and with regard to the sources and the reliability of the information.

Explanation of the Implementation Guidelines

The paragraphs that follow discuss the final implementation guidelines, which incorporate the DOE's responses to the NRC's concurrence conditions.

Siting provisions (§ 960.3–1). The implementation guidelines begin with five provisions for the siting process. The first three of these provisions (§§ 960.3–1–1 through 960.3–1–3) govern the efforts to find sites with a diversity of geohydrologic settings, a diversity of types of host rock, and, when siting the second repository, a regional distribution. These provisions are derived from the Act, which specifies that the guidelines are to require the Secretary to consider regionality and various geologic media.

The fourth siting provision (§ 960.3–1–4) resulted from the DOE's efforts to comply with the NRC's preliminary concurrence condition 6 and was developed after discussions with the NRC staff. It discusses the evidence (i.e., information, evaluation, assumptions, etc.) that is to be used to support the decisions that must be made in four of the five phases of the siting process—site identification as potentially acceptable, site nomination for characterization, site recommendation for characterization, and site recommendation for repository development. It is supported by a new appendix (Appendix IV), which, as explained above, gives examples of the types of information that will be used in the nomination phase.

Included in the provision for evidence is a discussion about the use of assumptions. Before site characterization is completed, preliminary assessments of the potential of a site to meet the qualifying conditions must necessarily employ judicious assumptions where definitive data are missing. Many commenters were concerned that consistent optimism in such assumptions would create benefits out of deficiencies in the scope of field testing and research undertaken by the DOE. Accordingly, § 960.3–1–4 only allows the use of assumptions that would tend to underestimate the ability of a site to meet the qualifying conditions. Such assumptions are commonly termed "conservative" because they are chosen in order to minimize the possibility that later findings will prove the assumptions to be wrong. This is a commonly used approach in engineering and in scientific predictions. Where some data exist, a statistical range of uncertainty may constrain the latitude of such assumptions. Even where no direct date exist, it is often possible to establish a sufficiently conservative range of values by examining comparable situations in nature or by inference from related phenomena. Thus, there are techniques for establishing realistically conservative assumptions that allow reasonable decisions to be made in the face of uncertainties. It should be emphasized, however, that one of the primary focuses of this guideline is to ensure, to the extent practicable, that analyses performed in the absence of complete data (as will necessarily often be the case) do not produce erroneous projections about the suitability of a site.

At several steps in the siting process the guidelines will be used in assessing individual sites and in comparing sites with one another. The fifth provision, § 960.3–1–5, describes the basis on which these evaluations will be made. This criterion begins by assigning primary significance to the postclosure guidelines and secondary significance to the preclosure guidelines; this

assignment is to be used in all the evaluations except those made during the screening phase of the siting process. This assignment of significance received general approval, but some commenters argued that equal significance should be assigned to postclosure and preclosure guidelines. The fundamental purpose of a geologic repository is to provide long-term isolation for radioactive waste in a manner that protects the health and safety of the public. That fundamental purpose will be achieved primarily by the site features related to the postclosure guidelines. The postclosure guidelines are accordingly given primary significance. The DOE recognizes that the preclosure guidelines govern highly important aspects of a repository, but during the siting process the postclosure guidelines are collectively to be given primary significance over the preclosure guidelines, taken together, because the long-term concerns about public health and safety must take precedence over concerns about preclosure effects, which will be temporary. Nonetheless, in order to qualify for repository development, a site must meet the qualifying conditions of all the guidelines.

The evaluation-basis provision of § 960.3–1–5 next establishes an order of importance for the technical guidelines in the preclosure categories. Unless it can be demonstrated to the satisfaction of the NRC that the repository will be safe during its preclosure phase, the repository cannot be built. For the preclosure period, the evaluation-basis provision therefore assigns highest importance to radiological safety. A secondary importance is assigned to the guidelines governing environmental quality, socioeconomic impacts, and transportation. The lowest order of importance is assigned to the guidelines governing ease and cost of siting, construction, operation, and closure.

Section 960.3–1–5 next specifies rules for evaluating individual sites. It requires that the evaluation of technical and system guidelines not be entirely separate. Because the repository must work as a system, an evaluation of the features governed by a technical guideline must retain some consideration of the contributions that those features make to the performance of the entire system. Similarly, an evaluation against a system guideline must include consideration of the technical guidelines accompanying the system guideline, and the evidence related to the system guideline. In recommending sites for the development of repositories, this evidence is to include analysis of expected repository performance and the likelihood of compliance with 40 CFR Part 191 and 10 CFR Part 60, in accordance with the postclosure system guideline.

The provision next gives rules for making comparisons among sites. These comparisons are to be based on evaluations against system guidelines to the extent allowed by the data; they are intended to allow comparative evaluations of sites in terms of the capabilities of the natural barriers for waste isolation. When adequate data are not available for an evaluation of the system guideline, the comparison is to use the technical guidelines, assigning primary significance to the postclosure guidelines and following the orders of importance listed above for the preclosure guidelines.

Section 960.3–1–5 specifies that comparative site evaluations are to place primary importance on the natural barriers of the site. This specification responds to many comments that unrestrained assumptions about engineered barriers could make all sites appear adequate and mask inherent differences between the sites. Therefore, in evaluations against the postclosure guidelines, engineered barriers are to be considered only to the extent necessary to obtain realistic estimates of the amounts and kinds of radionuclides that would constitute a release of radioactivity (i.e., the source term). Included in the provision are specifications for the treatment of engineered-barrier performance in comparative evaluations.

The evaluation-basis provision ends with rules for site comparisons performed to support the last phase of the siting process—the recommendation of sites for the development of repositories. It specifies that these comparisons will consist of two evaluations that predict radionuclide releases for 100,000 years after repository closure and explains how they are to be conducted.

Siting process (§ 960.3–2). The guidelines will be used to evaluate sites at several points in the siting process, which is explained in detail in Section I.B. This part of the guidelines prescribes the procedures to be followed at each step and is summarized below.

Screening for potentially acceptable sites (§ 960.3–2–1). The implementation guideline governing this step places requirements on the screening to be conducted during the selection of a site for the second repository; the guideline states that this section is not applicable to the first respository site, for the reasons explained in Section I.B.1.

Nomination of sites as suitable for characterization (§ 960.3–2–2). The guidelines will next be applied in several steps during the nomination of sites as suitable for site characterization; the nomination process itself is explained in Section I.B.2.

In the first of these steps, the DOE will examine each of the potentially acceptable sites to determine whether any should be disqualified without further consideration. The guideline governing this step (§ 960.3–2–2–1) requires that the DOE evaluate each potentially acceptable site against each disqualifying condition in the technical postclosure and preclosure guidelines. Sites at which any disqualifying condition is present will be eliminated from further consideration. This requirement is provided so that the potentially acceptable sites for the first repository, which predate the guidelines, will be given a "fatal flaw" test before further effort is expended in evaluating them.

The next application during the nomination phase will occur after the DOE has grouped (Section I.B.2) the potentially acceptable sites according to their geohydrologic settings. The guideline covering this step (§ 960.3–2–2–2) requires that the DOE select a preferred site in each setting that contains more than one site; the DOE is to use the evaluation-basis provision (§ 960.3–1–5) in making the selections.

To accomplish this selection, the sites within a single setting will be compared with one another by using the postclosure and the preclosure technical guidelines. Because the sites in a single setting will necessarily have many similar features, not all those guidelines will discriminate among the sites. For example, sites in a single setting will probably satisfy equally well the favorable condition calling for hydrologic features that can be modeled. In selecting a preferred site, the DOE, in accordance with this governing guideline, will primarily evaluate the conditions specified in the guidelines that will discriminate among the sites. The discriminating guidelines in one setting will usually be different from the discriminating guidelines in another setting; a necessary part of the selection process will be the identification of discriminating guidelines in each setting where a selection will be made.

The group of preferred sites, along with the sites that are the only sites in their settings, will be the sites considered for nomination. The guideline requires that at least five sites be proposed; if fewer than five geohydrologic settings are available, the

DOE will select additional sites from settings that contain more than one site, as required to obtain the minimum of five sites.

The next two application steps in the nomination process require that the guidelines be separated into two groups: those that, in the language of the Act, "require site characterization as a prerequisite" for their application and those that do not require site characterization for that purpose.

After selecting the sites being considered for nomination, the DOE will evaluate the suitability of each of them for development as a repository. This evaluation will, as required by the Act, use the guidelines that do not require site characterization as a prerequisite for their application.

In the next step in the nomination process, the DOE will evaluate the suitability for characterization of each site being considered for nomination. This evaluation will use the technical and system guidelines identified as requiring characterization and will consider the favorable and potentially adverse conditions (Section IV.A) at each site. The evaluation will examine whether, on balance, the presence of such conditions affects significantly the ability of a site to meet the qualifying conditions and to avoid disqualification.

At this point in the nomination process the DOE will have identified a set of five or more sites for nomination; it will have evaluated the suitability of each of these sites for development as a repository and for characterization. The DOE will bring all of these results together in a summary comparative evaluation of the sites. The guideline governing this collection of results (§ 960.3–2–2–3) requires the DOE to summarize the information supporting the determinations made up to this point in the nomination process.

The actual nomination of a site as suitable for characterization must be accompanied by an environmental assessment (EA). The DOE will prepare an EA to accompany the nomination of each of the five or more sites; implementation guideline § 960.3–2–2–4 requires that this EA describe the decision process that led to the nomination of that site. The EA must also include other evaluations and discussions described in the Act and in the guidelines. The guideline also specifies that the draft EAs will be made available for public comment and that the governments of States and affected Indian tribes will be notified of such availability.

Implementation guideline § 960.3–2–2–5 prescribes procedures for the formal nomination of sites as suitable for characterization. This guideline calls for a determination of suitability for characterization. This determination is to be based on the information and analyses in the environmental assessments.

Recommendation of sites for characterization (§ 960.3–2–3). The next application of the guidelines will occur during the process of recommending sites for characterization. Under the Act, the Secretary of Energy will recommend no fewer than three sites for characterization for the first and the second repository. The recommendation decision is to be based on the available geophysical, geologic, geochemical, and hydrologic data (unless the Secretary certifies, pursuant to Section 112(b)(3) of the Act, that such available data will not be adequate to satisfy applicable requirements of the Act in the absence of further preliminary borings or excavations); (2) other information; and (3) he associated evaluations and findings reported in the environmental assessments. The guideline governing this step specifies a procedure for making the selection. It requires that the sites nominated for characterization first be considered in order of preference for characterization. The guideline requires next an application of the provisions for diversity of geohydrologic settings and rock types, and, for siting the second repository, the provision for regional distribution, as specified by §§ 960.3–1–1, 960.3–1–2, and 960.3–1–3, respectively, of the implementation guidelines. This application will determine a final order of preference for characterization.

Some States felt that the guidelines should not be used beyond the recommendation of sites for characterization of that, after site characterization, the licensing criteria should take effect. The DOE believes that this is not the intent of the Act and would create an illogical discontinuity in the siting process. As discussed earlier, under the "Use of Proposed EPA and NRC Standards," the standards of site suitability to be used by the licensing authority (NRC) are to be reflected in the guidelines so that siting and other program decisions will be consistent with these requirements. Section 114 of the Act provides that the "Secretary shall submit to the President a recommendation that the President approve such site for the development of a repository," where the site referred to is one of at least three candidate sites for which site characterization has been completed under Section 113(b) of the Act. Section 113(b) requires the site-characterization plan for each candidate site to include "criteria to be used to determine the suitability of such site for the location of a repository, developed pursuant to Section 112(a)." Section 112(a) is the section that requires the DOE to develop siting guidelines, and therefore the guidelines are intended to be used in deciding which among the characterized sites is to be recommended to the President, the Congress, and finally to the NRC for appropriate approvals.

Recommendation of sites for the development of repositories (§ 960.3–2–4). The final application of the guidelines to decisions made during the siting process will occur during the site-selection phase. Site characterization will then have been completed, and the DOE will select one site for development as a repository. The implementation guideline governing this selection requires that the DOE compare the characterized sites on the basis of the postclosure and the preclosure guidelines. It also requires the DOE to submit to the President and make available to the public a comprehensive statement of the basis for the selection, including an environmental impact statement.

Consultation (§ 960.3–3). Throughout the siting process the DOE will consult with designated officials of affected States and governing bodies of affected Indian tribes, as defined by the Act. This guideline prescribes that this consultation be carried out, defines procedures for responding to requests for information, and specifies that the DOE enter into binding written agreements in accordance with the Act.

The Department of the Interior commented on the prudence of consulting with Federal land managers as soon as the siting process considers lands in their jurisdiction. This comment was taken to have a wider validity and led to the inclusion of consultation with Federal agencies in the guideline on consultation.

Environmental impacts (§ 960.3–4). This guideline requires the DOE to consider environmental impacts throughout the site-characterization, site-selection, and respository-development process and to mitigate them to the extent practicable.

3. Postclosure Guidelines (Subpart C, Section 960.4)

The postclosure guidelines are designed to establish the performance objectives (system guideline) and technical conditions important to meeting those objectives (technical guidelines) for the repository system over the long term after permanent closure. The length of this postclosure time period has not been rigorously

defined, although the proposed EPA standard (40 CFR Part 191) suggests that the major emphasis for ensuring waste isolation should be placed on the first 10,000 years after closure. The postclosure guidelines are structured to accommodate any time period ultimately adopted by the EPA and the NRC. Naturally, confidence in such predictions will diminish as predictions reach further into the future; however, the radiological toxicity of the wastes to be isolated also diminishes with time.

Section 960.4–1 Postclosure System Guideline. The postclosure system guideline requires compliance with those EPA and NRC regulations that are intended to ensure that the health and safety of the public and the quality of the environment will be protected until the radioactivity in the waste has diminished to safe levels.

Several comments on the alternative guidelines objected to the inclusion of engineered barriers in determining compliance with the system guideline, the objections being based on the concerns that engineered barriers would be used to compensate for inadequacies in natural systems and that the term "state of art" implies untested technology. The intent of including engineered barriers was not to compensate for an inadequate site. Rather, engineered barriers are intended to enhance the natural system's containment and isolation capacities to the extent that is practicable. This approach is consistent with the "multiple-barrier" approach endorsed by both the EPA and the NRC as a method of compensating for uncertainties in performance predictions. The multiple barriers consist of both natural-system components (e.g., the host rock, hydrologic conditions, and geochemical conditions) and engineered components (e.g., long-lived waste packages, relatively insoluble waste forms, repository seals and backfill materials that resist water movement). The inclusion of engineered barriers in system assessments is stipulated in both 10 CFR Part 60 and 40 CFR Part 191. The DOE agrees, however, that engineered barriers are secondary to the natural system with respect to long-term isolation. Consequently, the postclosure guidelines are premised explicitly on a recognition of the primacy of natural barriers and, as discussed above in regard to the implementation guidelines, site evaluations will consider engineered-barrier systems only to the extent necessary to obtain realistic source terms. The term "state of the art" is replaced by "reasonably available technololgy" (see discussion in Section IV.B.1).

Some commenters asserted that the guidelines should specify the manner in which performance assessments, probability estimates, uncertainty analyses, and risk assessments would be performed in complying with the guidelines. The DOE maintains that the development, validation, and implementation of those assessment techniques are outside the scope of these guidelines, whose purpose is to guide and direct the DOE's siting process rather than to prescribe analytical methods and procedures.

Several commenters expressed concern that repository-system failures could damage major ecosystems like the Great Lakes. Since the repository will have to comply with the release limits specified in the NRC criteria and the EPA standards, and the site will have to meet the siting guideline on environmental quality, such consequences cannot be reasonably postulated.

A corollary concern is that, since the proposed EPA limits apply at the accessible environment, significant contamination of subsurface rocks and ground water could occur within the controlled area. Some comments urged the inclusion of all ground water as part of the accessible environment, both inside and outside the controlled area, and suggested that a "zero release" standard be applied. In regard to the first concern, the NRC criterion (10 CFR 60.113) for releases from the underground facility will afford significant protection to subsurface areas outside the underground facility but inside the controlled area. In regard to the second concern, a ground-water system may provide very long times for transport to the accessible environment, and such a system is an important component of a multiple-barrier system. The importance of that barrier system and its components is recognized by both the NRC and the proposed EPA regulations, and hence the concept of the controlled area and the accessible environment was adopted by the NRC and proposed by the EPA. The "zero release" concept is an ideal objective that cannot be adopted as a standard because of the uncertainties in the predictions of postclosure performance and the long time periods that are of concern.

Several comments suggested that the guidelines actually state the requirements of the NRC and EPA regulations instead of merely referencing them. The final guidelines include two appendices (Appendix I and Appendix II) that summarize the central elements of those regulations that bear most directly on the system guidelines.

Some commenters cautioned the DOE on the need for consistency between the guidelines, the proposed EPA standard, and 10 CFR Part 60. Several of the commenters noted that the proposed guidelines did not appear to be consistent with the proposed EPA assurance requirements. Other commenters requested clarification regarding the respective roles of the DOE, the NRC, and the EPA. The DOE intends to ensure consistency between the guidelines and the NRC and EPA regulations for the disposal of high-level radioactive waste and spent fuel (see also Section III.A.1 and the discussion of "Applicability" in Section IV.B.1). Furthermore, should the final EPA standards include assurance requirements that appear to be inconsistent with the guidelines, the DOE will reevaluate the guidelines.

In regard to the roles of the three agencies, the EPA is charged with establishing general environmental standards for the protection of public safety and the environment outside the facility or site boundaries. The NRC is charged with establishing and implementing requirements for licensing the repository, which includes enforcing any applicable standards, including the EPA regulations, and with discharging the NRC's responsibilities under the National Environmental Policy Act of 1969. The DOE is charged with identifying, characterizing, and demonstrating the suitability of sites and developing and operating a repository consistent with these guidelines, the EPA standards, and NRC licensing requirements.

Several commenters requested the adoption of the ALARA (as low as reasonably achievable) concept in the system guidelines. They seem to have been looking for assurance that (1) the waste isolation provided by the geologic setting at the site will be weighted heavily in comparing alternative sites during the selection process and (2) the DOE will take reasonable measures to ensure that radiation exposures will be as low as is reasonably achievable. Both of these concerns will indeed be accommodated through the guideline-implementation process, in which public health and safety will be the primary consideration. However, for postclosure releases, the ALARA concept as such cannot be implemented, because the potentially affected populations are not known: the releases may not occur for tens of thousands of years. Estimates of the integrated population doses that

would be required to implement the ALARA criterion and applying an appropriate cost-benefit (e.g., dollars per man-rem) factor for releases predicted far into the future would be highly speculative. Therefore, the ALARA concept, per se, will not be rigorously applied for the postclosure phase.

A number of comments stressed the importance of using system-analysis techniques in assessing compliance with the guidelines rather than treating each parameter (e.g., geohydrology) independently. Conversely, several commenters believed that too much importance was placed on the system guideline—that each technical factor should be considered separately. The final implementation guidelines specify that comparisons of sites are to be based on the system guidelines. Thus, both the sufficiency of individual technical factors and the system-analysis concept are taken into account.

Some commenters suggested that the system guidelines should require postclosure monitoring. The issue of postclosure monitoring will be addressed by the DOE and the NRC at several points from the time of repository licensing through the time of permanent closure. If the state of technology at those future times is such that useful information could be gained, monitoring may be included for confirmatory or research purposes. However, postclosure monitoring is not considered to be a key factor in site selection.

Finally, in response to the NRC's preliminary concurrence condition 4 regarding the role of engineered barriers (see Section II.C and the discussion of implementation guidelines in Section IV.B.2), the postclosure system guideline was revised to clearly separate the roles assigned to the geologic setting at the site and to the engineered barriers.

Section 960.4–2 Postclosure Technicial Guidelines. The postclosure technical guidelines specify qualifying, favorable, potentially adverse, and, in five guidelines, disqualifying conditions on the characteristics, processes, and events that may affect the performance of a repository after closure. Those characteristics, processes, and events have been identified through numerous evaluations by technical experts from several countries and adopted in various forms by agencies and institutions charged with waste-isolation responsibilities, including the Nuclear Regulatory Commission, the National Academy of Sciences, and the International Atomic Energy Agency.

In response to the NRC's condition 3(i), the introductory paragraph for the postclosure technical guidelines was revised by adding the statement that potentially adverse conditions that affect waste isolation within the controlled area will be considered even if they occur outside the controlled area.

Section 960.4–2–1 Geohydrology. The geohydrologic technical guideline is focused on the present and expected characteristics of the geohydrologic setting of a site, which must be compatible with waste containment and isolation. The most likely mechanism for the release of radionuclides from a repository to the accessible environment is transport by ground water. For this reason the geohydrologic conditions at a site must be adequately understood; furthermore, future conditions must be reliably predicted and upon evaluation must be shown to be compatible with waste isolation.

It is obvious from the numerous and thoughtful comments on the geohydrology guidelines that most reviewers believe geohydrology is a critical factor in the siting process. Most of the comments addressed the disqualifying condition and the potentially adverse conditions.

Twenty-four commenters were critical of the disqualifying condition pertaining to the 1000-year travel time from the disturbed zone to the accessible environment. This proposed condition stated that a site would be disqualified if the "expected pre-waste-emplacement ground-water travel time along any path of likely radionuclide travel from the disturbed zone to the accessible environment is less than 1000 years, unless the characteristics and conditions of the geologic setting, such as the capacity for radionuclide retardation and the ground-water flux, would limit potential radionuclide releases to the accessible environment to the extent that the requirements specified in § 960.4–1 could be met." The criticisms of this disqualifying condition can be grouped into four groups: (a) the "fastest" travel time should be specified instead of the "average" travel time, (b) the statement needs an explanation of how travel time will be calculated, (c) the 1000-year period should be increased to 10,000 years, and (d) the "unless" clause providing for the consideration of radionuclide retardation and ground-water flux should be deleted and renders the statement of the disqualifying condition ambiguous.

The question of "fastest" vs. "average" travel time is a complex issue that involves not only travel time but also the amount of water that moves to the accessible environment. Conceivably there could be situations where very minute amounts of water would travel at the fastest rate, whereas the real concern is the travel time of large amounts of water. The DOE has chosen to clarify this question by using the nonspecific words "travel time" in the disqualifying condition and by explaining how travel time will be calculated in the definition of ground-water travel time (§ 960.2). The definition provides for the consideration of the rate at which most of the water moves.

The 1000-year travel time in the disqualifying statement is consistent with the NRC criterion on travel time to the accessible environment. In addition, 1000 years is a sufficient period for most of the fission products to decay to generally innocuous levels of radiotoxicity.

The "unless" clause pertaining to retardation and ground-water flux in the disqualifying statement on travel time to the accessible environment attracted comments arguing that the clause made the rest of the statement ambiguous and violated the intent of having the 1000-year travel time as an absolute condition. It should be noted that the NRC criteria provide an opportunity for exceptions to the 1000-year travel time. The DOE believed it is appropriate to provide for exceptions, particularly in cases where the ground-water flux is small or where processes promoting radionuclide retardation are important in providing for excellent isolation capabilities. However, the NRC, in its preliminary concurrence condition 3(d), stated that the "DOE should not frame its guidelines such that a 1000-year ground-water travel time (10 CFR 60.113) would be adjusted, particularly in the early stages of site selection." The NRC agreed that 10 CFR 60.113 allows adjustments to a 1000-year ground-water travel time, but these adjustments must be approved or specified by the NRC. Condition 3(b) thus stemmed from the NRC's concern that the DOE might assume an adjustment that the NRC would not approve.

In response to the NRC's concerns, the DOE has deleted from the disqualifying condition for geohydrology (§ 960.4–2–1(d)) the provision that would allow the selection of sites with a ground-water travel time of less than 1000 years. Moreover, disqualifying condition § 960.4–2–1(d) was revised to read as follows: "A site shall be disqualified if the pre-waste-emplacement ground-water travel time from the disturbed zone to the accessible environment is expected to be less than 1000 years along any pathway of likely and significant radionuclide travel." This statement differs from the performance

objective of 10 CFR 60.113 by the words "and significant." The DOE maintains that these words must be included because the DOE will not know, until after site characterization, the pathways, rates, and amounts of ground-water travel in sufficient detail to know precisely whether the site complies with the 1000-year travel time. Thus, the words "and significant" were added to avoid disqualifying an adequate site when early predictions (before site characterization and before the extent of the disturbed zone and the boundaries of the accessible environment are accurately known) indicated that small amounts of water incapable of carrying significant amounts of radionuclides might reach the accessible environment in less than 1000 years. In its final decision, the NRC stated that, "in the absence of a substantive concern," the NRC would not object to the difference in phrasing between the DOE's guideline and its counterpart in 10 CFR Part 60. The NRC reiterated the statement made in its preliminary concurrence decision that the guidelines need not be identical with 10 CFR Part 60 because they serve different purposes and concluded that the DOE's final revision is not in conflict with 10 CFR Part 60.

Twenty comments recommended that some or all of the potentially adverse conditions be upgraded to disqualifying conditions. The two potentially adverse conditions receiving by far the most endorsements for upgrading were the one pertaining to the presence of ground water along the travel path to the accessible environment and the one concerning the difficulty of modeling the geohydrologic system.

The rationale given for changing to a disqualifying condition the presence of ground water along the flow path to the accessible environment is that the presence of ground water increases the probability that radionuclides will reach the accessible environment. The DOE agrees with this rationale, but it does not agree that the increased probability in all cases is sufficient to warrant disqualification. Similarly, the potentially adverse condition pertaining to the difficulty of modeling was not changed to a disqualifying condition, because complexity by itself does not necessarily reduce the isolation capabilities of the geohydrologic system of a site. In fact, in some cases complexity may enhance these isolation capabilities. The DOE also reevaluated the other potentially adverse conditions in the geohydrology guideline, but does not believe it is appropriate to change any of these to disqualifying conditions.

Five comments remarked on the favorable condition concerning high effective porosity. Two suggested "low effective porosity" is more favorable than "high effective porosity," one suggested "low hydraulic flux" was a preferred phrase, another asked for an explanation of why a high effective porosity is a favorable condition and another suggested that most rocks with high effective porosity also have high hydraulic conductivity, and vice versa, and so the favorable condition has no basis in reality. Effective porosity is one of three parameters that directly affect ground-water velocity, the others being hydraulic conductivity and hydraulic gradient. The velocity of the ground water is expressed mathematically as the product of the hydraulic conductivity and the hydraulic gradient divided by the effective porosity. If the product remains constant, as porosity increases, the flow velocity will decrease, with an attendant increase in radionuclide travel time. Therefore, a high effective porosity along such flow paths would be a favorable condition and was retained in the guidelines of November 18, 1983, which were sent to the NRC for concurrence. In addition, a high effective porosity provides an increased surface area for radionuclide retardation. In the guidelines, hydraulic conductivity and hydraulic gradient are addressed separately in the favorable conditions.

However, the favorable condition on high effective porosity was revised in the final guidelines to accommodate the NRC's preliminary concurrence condition 3(a), which asked the DOE "to modify its use of high effective porosity to limit its use to those situations that could be considered as a favorable siting condition." The NRC pointed out that, before a high effective porosity could be considered favorable, the product of the hydraulic gradient and conductivity must remain constant. In some instances, this product is not constant because porosity and hydraulic conductivity can be positively correlated, which would be an adverse, rather than favorable, condition. The DOE agrees with the NRC's position and has therefore revised the statement of this favorable condition to reflect the inverse relationship between porosity and conductivity; it says that the DOE will consider a high effective porosity together with a low hydraulic conductivity. Furthermore, the statement was moved from the favorable conditions applicable to both the saturated and the unsaturated zones to the favorable conditions postulated for the saturated zone because it is more pertinent to the saturated zone.

In response to the NRC's preliminary concurrence condition 3(b), the DOE made a commitment to revise its guidelines, if necessary, to ensure consistency with the final NRC amendments to 10 CFR Part 60 for the unsaturated zone.

Moreover, in response to condition 3(c), favorable condition § 960.4–2–1(b)(7), which dealt with the presence of ground water with 10,000 parts per million or more of total dissolved solids along any path of likely radionuclide travel, was moved to § 960.4–2–8–1; this section is more appropriate because it is concerned with effects on natural resources. Regarding the geohydrology guideline, the NRC had indicated concerns that the presence of ground water with a high concentration of total dissolved solids might be a potentially adverse geohydrologic condition, rather than a favorable one, because it could complicate the design of the waste canister and perhaps hamper the DOE's efforts to satisfy the containment and release-rate requirements of 10 CFR Part 60. However, the NRC agreed that the presence of such ground water is a favorable condition in the consideration of natural resources because such ground water is unlikely to be desirable as a natural resource whose recovery could lead to human intrusion into the repository.

Five commenters remarked on the fact that the guideline on geohydrology does not address the interval in the ground-water travel time to the accessible environment between 1000 and 10,000 years and suggested that the interval between 1000 and 10,000 years should be explicitly stated as a potentially adverse condition (1000 years is a disqualifying condition and 10,000 years is a favorable condition). The fact that a condition is identified as favorable does not imply that the absence of such a condition is adverse. In this instance, a ground-water travel time of more than 10,000 years adds to confidence in the isolation capabilities of a site, but travel time is not unacceptable until it falls below 1000 years, which is the stated disqualifier. Therefore the interval between 1000 and 10,000 years can be regarded as a "neutral" zone, and the DOE did not provide a potentially adverse condition to address the condition of a ground-water travel time of less than 10,000 years and more than 1000 years.

Four commenters recommended that the presence of an aquifer above or within the host rock should be a disqualifying condition. The presence of sources of ground water, suitable for irrigation or human consumption

without treatment, along flow paths to the accessible environment is recognized as a potentially adverse condition. Aquifers near or above a repository will be thoroughly evaluated during site characterization to ensure that radionuclides will not reach the accessible environment in amounts exceeding permissible limits, but the presence of aquifers does not mean that permissible limits will be exceeded.

One commenter argued that the 10,000-year travel time as a favorable condition is too long, as is the 100,000-year time specified in the favorable condition pertaining to hydrologic processes affecting waste isolation. These times may indeed be more conservative than necessary, but the DOE believes that acceptable sites can be identified with the specified conditions, and the DOE prefers to be overly conservative provided acceptable sites are not eliminated in so doing.

Section 960.4–2–2 Geochemistry. The objective of the geochemistry technical guideline is to ensure that present and expected geochemical characteristics of a site are compatible with waste containment and isolation. The guideline therefore addresses two aspects of the geochemical environment: the conditions that affect the release of radionuclides from the engineered-barrier system and the conditions that affect the release of radionuclides into the accessible environment (e.g., the conditions related to radionuclide precipitation or sorption and the formation of complexes or physical states that increase the mobility of radionuclides).

Three commenters recommended that the DOE change to disqualifying conditions some or all of the three potentially adverse conditions: ground-water conditions that could adversely affect the engineered-barrier system, geochemical processes or conditions that could adversely affect repository performance, and ground-water conditions that are oxidizing. However, containment and isolation capabilities depend on the total geologic, geohydrologic, and geochemical environment of a site rather than on any single geochemical condition. The DOE believes that none of the potentially adverse conditions is of such importance to long-term performance that its presence would warrant the disqualification of a site. The DOE has therefore not upgraded to disqualifying any of the potentially adverse conditions in the geochemistry guideline.

One commenter recommended that the DOE upgrade to a qualifying condition the favorable condition pertaining to geochemical conditions that promote radionuclide retardation. The effect of this recommendation would be to eliminate all sites not having geochemical isolation capabilities. The DOE does not accept this recommendation because to do so might eliminate some acceptable sites that would quite adequately meet the requirements of the postclosure system guideline by having very long ground-water travel times or other conditions contributing to the isolation of radionuclides.

Four commenters recommended that the converse of the qualifying condition should be explicitly stated as a disqualifying condition. The guidelines provide that, in order to be acceptable, a site must meet all qualifying conditions. Thus, if a site fails to meet any one qualifying condition after site characterization is completed, it is eliminated from further consideration. As explained in Section IV.A, the DOE chose not to explicitly restate the converses of the qualifying conditions as disqualifying conditions.

Three commenters supported that the qualifying condition pertaining to permissible radionuclide releases to ground water and the accessible environment be reworded to require that no radionuclides be released to ground water. Such a "zero-release" requirement would be more restrictive than the EPA proposed regulation and NRC regulations and would not constitute a realistic objective, as discussed under the "Postclosure System Guideline." Therefore the DOE did not accept the recommendation.

Section 960.4–2–3 Rock Characteristics. Postclosure rock characteristics are important to the long-term isolation capability of the host rock. The mining operations during repository construction and the heat generated by the emplaced wastes must not cause fractures or the thermal alteration of minerals that would significantly diminish the ability of the site to contain the waste. If extensive changes in the host rock occur, new pathways for radionuclide migration from the repository could result, and the isolation capabilities of the rock could be impaired.

The objective of the postclosure guideline on rock characteristics is therefore to ensure that the present and expected characteristics of the host rock and surrounding units can accommodate the thermal, chemical, mechanical, and radiation stresses expected to be induced by repository construction, operation, and closure and by expected interactions among the waste, the host rock, ground water, and the engineered-barrier system.

A number of commenters objected to the use of the term "engineering measures beyond the state of the art" in the first potentially adverse condition given for the rock-characteristics guideline. They were concerned that the DOE intended to employ "unproved" engineering techniques to compensate for adverse rock conditions. There was also concern that the DOE intended to rely on technological breakthroughs, which cannot be presumed to occur. To clarify the DOE position, the potentially adverse condition in the final guideline now reads "engineering measures beyond reasonably available technology." The DOE's position is that a potentially adverse condition would exist if the rock conditions encountered at a site could require more than available engineering measures. If there is a definitive finding that rock conditions would require engineering measures beyond reasonably available technology in order for the repository to fulfill its function, then the site would not satisfy the qualifying condition until and unless suitable technology is developed. The DOE, therefore, retained this potentially adverse condition in the guideline.

Six commenters suggested specific additions to the postclosure guideline on rock characteristics. They questioned whether the Ogallala aquifer overlying salt beds in Texas could cause dissolution, whether the drill-and-blast mining techniques could jeopardize a granite site, whether salt domes should be considered as a unit with possible anomalous zones or shear zones, whether large-diameter shafts in salt can be constructed, whether homogeneity in crystalline rock is required, and whether a salt dome is distinct from the geohydrologic setting. Some of these concerns are also related to the preclosure phase, but all of these site- or media-specific concerns are addressed in the qualifying condition for the postclosure rock-characteristics guideline in the following statement: "Present and expected characteristics of host rock and surrounding units shall be capable of accommodating the thermal, chemical, mechanical, and radiation stresses expected to be induced by repository construction, operation, and closure. . . ." The DOE has consistently stated that these are general guidelines and site-specific considerations are not appropriate at this time. The DOE has therefore decided not to incorporate these site- and rock-specific comments into the general guidelines.

Three commenters requested that the DOE quantify the term "thick enough and laterally extensive enough" as used in the favorable condition for the draft alternative guideline (§ 960.4–2–3(b)(1)). Comments seeking specificity or quantification for the guidelines are addressed in Section III.A.2 of this notice.

Two comments recommended adding a disqualifying condition to the postclosure rock-characteristics guideline. One suggested that the converse of favorable condition § 960.4–2–3(b)(1) of the alternative guideline be used as a disqualifying condition, and the other requested that the DOE reconsider whether a disqualifying condition is needed. The converse of the favorable condition is not a disqualifying condition because significant flexibility is merely reduced, not eliminated, by restrictions on thickness or lateral extent unless the thickness and lateral extent are so severely reduced as to preclude meeting the qualifying condition, which in itself would result in disqualification. Reduced flexibility could possibly constrain the design of the repository but would not disqualify the site. The DOE concludes that a disqualifying condition is not necessary for the final postclosure rock-characteristics guideline.

One commenter requested that porous shear zones be added as a potentially adverse condition, and the DOE agrees that this concern is valid. The primary adverse effect of a porous shear zone would be its potential to act as a conduit for the influx of water during the preclosure construction and operation phase. Hence, the DOE added the presence of shear zones to potentially adverse condition § 960.5–2–9(c)(5) for the final guideline on preclosure rock characteristics.

Three comments dealt individually with thermal effects on in-situ stress, the effects of mining on post emplacement performance, and the concept of a buffer zone around the host rock. The DOE agrees that thermal effects on in-situ stress are important in repository operation and therefore should be considered in the site-selection process. Although several parts of the alternative guideline touch on this issue, the DOE felt that the addition of a potentially adverse condition dealing specifically with the various effects of heat would be beneficial. Therefore, potentially adverse condition § 960.4–2–3(c)(3) of the final guideline was added to address conditions under which the heat generated by the waste could significantly decrease the isolation provided by the host rock. The concern dealing with mining effects on postclosure performance is pivotal in the concept of geologic disposal. To highlight this concern, the qualifying condition for the guideline on rock characteristics was modified by adding the following sentence: "The characteristics of and the processes operating within the geologic setting shall permit compliance with (1) the requirements specified in Section 960.4–1 for radionuclide releases to the accessible environment and (2) the requirements set forth in 10 CFR 60.113 for radionuclide releases from the engineered-barrier system using reasonably available technology." The suggestion that a buffer zone around the host rock could add an extra margin of safety was addressed by expanding the qualifying condition for this guideline to read "present and expected characteristics of the host rock and *surrounding units. . . .*"

Section 960.4–2–4 Climatic Changes. Climatic changes could, over time, alter the geohydrologic system at a site. The guideline for postclosure climatic changes focuses on changes that may favorably or unfavorably affect the ability of a repository to isolate waste after closure.

Four comments stated that favorable condition § 960.4–2–4(b)(2), which specifies climatic conditions that have had little effect on hydrologic systems throughout the Quaternary Period, would eliminate the northern United States from consideration, since multiple glaciations have occurred there in the past 100,000 years. In an extension of this thought, one commenter recommended that any areas previously glaciated should be disqualified.

The DOE believes that the relatively stable hydrologic conditions resulting from a constant climate are important to the prediction of repository performance. It is likely that future glaciations will affect local water systems, but the predominant effect will be on surface-water bodies: lakes and streams will increase in number, volume, and flow rate. To determine whether glaciation would prevent a site from meeting the favorable condition the effect on ground-water systems must be predicted case by case. For example, if the host rock is impermeable and insoluble, it is unlikely that water will gain access to the repository; a host rock overlain by a substantial thickness of porous media can also be examined because it can be adequately modeled to allow prediction of changes in hydrologic behavior and demonstrate the site suitability. Moreover, not meeting the favorable condition would not disqualify any site; the existence of any one favorable condition is not necessary to qualify a site. Each site must be evaluated in the context of its overall characteristics because it is very possible that the existence of a number of other favorable conditions may contribute to a waste-isolation capability that is quite acceptable even if the hydraulic system changes. Past and predicted future climatic changes and their effects must be thoroughly evaluated at all sites being considered. However, the DOE does not agree that the condition of previous glaciation should be disqualifying because it might eliminate sites with superior isolation capabilities.

Several comments suggested that the DOE should specify a 100,000-year period for the favorable conditions and a 10,000-year period for both of the potentially adverse conditions for climatic changes. The DOE agrees that it is appropriate to specify periods of concern for these conditions. The period during which the adverse conditions would be of concern is the 10,000-year period specified by the EPA in proposed 40 CFR Part 191, which specifies limits for releases during such a period; the DOE feels that this time period is appropriate. To reflect a very conservative approach to specifying favorable conditions, the time over which the favorable conditions should be expected to exist was increased tenfold over the EPA time period, to 100,000 years for a surface-water system. Similarly, the DOE will consider changes in hydrologic systems induced by climatic changes throughout the Quaternary Period.

A commenter suggested changing the favorable condition related to climatic behavior in the Quaternary Period, to reflect the expectation of future effects rather than reliance on historical behavior. Another commenter stated that it may be impossible to predict climatic, and related hydrologic, systems on the basis of Quaternary Period records and that the relationship between future climate and hydrologic changes will be complex. The DOE agrees that predicting such future events is difficult; however, the DOE believes that the most appropriate insight into the range of future possibilities can be gained by a review of climatic cycles over the Quaternary Period. Furthermore, it is logical to expect that a relatively constant climate will have little impact on the present hydrologic conditions at the site. This approach minimizes the likelihood that complex changes in hydrologic systems will

occur. Accordingly, the DOE has retained the potentially favorable condition of a geologic setting in which climatic changes have had little effect on the hydrologic system throughout the Quaternary Period. The DOE incorporated several changes in wording suggested by commenters to improve ease in reading this guideline.

In developing the final guideline on climatic changes, the DOE consolidated several smaller considerations of climatic changes that had appeared in various sections of the proposed guidelines.

Section 960.4–2–5 Erosion. The objective of the technical guideline on erosion is to ensure that erosional processes will not degrade the waste-isolation capabilities of a site. In evaluating the potential effects of erosion on waste isolation, the depth of the host rock is most important. The site should allow the underground facility to be placed at a depth sufficient to ensure that the repository will not be uncovered or otherwise adversely affected. The disqualifying condition in the guideline on erosion states that the minimum depth is 200 meters; a depth of at least 300 meters is a favorable condition.

Fifteen commenters pointed out the typographical omission of the word "not" in favorable condition § 960.4.2.5(b)(3) concerning exhumation during the first one million years. This omission caused the statement to mean the opposite of what was intended. The omission has now been corrected.

Four commenters suggested or implied that the minimum acceptable depth for a repository should be more than 200 meters and suggested acceptable depths ranging from 300 to 600 meters, or as deep as possible. One commenter stated the minimum acceptable depth could well be much less than 200 meters. The minimum acceptable depth for a repository should be based on credible erosion rates. For example, erosion at an extremely high rate of 1 millimeter per year, which is five or more times greater than the rate at which the Colorado River cut the Grand Canyon, would require 200,000 years to erode to a depth of 200 meters. For sites with more normal erosion rates, a depth of 200 meters is sufficient to isolate wastes for millions of years. The DOE has therefore retained 200 meters as the minimum depth in the disqualifying condition for erosion.

Four commenters recommended increasing the 10,000-year time period pertaining to the probability of radionuclide release in one of the favorable conditions and pertaining to the adverse effects of erosion in one of the potentially adverse conditions. However, the guidelines is consistent with the proposed EPA criteria on permissible limits for the release of radionuclides to the accessible environment, which are specified for a 10,000-year period. The favorable condition is stated in terms of a probability (1 chance in 10,000) that the DOE believes conservatively appropriate for a 10,000-year period.

Two commenters on the favorable conditions suggested or implied that the depth (300 meters or more) specified there is too shallow and suggested depths as great as 600 meters or as deep as possible. One commenter, however, stated that the 300-meter depth limit should be decreased. The favorable depth of 300 meters or more is based on a similar NRC criterion in 10 CFR Part 60. As mentioned in the preceding paragraph, a burial depth of 200 meters or more is considered to be adequate for even the most extreme erosion rates. Under those conditions where more normal erosion rates are expected to prevail, a minimum depth of at least 300 meters is considered to be more than adequate. Therefore, the DOE retained the 300-meter depth as a favorable condition.

Four commenters suggested that the two potentially adverse conditions should be upgraded to disqualifying conditions. These potentially adverse condition pertain to erosion rates during the Quaternary Period and predicted adverse effects in the future. The intent of the two potentially adverse conditions is to require that erosion during the Quaternary Period be documented and studied to determine whether extreme erosion has occurred and to require the predictions be made of erosion rates and processes occurring in the next 10,000 years to evaluate whether they could adversely affect the isolation capabilities of a site. Obviously, past and predicted future erosion rates and their effects must be thoroughly evaluated. However, the two conditions in question may or may not result in a conclusion that a site is compromised; only a thorough evaluation of the consequences of the conditions and the lack of offsetting mitigating conditions can determine whether a site is disqualified. Therefore, the DOE has kept the two conditions as potentially adverse.

In the final guidelines, the first potentially adverse condition (§ 960.4–2–5(c)(3)) has been revised by deleting the word "sustained." This revision was made in response to the NRC's preliminary concurrence condition 3(c), which asked the DOE "to clarify the meaning of 'short-term' extreme erosion and revise the guidelines as appropriate." The term "short-term extreme erosion" had been used by the DOE in a support document to explain why the guidelines used the term "sustained" extreme erosion. The DOE reasoned that short-term erosion would not affect waste isolation, and the term "sustained" would indicate the type of erosion that could be potentially adverse. However, when the NRC questioned the duration of "short term' and explained its concern about catastrophic erosion episodes that might affect the repository, the DOE deleted the word "sustained" from § 960.4–2–5(c)(1).

Section 960.4–2–6 Dissolution. The objective of the technical guideline on dissolution is to ensure that dissolution processes will not adversely affect the waste-isolation capabilities of the site. The principal concern is that the dissolution of the host rock might create new pathways for radionuclide migration to the surrounding geohydrologic system. The sites with salt as the host rock are the most vulnerable to dissolution, and the effects of salt dissolution on waste isolation will be an important consideration in evaluating a site in salt.

Two comments on the disqualifying condition suggested that the 10,000-year minimum length of time for dissolution to connect the underground facility to the geohydrologic system is too short, especially considering the long-lived radionuclides present in the waste. The identification of the first 10,000-year period in the life of a repository as the period of concern is based on the 10,000-year period the EPA used in proposed 10 CFR Part 191, Subpart B. Therefore, the DOE has retained the 10,000-year limit in the disqualifying condition.

Three commenters suggested rewording the disqualifying condition to make it absolute in the sense that any interconnection of the underground facility to the geohydrologic system would disqualify a site regardless of whether or not radionuclides reach the accessible environment in amounts that exceed permissible limits. A site is not necessarily unsafe simply because a connection between a repository and the geohydrologic system may be established in the future. The important possibility to evaluate is whether 161h a connection can introduce radionuclides into the accessible environmental in amounts that exceed permissible limits; this possibility can be evaluated in a performance assessment. Therefore, in the November 1983 guidelines, the DOE did not modify the disqualifying condition, which read as follows: "The site shall be *disqualified* if, during the

first 10,000 years after closure, active dissolution fronts will cause a hydraulic interconnection of the underground facility to the geohydrologic system of the site such that the requirements specified in § 960.4–1 cannot be met." This condition was, however, revised in the final guidelines to delete its connection to the postclosure system guideline (i.e., by deleting the phrase "such that the requirements specified in § 960.4–1 cannot be met").

One commenter recommended upgrading to a disqualifying condition the potentially adverse condition pertaining to the presence at a site of dissolution features, such as breccia pipes and dissolution cavities. Dissolution features are of concern, but of themselves are not necessarily sufficient for disqualification. For example, if past dissolution has ceased, it could conceivably be shown that the dissolution will not resume or that, if it does, it will not adversely affect the isolation capabilities of the site. Therefore, the DOE retained the statement pertaining to the presence of dissolution features as a potentially adverse condition.

In the final guidelines, the above-mentioned potentially adverse condition was revised in response to the NRC's preliminary concurrence condition 3(i), which asked the DOE to modify its guidelines so that potentially adverse conditions (e.g., dissolution) would be considered if they affected isolation within the controlled area even though the condition may occur outside the controlled area. The Commission had objected that § 960.4–2–6(c) was not consistent with 10 CFR 60.122(1)(10) because the former referred to "significant dissolution within the site," whereas 10 CFR 60.122(c)(10) would consider dissolution without reference to its significance or location. In reviewing this NRC concurrence condition, the DOE agreed with the NRC's concerns about consistency and therefore deleted the word "significant," replaced the word "site" with "geologic setting," and revised the phrase "a hydraulic interconnection between the host rock and an immediately surrounding geohydrologic unit could occur" to read "a hydraulic interconnection leading to a loss of waste isolation could occur."

One commenter suggested that caprock be added to the examples of dissolution features that are potentially adverse. Caprock is formed as a result of dissolution and indeed is a dissolution feature. However, to list all possible dissolution features in the potentially adverse condition would produce a long and cumbersome statement. The few examples given are not intended to constitute an exhaustive list. The DOE did not change the potentially adverse condition in question.

Section 960.4–2–7 Tectonics. Meeting the requirements of the postclosure guideline on tectonics will ensure that tectonic processes do not adversely affect the waste-isolation capabilities of the site. Tectonic processes and events during the postclosure period could adversely affect waste containment and isolation by creating new ground-water pathways to the accessible environment. While it is difficult to predict geologic processes, this guideline requires that the tectonic history of a site be carefully examined and the results of this examination be used to predict the likelihood of potentially disruptive tectonic processes or events. Igneous activity, uplift, subsidence, folding, and faulting are all important tectonic processes and are included in this guideline.

Twenty-eight comments recommended adding disqualifying conditions. Some of the commenters suggested a disqualifying condition that is the opposite of the qualifying condition. This approach adds nothing to the guideline since all repository sites must meet all the qualifying conditions (see Section IV.A for a more detailed discussion of this generic concern). Other commenters suggested that the potentially adverse conditions be converted to disqualifying conditions. The DOE believes that this conversion would be inappropriately restrictive and could rule out sites that are potentially adequate for waste isolation. None of the six potentially adverse conditions would necessarily compromise waste isolation. If any of them exist at a site, further investigations to increase the understanding of the condition are appropriate, but not site disqualification. However, in response to the NRC's preliminary concurrence condition 7, disqualifying condition § 960.4–2–7(d) was added to the final guidelines because the DOE agreed that a site should be disqualified if the nature and rates of ground motion are expected to be such that a loss of waste isolation is likely.

Two reviewers raised particular concerns that man-induced seismicity should be addressed in the tectonics guideline. One went on to state that the potential impact of a seismic event is the same regardless of the cause of the event. The DOE agrees, but believes that the combination of the current guidelines on human interference (§ 960.4–2–8) and tectonics (§ 960.4–2–7) adequately addresses the concern. The qualifying condition of the human-interference guideline states that the DOE will evaluate human activities that could alter or cause tectonic processes.

Section 960.4–2–8 Human Interference. The technical guidelines on human interference focus on (1) reducing the incentive for postclosure human interference by avoiding sites containing natural resources that would invite potentially disruptive human activities and (2) obtaining land ownership, in accordance with 10 CFR 60.121, in order to establish appropriate passive controls and thus decrease the likelihood of incompatible human activities. Separate technical guidelines are provided for each of these two objectives.

A number of commenters misinterpreted the purpose of the human-interference guidelines, which is to decrease the likelihood of postclosure human activities that would be detrimental to waste containment or isolation. Some thought the guidelines should specify the passive physical controls to be used, while some thought they should address preclosure security.

The general nature of the passive controls (permanent markers and records) is specified in 10 CFR Part 60. The specifications for such controls will be established through the licensing process to provide the maximum confidence in their adequacy.

The adequacy of preclosure security measures will also be addressed in licensing. Preclosure security is routinely addressed for DOE facilities as well as for industrial facilities and does not appear to pose any difficulties for repositories. Siting decisions have little bearing on preclosure security, which is therefore not an appropriate topic for the guidelines.

One set of comments indicated that too much reliance was placed on passive controls like markers and monuments; that commenter believed active (institutional) controls should also be included to prevent postclosure interference. As pointed out by the EPA in the preamble to proposed 40 CFR Part 191, the usefulness of institutional controls for more than a few hundred years is speculative because of the uncertainties about human behavior and institutional stability in the distant future. Moreover, the usefulness of active controls does not appear to be site dependent. The DOE, therefore, has not included specific provisions for active postclosure institutional controls in the final rule. Such provisions will, however, be evaluated during the licensing process.

The overall human-interference qualifying condition, in alternative guideline § 960.4–2–8, was changed to refer to activities "at or near the site" in order to ensure consideration of indirect as well as direct interference activities. Also, that condition now states that the DOE will show that future human activities will not be likely to affect waste containment and isolation; the proposed guideline required only the "site to be located to reduce the likelihood" of "unacceptable impacts," a more subjective requirement than set forth in the final rule. The final guidelines also have been strengthened to explicitly require the DOE to consider the estimated effectiveness of the passive controls in the human-interference evaluations.

Section 960.4–2–8–1 Natural Resources. The purpose of developing guidelines on natural resources was to reduce or remove the incentives for economically motivated postclosure human-interference activities that could adversely affect the isolation capabilities of a site. A number of comments on both the proposed and the alternative guidelines misinterpreted this purpose as being to protect natural resources from repository-related activities. Although the protection of natural resources is of high concern to the DOE, that issue is addressed through the preclosure guidelines on environmental quality and on socioeconomic impacts. The human-interference guidelines for natural resources address the corollary concern—that the present or projected value of the natural resources not invite unacceptable postclosure intrusion.

Many comments suggested that the potentially adverse conditions in the natural resources guideline be redesignated as disqualifying conditions, several citing the EPA assurance requirements in proposed 40 CFR 191.14 or quoting the Act to substantiate their contentions. The DOE has requested that the EPA eliminate or modify the proposed assurance requirements for several reasons. The reason of importance to this guideline is the need to evaluate the significance of past, present, or potential human activities on a site-specific basis to determine whether such activities could adversely affect a repository rather than to assume adverse effects a priori, as the proposed EPA standard does. Although the EPA approach is conservative, its unqualified application could eliminate otherwise qualified sites for reasons that could be insignificant under site-specific conditions. In response to comments on the alternative guidelines, the DOE added a disqualifying condition (§ 960.4–2–8–1(d)). That condition would eliminate sites where exploration, mining, or extraction activities have created significant pathways between the underground facility and the accessible environment.

In the final guidelines the potentially adverse conditions for natural resources remain potentially adverse rather than disqualifying. This designation allows the DOE to determine, from site-specific evaluations whether the potential for resource-related interference activities is so great that the elimination of a site would be prudent. The key considerations in such evaluations are (1) whether interference is likely and (2) if so, whether these potential interference activities could lead to releases of radionuclides exceeding the standards in 40 CFR Part 191.

Several comments recommended specific wording changes in the natural-resources guidelines to add specificity or to highlight items of particular concern to the commenter. The DOE has considered those comments and has made editorial changes that clarify the DOE's intent, give appropriate examples, or otherwise promote understanding of the guidelines.

A number of changes were made in the factors to be considered in the qualifying condition for example, "reasonable projections of value, scarcity, and technology." In response to several comments, ground water suitable for human consumption or crop irrigation is explicitly included as a resource in the final guidelines.

A number of changes directed at reducing ambiguity were made in the favorable and potentially adverse conditions; the most significant was the elimination of a proposed favorable condition that dealt with the value of resources at a site relative to the average for the geologic setting. That proposed favorable condition was the direct converse of a proposed potentially adverse condition, and its elimination makes the concept set forth consistent with 10 CFR Part 60. A new favorable condition has been added; it requires consideration of the resources on the basis of their present or projected absolute value; the potentially adverse condition concerned with relative value (i.e., in relation to other areas in the same geologic setting) was retained. The new favorable condition responds to criticisms by several commenters regarding the shortcomings of comparisons solely within the same geologic setting or region.

Several comments focused on items of specific concern to a particular State or group but not necessarily of generic importance; an example is the suggestion that a salt dome should be considered unattractive for siting because the dome itself is a resource. The DOE addressed those concerns, where appropriate, through a more generic wording rather than focusing on a specific condition of limited geographical applicability. Considering the previous example of a salt dome, the guidelines include several potentially adverse conditions that would require close evaluation for any dome. For instance, 960.4–2–8–1(c)(1)(ii) considers the presence of minerals to be a potentially adverse condition when they are in configurations such as a dome (i.e., more concentrated than the regional average for similar land areas). Other potentially adverse conditions generically address resources associated with certain dome configurations and previous mining or drilling.

Some comments addressed potential human activities that could change ground-water flow or seismic conditions, such as starting or ceasing fluid-injection or petroleum-withdrawal activities. In response to these concerns, the DOE has modified the potentially adverse conditions dealing with significant subsurface mining or resource extraction (§ 960.4–2–8–1(c)(2)), drilling within the site for purposes other than site characterization (§ 960.4–2–8–1(c)(3)), and the potential for foreseeable human activities, (e.g., ground-water withdrawal, extensive irrigation, subsurface injection of fluids), that could change portions of the ground-water flow system (§ 960.4–2–8–1(c)(5)). Moreover, the final postclosure guideline on tectonics include a potentially adverse condition that incorporates the potential for tectonic deformations to affect the ground-water flow system. That potential would include tectonic deformation induced by starting or ceasing the human activities mentioned previously and is believed to be significant in the evaluations of sites.

The final guideline contains a second disqualifying condition (§ 960.4–2–8–1(d)(2)), which was added in response to the NRC's request, in its preliminary concurrence condition 7, to provide a disqualifying condition that corresponds to the "location of valuable natural resources" in the Act. Guideline § 960.4–2–8–1 already specified that a site will be disqualified if previous exploration, mining, or extraction activities have created significant pathways between the underground facility and the environment. Further consideration of the human-interference issue during the

concurrence discussions with the NRC staff led the DOE to develop a disqualifying condition directed at current or future activities outside the controlled area should inadvertently could lead to a loss of waste isolation. As indicated by the word "inadvertently," the activities in question are considered to be unintentional intrusions; they are postulated to occur outside the controlled area because the "controls" to be exercised in the controlled area should preclude intrusion within the area.

Two other changes were made to guideline § 960.4–2–8–1 in response to the NRC's concurrence conditions 3(g) and 3(c). The first change is the deletion of the word "significant" from the phrase "significant subsurface mining or extraction for resources" in the second potentially adverse condition because the DOE agreed with the NRC that all evidence of subsurface mining should be considered adverse until the evidence has been thoroughly evaluated. The other is the addition of the second favorable condition (presence of ground water with 10,000 parts per million or more of total dissolved solids), which was originally in § 960.4–2–1. The NRC gave the DOE two options for resolving condition 3(c): transfer the provision to § 960.4–2–8–1, where effects on natural resources are considered, or delete the provision altogether. The deletion option reflected the NRC's concern that ground water containing a high concentration of dissolved solids might adversely affect the performance of the engineered-barrier system, complicate the design of the waste canister, and possibly hamper the DOE's efforts to satisfy the containment and release-rate requirements of 10 CFR Part 60; such a condition should therefore not be considered a favorable condition for geohydrology. The DOE chose the first option because it clarified the intent to avoid sites with sources of ground water that can be used for domestic or agricultural purposes.

Several comments insisted that the existence of potable ground water at a site should be disqualifying. The DOE does not agree that the presence of potable ground water is a reasonable basis for a disqualifying condition that would be generally applicable to all sites. However, to ensure the protection of ground water, several modifications were made to the guidelines. In addition, a potentially adverse condition was added to recognize the fact that the presence of ground water could create the possibility for drilling activities to recover this water. The NRC and EPA regulations should also ensure that any risk to potable ground-water sources is very low.

Section 960.4–2–8–2 Site Ownership and Control. The NRC requires the DOE to obtain ownership and surface and subsurface rights to land and minerals within the controlled area of the repository (10 CFR 60.121). Such rights are required largely to help ensure continued functioning of the repository far into the future without adverse human interference. This NRC requirement is the basis for the guideline on site ownership and control.

Several comments questioned the adequacy of the protection afforded by the type of control specified by this guideline. While there can be no guarantees that interference will never occur, the DOE believes that the risk from such activities can be decreased to acceptably low levels through the following measures, taken together: (1) The avoidance in site selection of natural resources that could invite deleterious interference activities, (2) ownership of land and mineral rights, (3) long-term markers and widely dispersed records, and (4) natural and engineered systems chosen to make interference activities more difficult or to mitigate their effects. This belief is also expressed by the NRC in the preamble to 10 CFR Part 60.

Another group of comments contended that ownership priorities should be set forth in the final guidelines. A large number of comments on the proposed rule questioned the preferred status given to land already owned by the DOE and suggested that more attention should be given to potential ownership conflicts with other Federal or State lands used or withdrawn for incompatible purposes and the special problems involved in siting on Indian tribal lands. The proposed potentially adverse condition was revised to be more specific about the conditions that should be adverse. An example of such a potentially adverse condition, as indicated by one comment, would be siting on tribal land, not subject to Federal condemnation procedures, if a voluntary purchase-sell agreement could not be negotiated. The single favorable condition now cites ownership and control by the DOE whereas the proposed guidelines considered ownership and control by other Federal agencies to be favorable as well.

Some comments questioned why both postclosure and preclosure guidelines on site ownership and control were included in the alternative guidelines. Land ownership and control are important to safety in both postclosure and the preclosure phases. The final rule continues to state the land ownership and control guidelines for both phases. It should be noted that, though the statements of the guidelines are similar, the necessary land areas and controls in the postclosure and the preclosure phases may differ slightly. The land-area requirements for both the postclosure and the preclosure phases will need to be integrated in establishing the actual site boundaries.

4. Preclosure Guidelines (Subpart D, Section 960.5)

The preclosure guidelines address (1) preclosure radiological safety; (2) the environmental, socioeconomic, and transportation-related impacts associated with repository development and operation; and (3) the ease and cost of repository siting, construction, operation, and closure. The preclosure guidelines provide system and technical guidelines for each of those three categories. The separation of the guidelines into those three categories allows the DOE to be more definitive in establishing the relative significance of categories of guidelines in accordance with § 960.3–1–5.

Section 960.5–1 Preclosure System Guidelines. The purpose of the preclosure system guidelines is to establish the overall objectives to be met by a repository during the preclosure phase (i.e., siting, construction, and operation through closure). The proposed and alternative guidelines both included one preclosure system guideline that was primarily focused on radiological safety. The final guidelines include three preclosure system guidelines, one each of the major categories indicated above, in order to achieve a parallel relationship between the preclosure system guidelines and the technical guidelines throughout the rule. That parallel relationship should be of value in comparing sites.

For preclosure radiological safety (§ 960.5–1(a)(1)), the pertinent system elements are (1) the site characteristics that affect radionuclide transport through the surroundings; (2) the engineered components whose function is to control releases of radioactive materials; and (3) the people who, because of their location and distribution in unrestricted areas, may be affected by radionuclide releases. This guideline is assigned the greatest importance among the preclosure system guidelines because it is directed at protecting both the public and the workers of the repository from radiological exposures.

Ranked next in importance is the preclosure system guideline on the environment, socioeconomics, and transportation (§ 960.5–1(a)(2)). In the final guidelines, the statement of this guideline was editorially revised for simplicity and clarity. The pertinent system elements will in general consist of (1) the people who may be affected, including their lifestyles, sources of income, social and aesthetic values, and community services; (2) the air, land, water, plants, animals, and cultural resources in the areas potentially affected by such activities; (3) the transportation infrastructure; and (4) the potential mitigating measures that can be used to achieve compliance with this guideline.

The third preclosure system guideline is ease and cost of siting, construction, operation, and closure. It is ranked lowest because it does not relate directly to the health, safety, and welfare of the public or the quality of the environment. Here the pertinent elements are (1) the site characteristics that affect siting, construction, operation, and closure; (2) the engineering, materials, and services necessary to conduct these activities; (3) written agreements between the DOE and affected States and affected Indian tribes and the Federal regulations that establish the requirements for these activities; and (4) the repository personnel at the site during siting, construction, operation, or closure.

Some commenters believed that too much reliance was placed on engineered systems to meet the regulations for radiological safety. Unlike the postclosure phase, which relies heavily on natural systems for containment and isolation, the preclosure phase relies on engineered systems, equipment, and controls, examples being high-integrity engineered structures, water- and air-treatment systems, and monitors that can activate automatic control systems. The use of systems, equipment, and controls similar to (in some cases identical with) those that would be employed for repository operations is well established in industrial practice. Therefore the DOE disagrees with the above comment—the issue raised is not analogous to the postclosure issue on engineered barriers.

One commenter objected to the use of the terms "preserve" and "to the extent practicable" in the second preclosure system guideline (environment, socioeconomics, and transportation), preferring to substitute "minimize impacts to" for the former and to delete the latter. As previously stated, this system guideline has now been editorially simplified and clarified, and these terms are no longer used. The DOE disagreed with the second comment, because practicability must govern the application of this guideline. The minimization of impacts is a desirable objective, but in making repository siting decisions it must be balanced against other objectives.

One commenter suggested that the DOE add to the system guidelines a statement to the effect that the DOE will comply with the intent of State environmental laws and regulations. Although the DOE will comply with the requirements of all applicable environmental laws and regulations, it is not necessary or appropriate to include a guideline to this effect.

A commenter asked that the DOE return to the language used in the original preamble regarding the DOE's commitment to environmental protection. The DOE's commitment to environmental protection is clearly expressed in the guidelines, which are based on the premise that the key objectives in site selection are the protection of the health and safety of the public and the quality of the environment. These guidelines encompass all factors potentially important to waste containment and isolation (e.g., geohydrology, geochemistry, tectonics, human intrusion) as well as the factors that determine the environmental and socioeconomic acceptability of a site. In addition, as discussed under the implementation guidelines in Section IV.B.2, a separate implementation guideline for the consideration of environmental impacts (960.3–4) has been developed.

One commenter suggested the inclusion of the ALARA standard in the preclosure system guidelines. The ALARA standard (i.e., reducing releases to "as low as reasonably achievable" levels) is a part of the reference regulations (i.e., proposed 40 CFR Part 191, Subpart A) for the first preclosure system guideline and is therefore incorporated by reference into the DOE's preclosure guidelines.

One commenter asked whether all of the regulations cited in the first preclosure system guideline would need to be met and, conversely, whether the inability to comply with any single regulation but not all of the regulations would lead to disqualification. The answer to both questions is affirmative.

One commenter requested that a criterion of "zero release" to ground water be established for the preclosure phase. Although this is similar to the "zero release" comment for the postclosure phase, the issues are different. Ground water is not a part of the preclosure multiple-barrier system. Furthermore, the comment is primarily directed at shallow potable-water aquifers as opposed to the deeper aquifers of concern during the postclosure phase, which have less potential as potable-water sources. As already discussed, the NRC regulations governing preclosure operations embrace the ALARA standard (i.e., releases must be as low as is reasonably achievable). For preclosure operations, the application of that standard is expected to lead to no planned discharges of liquid radioactive wastes from the repository. In any case, such discharges would not be made to ground water. Beyond that, the system will be designed to prevent, to the extent practicable, contaminated liquid releases during postulated abnormal conditions. Given the relatively small volume of potentially contaminated liquids in preclosure operations, achieving essentially zero levels of liquid releases is a reasonable objective. Therefore, although not specifically incorporated into the guidelines (because the zero-release criterion is not a factor in siting), the desired assurance that no contaminated liquids will be released to aquifers is consistent with the DOE's objectives for preclosure safety.

One commenter requested that accident release limits for preclosure operations be promulgated by the NRC. This matter has been brought to the attention of the NRC. Such limits, if promulgated by the NRC, will be adopted by the DOE.

One commenter noted that the system guidelines were more sparsely worded than the technical guidelines, implying that the lack of detail appeared inconsistent with the high importance attributed to the system guidelines. The reason for the apparent lesser detail in the system guidelines is that they incorporate, by reference, detailed regulations promulgated by other agencies. These regulations are not repeated verbatim in order to readily incorporate (also by reference) any changes that may occur with time.

Deleted from the final preclosure system guidelines were the explanatory statements about pertinent system elements because these statements were considered to be more appropriate in this section-by-section analysis.

In summary, the final guidelines include three preclosure system guidelines, whereas the proposed rule had one preclosure system guideline, specifically addressed to radiological

safety. The system guideline for preclosure radiological safety was modified to include 10 CFR Part 60 in accordance with the NRC comments on the proposed rule. Also, the term "state of the art" was replaced by "reasonably available technology" because several commenters felt that the former term would allow the use of untested technology.

Section 960.5–2 Preclosure Technical Guidelines. Like the preclosure system guidelines, the preclosure technical guidelines are divided into three categories. The first category, preclosure radiological safety, contains guidelines on population density and distribution, site ownership and control, meteorology, and offsite installations and operations. The second category covers the environment, socioeconomics, and transportation. The third category, which pertains to the ease and cost of siting, construction, operation, and closure, contains guidelines on surface characteristics, rock characteristics, hydrology, and tectonics.

Preclosure Radiological Safety

Section 960.5–2–1 Population Density and Distribution. The objective of the guidelines on population density and distribution is to ensure the selection of a repository site that will minimize risk to the public and permit compliance with the EPA and NRC regulations. The proposed EPA standard (40 CFR Part 191) limits exposures to members of the public; it also requires that these exposures be further reduced below the limits to the extent reasonably achievable. The proposed EPA standard limits the radiation dose that any individual outside the boundary of the restricted area would receive to a maximum yearly dose of 25 millirem to the whole body, 75 millirem to the thyroid, or 25 millirem to any other organ. (Doses from natural background radiation vary between 70 and 200 millirem per year at different locations in the United States.) The results of studies performed to date indicate that the doses that would result from repository releases are very much lower than the EPA maximum permissible doses.

The final guideline on population density and distribution includes a qualifying condition, two favorable conditions, two potentially adverse conditions, and three disqualifying conditions. The two parts of the qualifying condition stipulate that (1) the expected dose to individuals in any highly populated area will not be likely to exceed a small fraction of the EPA limits, by reference to system guideline § 960.5–1(1), and (2) the expected dose received by any individual in the unrestricted area will not be likely to exceed the EPA limits. Any site must meet this two-part test in order to qualify.

The two favorable conditions will require the DOE to analyze the degree to which a site is remote from highly populated areas and to seek sites with low population densities. The first potentially adverse condition will require examination and analysis of the population density within projected site boundaries. The population to be analyzed will include the people residing there, those who are there on a seasonal or transient basis, and those who may be there only during the daytime. The daytime population consists of persons whose work brings them together into dense concentrations and of visitors to popular recreational areas. The second potentially adverse condition will require the analysis of the proximity of the site to highly populated areas or to areas containing 1000 or more persons in a 1-mile-square area.

The three disqualifying conditions specify that the site shall be disqualified if any of the following conditions exist:

1. The surface facility would be located in a highly populated area (coincidence); or

2. The surface facility would be located adjacent to a 1 mile by 1 mile area having a population of not less than 1000 individuals (adjacency); or

3. The DOE could not develop an emergency preparedness program that meets the requirements of DOE Order 5500.3 and related guides or 10 CFR Part 60, Subpart I, "Emergency Planning Criteria."

The DOE arrived at these disqualifying conditions by an iterative process that began in the proposed rule of February 7, 1983, with disqualifiers that were based on both radiation doses and on the adjacency and coincidence of the surface facility with a highly populated area. Comments requesting that the DOE be more specific led to the alternative guideline of May 27, 1983. This version specified that a site will be disqualifed if a surface facility would be adjacent to (abutting) an area 1 mile by 1 mile having a population of not fewer than 1000 individuals or would be located in a highly populated area. Objections to the use of the word "abutting" to define "adjacent surface facilities" led to attempts, discussed with the States, to restructure the disqualifier with both necessary and sufficient conditions. That is, if a surface facility met either of two necessary conditions (adjacency or coincidence), a site would be disqualified if the restricted area of a repository were (1) in a highly populated area or (2) abutting a 1-mile-square area with 1000 or more individuals. A number of States disliked this structure, saying that it was both awkward and perhaps gave an appearance of evading Congressional intent, even though it followed closely the language of Section 112(a) of the Act.

Clearly, no one would suggest that repository facilities should be located in a highly populated area; the DOE has, therefore, concluded that both the coincidence and adjacency conditions of Section 112(a) of the Act should be sufficient to disqualify sites. The purpose of both conditions, and the entire guideline, is the protection of people from harmful exposure to radiation due to releases from repository surface facilities. The dispersal of any airborne releases would depend on local weather conditions, which may vary greatly from site to site. Furthermore, the magnitude of releases is controllable in large degree by engineering measures in common use at radiological facilities. It follows that the DOE must make a site-specific evaluation of adjacency to populations concentrations in order to decide whether a site meets this guideline. This evaluation will determine the distance at which the outer boundary of the restricted area should be set, measured from potential release points, so as to ensure that populations beyond that fenced boundary will not experience radiation doses in excess of the limits set by the NRC and the EPA regulations discussed above.

A commenter stated that 1000 persons per square mile represents a high population density and that the population-density guideline should be more restrictive. The DOE agrees that a low population density in the vicinity of a site is a favorable condition; however, in accordance with the requirements of the Act, the disqualifying condition should be and is stated in terms of high population density.

Eight commenters expressed concern over radiation exposure and dosage, and how these are to be addressed in the guidelines. Six of them called attention to the potentially adverse condition in the alternative guideline § 960.5–2–1(b)), stating that any site where regulatory limits would be exceeded should be disqualified. In response to these concerns, the DOE added a qualifying condition that limits the allowable doses in both highly populated areas and in unrestricted areas, generally. Other commenters were concerned with the

presence of transient or residential populations. Accordingly, the DOE added potentially adverse condition § 960.5–2–1(c)(1).

One concern expressed by three commenters was that, in performing dose calculations, the DOE should consider future as well as present populations. The DOE agrees and will make population projections through the period of decommissioning for each potential site during site characterization. Because long-range demographic forecasts are inherently speculative, the DOE believes that projections beyond the period of decommissioning would not serve a useful purpose.

One commenter expressed the view that individual, as well as population, dose should be measured, and two reviewers said that dose calculations should include doses from other sources. In calculating dosage, the DOE will follow the procedures outlined in the EPA's final standards (40 CFR Part 191). These calculations estimate individual exposures from other sources as well as from repository operations. The qualifying condition is stated in terms of both individual and population doses.

One commenter expressed the view that increments of distance should be established in the guideline to account for risks associated with increased surface activities and gave an example of converging transportation routes. In order to protect the public, the DOE will identify a restricted area that encloses all repository surface facilities, except the immediately connecting road or rail spurs. The safety of transportation activities is treated in the analysis of the transportation guideline.

Two reviewers commented that the real extent or distance describing the "remoteness" of a site from highly populated areas should be defined. Remoteness varies with land use, terrain, distance, relative accessibility to the public, and the configuration of the potential controlled area. These conditions will be evaluated to determine the degree to which a site may be considered remote from highly populated areas; therefore, the DOE does not believe that it is appropriate to specify a definition for remoteness in the general siting guidelines.

One commenter suggested that "highly populated area" should be left undefined in the guidelines. The DOE thinks that such a definition is necessary, however, in order to identify and avoid highly populated areas early in the site-screening process and to be able to rely upon the potential utility of sites in which much effort will have been expended, should they prove qualified in all other respects. Other commenters felt that a more restrictive definition is necessary. Hence, "highly populated area" is defined in the final guidelines as any incorporated or census-designated place, excluding counties, of 2500 of more persons as long as the population density of the place would equal or exceed the mean population density of the United States (about 64 persons per square mile). This is a more restrictive definition than the one used in the alternative guideline, which stipulated that highly populated areas would include urbanized places within metropolitan statistical areas (MSAs) as defined by the Bureau of the Census. In practice, that criterion would exclude only the most highly populated parts of any given MSA. The new definition does not refer to MSA and is therefore more restrictive. The threshold of 2500 persons was selected for two reasons. First, the Bureau of the Census defines places with 2500 or more inhabitants as urban. Second, the Bureau develops maps to delineate such places, and population-density data are tabulated for these places. The criterion of the mean U.S. population density used in the definition of "highly populated area" will permit the DOE to consider potential sites within extremely large but sparsely settled incorporated communities.

Another commenter felt surface or climatic conditions that might increase the occupational exposure of repository workers to radiation should be considered potentially adverse. The DOE agrees that the exposure of workers at a repository must be limited and will meet the safety requirements for occupational exposure in 10 CFR Part 20. Because any repository will be designed to protect workers from variable climatic conditions, the DOE feels that any site-to-site variations projected in occupational doses would be so small as to make this factor inconsequential in siting.

Another commenter wondered why the DOE would be concerned with population density but not with agricultural productivity in the area of a site and suggested that certain agricultural areas be eliminated from further consideration. In siting any repository, the DOE will comply with the Farmland Protection Policy Act of 1981 (Pub. L. 97–98) and the Department of Agriculture's final rule to implement that Act (49 FR 27716; to be codified as 7 CFR Part 658).

One commenter said that the DOE should ensure that the populations adjacent to a potentially acceptable site will be protected from the effects of a repository at least as well as parks are protected in the environmental quality guideline. The DOE developed the qualifying, disqualifying, favorable, and potentially adverse conditions in both guidelines so that both parks and populations would be protected in a manner commensurate with the type of risk. Industrial facilities are generally precluded from parks, but many industries are commonly located within urban areas. When the industrial operations involve known hazards, then they are usually sited at some distance from the general public, the distance being determined by the degree of hazard. With the park, it is the environment that is at risk; with the population, it is the potential risk to the health and safety of the residents of an area that must be considered. The disqualifiers therefore are based on radiation hazards for the population and either irreconcilable land-use conflicts or unacceptable environmental impacts for the environment.

Section 960.5–2–2 Site Ownership and Control. Although the preclosure and the postclosure guidelines on site ownership and control are stated in similar terms (see § 960.4–2–8–2), they are related to different system guidelines (i.e., the preclosure and the postclosure system guidelines). Moreover, as stated in the preamble for § 960.4–2–8–2, the geographical extent of the land and the controls required also differ for the preclosure and the postclosure periods. However, the comments on these guidelines addressed common issues, which are discussed in § 960.4–2–8–2 of the preamble and are not repeated here.

Section 960.5–2–3 Meteorology. The principal objective of the preclosure guideline on meteorology is to ensure that the weather conditions at the site are favorable for the atmospheric dispersion of any radioactive emissions and to ensure compliance with the system guideline for preclosure radiological safety. Also of concern is the potential for extreme-weather phenomena that could affect the operation and safety of the repository.

A recurrent theme in the comments was the statement that any expected routine radioactive emissions from a repository should disqualify the site because these emissions would pose potential health hazards to local populations and repository workers. Two commenters requested that this disqualification be extended to include emissions to agricultural lands. On the other hand, two commenters pointed out that routine emissions are of significance only if the limits of 40 CFR Parts 190 and 191 are approached for the

general population or the limits of 10 CFR Part 20 for the work force.

A site should not be disqualified simply because routine emissions of radioactive material are projected for repository operations. The repository operations will be such that these emissions will be very low, well within the limits prescribed by applicable regulations and standards. Moreover, the DOE does not intend to rely solely on natural meteorological conditions to protect the public from preclosure emissions; it intends to rely on the engineered design of the repository. The safety of this design will be demonstrated in the license application to the NRC. However, to protect the public from the releases that might occur under unlikely accident conditions or during normal operations, the first potentially adverse condition in the guideline covers site-specific meteorological conditions pertinent to the atmospheric transport of radionuclides (i.e., the prevalence of meteorological conditions under which the emissions would be likely to be transported toward localities with higher population densities than the average for the region). To clarify the concern for protecting the population, the meteorology guideline has been reworded.

Some commenters asked the DOE to clarify what it meant by "high potential for extreme-weather phenomena," and several suggested that severe winter storms be included in this category. In evaluating sites, the potential for, and the severity of, extreme-weather phenomena will be estimated on the basis of historical meteorological records. The second potentially adverse condition, which pertains to extreme-weather phenomena, was rewritten to reflect the historical basis for the evaluation; in addition, it was expanded to include severe and frequent winter storms.

Section 960.5–2–4 Offsite Installations and Operations. The preclosure technical guideline on offsite installations and operations (formerly offsite facilities) has two objectives: (1) to ensure that the impacts of any nearby industrial, transportation, and military installations and operations, including atomic-energy defense activities, on repository siting, construction, operation, closure, and decommissioning are adequately considered and (2) to ensure that any radionuclide emissions from such installations, when combined with preclosure emissions from the repository, would not lead to total radiological exposures in any unrestricted area greater than those allowed by the requirements specified in the pertinent system guideline.

Nine comments were directed specifically toward the proximity of a repository to other nuclear facilities with radioactive effluents at or near the limits specified in 40 CFR Parts 190 and 191; all recommended that such a condition be considered disqualifying, rather than potentially adverse. The comments generally appear to be based on the requirements of 40 CFR 191.03(a) that, for any facilities covered by 40 CFR Parts 190 and 191, the combined annual dose equivalent delivered to any member of the public shall not exceed the limits specified by these standards. The guideline recognizes that the presence nearby of industrial, transportation, and military installations and operations, including atomic-energy defense activities, could be detrimental and requires that the combined releases from these sources and the repository meet the requirements specified in Section 960.5–1(1) for unrestricted areas. The pertinent potentially adverse condition recognizes the presence of nuclear installations and operations with actual or projected releases near the maximum value permissible under 40 CFR Parts 190 and 191. Because such releases might be accommodated by engineering measures, the potentially adverse condition was not changed to a disqualifying one in the guidelines of November 1983.

Added to the final guideline for offsite installations and operations was a disqualifying condition related to atomic energy defense activities that are expected to conflict irreconcilably with repository siting, construction, operation, closure, and decommissioning. This addition was made in response to the NRC's preliminary concurrence condition 7, which asked the DOE to develop new disqualifying conditions that (1) would correspond to the factors cited in Section 112(a) of the Act and (2) could be applied early in the siting process. The DOE had concluded that a specific reference to atomic-energy defense activities in the qualifying condition was sufficient to satisfy the requirements of Section 112(a), but, after further consideration, decided that an explicit disqualifying condition could be developed to accommodate the NRC.

Three comments requested that the other potentially adverse condition, which is related to the presence of nearby potentially hazardous installations or operations, be changed to a disqualifying condition. There were also two suggestions that the word "unacceptable" in § 960.5–2–4(b)(1) of the alternative guildelines be changed to "adversely" in order to broaden the consideration.

As mentioned above, the identification of a potentially adverse condition requires a detailed evaluation of the condition. The results of such an evaluation must indicate that the potential for radionuclide releases does not exceed the limits specified in § 960.5–1(1). The DOE therefore does not accept the suggestion to change the potentially adverse conditions to disqualifying conditions; however, the word "unacceptable" was changed to "adversely."

Several comments pointed out inconsistencies in terms, recommending that a more-inclusive term be substituted for "offsite facilities" to express the broader concerns of the public. The question as to why offsite facilities are not of concern for the postclosure period was also raised. The DOE agrees that the use of terms was inconsistent. Accordingly, the term "installations and operations" is used consistently throughout the final guideline. Offsite facilities are not a postclosure issue, because no emissions will be released from the repository after closure. In addition, the words "siting" and "decommissioning" were added to the qualifying condition of the final guideline to make it more encompassing.

Environment, Socioeconomics, and Transportation

Section 960.5–2–5 Environmental Quality. The objective of the environmental quality guidelines is twofold: (1) to ensure that environmental impacts will be considered throughout all stages of the program and that impacts can be mitigated to an acceptable degree, taking into account programmatic, technical, social, economic, and environmental factors, and (2) to ensure that the requirements of system guideline § 960.5–1(a)(2) are met.

Comments on the proposed environmental protection guideline were concentrated in two major areas: proximity of a potential respository site to a protected natural area, such as a park, and mitigation of environmental impacts associated with repository development. To accommodate these concerns, a number of changes were made to clarify the disqualifying conditions and to supplement the potentially adverse conditions in these areas. In addition, minor changes were made for clarification in the favorable conditions and the qualifying conditions.

These changes are discussed individually below.

In the guideline of November 1983, the qualifying condition was expanded by adding "closure and decommissioning" to respository activities requiring environmental protection. The qualifying condition was revised to state specifically that the quality of the environment "in the affected area," as well as the actual repository site, will be protected. The definition of "affected area" was modified to reflect this usage.

In the November 1983 guidelines, the qualifying condition included the statement "and projected significant adverse environmental impacts in the affected area can be mitigated to the extent practicable." The final version says "and projected environmental impacts in the affected area can be mitigated to an acceptable degree." The term "significant adverse" is thought to be redundant in this context, and the phrase "to an acceptable degree" is thought to promise greater protection than "to the extent practicable." The word "programmatic" was added to the list of considerations to be weighed in determining what is meant by "to an acceptable degree," correcting an inadvertent omission in a previous draft. Additionally, the qualifying condition was changed to delete the phrase "the health and welfare of the public" to avoid redundancy with the system guideline (§ 960.5–1(2)). (This change was also made in the first disqualifying condition, as discussed below.) The adverb "adequately" was added to the phrase "environment in the affected area * * * will be *adequately* protected" to clarify the degree to which the DOE will afford protection to the environment and to be consistent with the language of the Act (Section 111(b)) regarding the necessary level of environmental protection.

Several commenters suggested that selection of a repository site and support systems should ensure that potental environmental impacts are minimized to the greatest extent possible. Similiar comments urged the DOE to apply the ALARA (as low as reasonably achievable) principle to both engineered measures and siting decisions. The DOE will evaluate alternative mesures to minimize or avoid significant environmental impacts and will adopt reasonable mitigating measures. What is reasonable in a given situation is influenced by a number of factors, including cost, technology, and other environmental and socioeconomic impacts. The DOE's perspective on what is reasonably achievable in mitigating environmental impacts is explained in the final rule by listing the factors that will be considered in making judgments of this nature. The DOE maintains, however, that one cannot apply the ALARA principle to the site-screening process when limited information is available to make an informed judgment as to what constitutes ALARA.

In response to a comment, the first favorable condition was modified to reflect timely compliance with environmental requirements applicable to the site "and the activities proposed to take place thereon." Also, since environmental impacts will occur in the future and regulatory requirements generally apply in the future, the favorable condition now reflects a "projected ability" to meet such requirements.

The final guideline includes a change in the second favorable condition. The DOE defined "reasonable mitigating measures" by adding the phrase "taking into account programmatic, technical, social, economic, and environmental factors."

In response to comments, the proposed environmental guideline was expanded to include six potentially adverse conditions, and in the final rule certain modifications have been made in response to further comments. In the first potentially adverse condition, the term "major" was added in the phrase "projected major conflict with applicable Federal, State, or local environmental requirements." This change was made to clarify the nature of a conflict that would trigger a potentially adverse condition. It is believed that a minor conflict is more likely to be resolved. One commenter asked whether a State or local government could impose environmental restrictions sufficient to prevent a site from being chosen in the jurisdiction, as they believe the first potentially adverse condition suggests. The DOE will consider all applicable environmental laws in the site-screening process.

Another commenter suggested that the term "probable" be deleted from the first potentially adverse condition. The term "projected" has been substituted.

In the second potentially adverse condition, the term "minimized" was changed to "mitigated," in response to a comment. This change is appropriate since the term "mitigate"is used throughout this guideline. Two commenters suggested that the term "significant" be deleted from the second potentially adverse condition. The DOE disagrees. Not all adverse environmental impacts are automatically serious enough to be included in this category.

A number of commenters suggested that the third potentially adverse condition, regarding protected natural areas, should be a disqualifying condition. Others pointed out that a repository would not necessarily conflict with the designated use of the resources cited in the Act (i.e., components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, and National Forest Land). The DOE's position is that the above-mentioned resources should be given special consideration in repository-siting decisions, and all of them are listed in the third potentially adverse condition.

Several commenters on the third potentially adverse condition suggested that both direct and indirect adverse environmental impacts need to be considered. The DOE agrees. Others suggested that the severity of the impact determines whether a potentially adverse condition exists. To accommodate both concerns, the DOE deleted "direct" to indicate that both direct and indirect environmental impacts would be considered and inserted "significant" to clarify that "significant adverse environmental impacts" on the designated natural resources would trigger the potentially adverse condition.

One commenter requested that the third and fourth potentially adverse conditions be combined. The DOE disagrees. The language as written best distinguishes the treatment of different lands controlled by different government entities. Because the resources in the fourth condition vary from State to State, the specific resources cannot be listed all inclusively. Furthermore, since many different kinds of resources could be at issue, a two-part test is appropriate.

In response to numerous comments, particularly from interested States, the DOE added three potentially adverse conditions to ensure special consideration of a "significant State or regionally protected resource area, such as a State park, wildlife area, or a historical area;" "a significant Native American resource, such as a major Indian religious site;" and "critical habitats for threatened or endangered species." In response to a comment, the DOE added "other sites of unique cultural interests" to the list of resources warranting special consideration.

One commenter suggested adding a potentially adverse condition that would cover the management and disposal of mine spoils. The DOE disagrees. Such

potential adverse environmental impacts as may arise from the management and disposal of mine spoils are covered by the second potentially adverse condition. Another commenter asked that the DOE "recognize local or regional engineered water supply systems as a potentially adverse or a disqualifying condition." The DOE disagrees since impacts on such systems are covered by other potentially adverse and disqualifying conditions, such as potentially adverse condition 2 and disqualifying condition 1. One commenter said that the term "potentially adverse condition" is vague. The term has been defined in the glossary (§ 960.2 of the guidelines).

The greatest number of comments on the environmental guideline, both in the proposed guidelines and in the alternative guidelines, pertained to two disqualifying conditions. Both of these disqualifying conditions were retained in the rule of November 1983, but were modified in response to comments, and, in response to comments, a third was added.

In its November 1983 version, the phrase "cannot be mitigated" was modified by the phrase "by reasonable measures, taking into account technical, social, and economic, and environmental factors." In addition, the term "unsatisfactory" was changed to "unacceptable." "Unsatisfactory" was originally chosen to be consistent with the descriptions of the environmental referral process in Part 1504 of the Council on Environmental Quality regulations implementing the National Environmental Policy Act of 1969. However, this change was made to more clearly reflect the fact that a judgment on the acceptability of environmental impacts is involved here. Upon further consideration, this wording was modified in the final guidelines as discussed below.

The first disqualifying condition is now amended in the final guidelines to include "siting" in the list of activities that the condition covers. This stage was inadvertently omitted from an earlier draft.

The phrase "would result in an unacceptable adverse impact on the health and welfare of the public or the quality of the environment, if such impact cannot be mitigated by reasonable measures" has been replaced by "the quality of the environment in the affected area could not be adequately protected or projected environmental impacts in the affected area could not be mitigated to an acceptable degree." This change was made to delete a redundancy in considering the health and welfare of the public, which is covered by the system guideline (§ 960.5–1(a)(2)), and to clarify the need for protecting the environment both now and in the future. Furthermore, the word "programmatic" was added to the list of factors to be weighed in determining the acceptability of the results of impact mitigation.

A commenter asked whether mitigation in this and other places includes compensation. It does, as indicated in the definition of the term in § 960.2 of the guidelines.

Numerous comments were received on the second disqualifying condition, which referred to the coincidence of the restricted area or repository support facilities with the resources named; some expressed concern that it was too narrow, others suggested that it was appropriate. Several commenters argued that proximity to a protected area should be a disqualifying condition, while others suggested that the word "proximity" should be eliminated from the rule to minimize the opportunity for subjectivity in decision making. Some commenters objected to the two-part test in the disqualifying condition, arguing that location of a repository within the boundaries of a protected area is evidence of an irreconcilable conflict.

In this regard, the proposed guidelines did not automatically disqualify a site located within a protected area, because the DOE contends that it could be possible, in certain situations, to locate a repository within a protected area in such a way that it would not adversely affect the dedicated purpose of the area. However, in response to the concerns expressed, the alternative guideline was made more specific with respect to the potential conflict between a proposed repository site and a significant national protected resource. The gideline of November 1983 was made even more specific in that it enumerated the resources to be protected. The second disqualifying condition was expanded into two conditions, as follows:

(2) Any part of the restricted area or repository support facilities would be located within the boundaries of a component of the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, or the National Wild and Scenic Rivers System.

(3) The presence of the restricted area or the repository support facilities would conflict irreconcilably with the previously designated use of a component of the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, or the National Wild and Scenic Rivers System, or any comparably significant State protected resource that was dedicated to resource preservation at the time of the enactment of the Act.

The protected areas listed in these two disqualifying conditions did not include National Forests. Because the charters of National Forest Lands call for multiple uses, including mining, the DOE's position was that the appropriateness of including a repository among these multiple uses would have to be evaluated case by case.

The term "disturbed zone" was changed to "restricted area," which can be more reasonably applied to the required assessment (i.e., the disturbed zone is a projected fringe area far below ground that is related to postclosure, not preclosure, requirements). The phrase "any part of" was added to the second disqualifying condition to alleviate concerns that the entire restricted area or repository support facilities would have to lie within the protected area to trigger the disqualifying condition. Another commenter suggested replacing the word "would" with the word "could" in the second disqualifying condition. The DOE disagrees. The elimination of a site on the basis of what amounts to speculation at the screening stage may unnecessarily eliminate a good site.

Although several commenters suggested alternative phrases, the phrase "would conflict irreconcilably with the previously designated use" was used in the new disqualifying condition, though modified (see below) because the DOE maintains that a conflict can be adequately determined to be "irreconcilable."

The third disqualifying condition addresses State concerns about significant State protected resources. The intent is to afford both national and comparably significant State protected resources the same kind of protection.

The third disqualifying condition was further revised during the NRC concurrence process by the addition of two terms. The first, "resource preservation," is the "previously designated use" which the DOE considers the appropriate baseline condition against which to measure "irreconcilable conflicts." Second, in its concurrence condition 7, the NRC requested the addition of National Forest Lands to the list of resources covered by this disqualifier. After considering this request, the DOE agreed that the irreconcilable conflict with a previously designated resource-preservation use of a National Forest should disqualify a site. The

disqualifying condition now reads as follows:

(1) The presence of the restricted area or the repository support facilities would conflict irreconcilably with the previously designated resource-preservation use of a component of the National Park System, the National Wildlife refuge System, the National Wilderness Preservation System, The National Wild and Scenic Rivers System, or National Forest Lands, or any comparably significant State protected resource that was dedicated to resource preservation at the time of the enactment of the Act.

Several commenters raised various miscellaneous points and concerns. One commenter was concerned that the displacement of homes and families is considered to be a favorable condition and that priority is given to wildlife over people. The DOE disagrees that the guidelines either express or imply either situation. The DOE states, in several places in the guidelines, that the first priority of the site-selection process is the health and safety of the public.

Another commenter said that the environmental quality guideline does not ensure the suitability of the geologic conditions of the site. It is implicit in this guideline that, in order to protect the environment, the geologic conditions must be suitable. Moreover, such suitability is ensured by the postclosure system and technical guidelines.

Finally, several commenters suggested that the DOE include the environmental quality guideline in the postclosure guidelines. The DOE disagrees. The object of the environmental quality guideline, as stated at the beginning of this section of the preamble, is to protect the quality of the environment throughout all stages of geologic repository siting. Postclosure protection will be provided by the system guidelines, which mandate compliance with 10 CFR Part 60 and 40 CFR Part 191.

Section 960.5–2–6 Socioeconomic Impacts. The objective of the technical guideline on socioeconomic impacts is to ensure that any significant adverse socioeconomic impacts of repository siting, construction, operation, closure, and decommissioning can be offset by reasonable mitigation or compensation and the requirements of system guideline § 960.5–1(a)(2) can be met.

The DOE is committed to a program of socioeconomic-impact measurement and mitigation. Mitigation, as defined by the Council on Environmental Quality, includes actions that will avoid, minimize, reduce, or compensate for adverse impacts (40 CFR 1508.20).

The potential social and economic impacts of geologic repositories were of concern to a number of commenters. The principal issues were (1) the socioeconomic impacts associated with the labor-force requirements of the repository, (2) adverse effects on primary sectors of local economies (e.g., tourism), (3) adverse effects on water supplies, and (4) the psychological effects of perceived risk.

Some commenters were concerned that the labor-force requirements of a repository would impose undue hardship on the private and public service capabilities of affected localities. The viewpoints expressed were often conflicting; for example, some suggested that socioeconomic impacts could be mitigated through stringent siting requirements, such as requiring that two-thirds of the labor force live within a reasonable commuting distance of the repository, but others felt that the lack of an available labor force should be a favorable condition; one comment said that the potential for increased employment should not be considered a favorable condition. One commenter stated that disruption to primary sectors of the economy of the affected area should be a disqualifying condition. Another felt that irreversible changes in a chosen way of life should be a potentially adverse condition and deplored the possible loss of agricultural land.

The DOE feels it would be inappropriate to specify quantitative labor-force requirements because there are so many variable factors that cannot be controlled. It would be possible, for example, to construct housing at the site for transient labor if sufficient labor were not available within a reasonable commuting distance from the site. The creation of new jobs for locally available labor would be received favorably in most areas; however, an influx of new workers could have significant adverse socioeconomic impacts. For these reasons, the potentially adverse and favorable conditions concerning the supply of labor were retained. In areas where new jobs might not be welcomed, the DOE will work with the State, affected Indian tribes, and the public to identify suitable means of mitigating unwanted impacts and preserving and enhancing the quality of life. Since adverse socioeconomic impacts on affected local economies can generally be mitigated, the DOE does not believe that such impacts are disqualifying. Where agriculture is a primary sector of the affected economy, the loss of agricultural land would be a potentially adverse condition.

A commenter stated that a major disruption of the local economy is almost certain and observed that the guidelines on population density and distribution (§ 960.5–2–1) and socioeconomic impacts (§ 960.5–2–6) are somewhat contradictory. Another asked that socioeconomic and environmental impacts along waste-transportation routes be addressed, and a third suggested that postclosure impacts be included in the socioeconomic guideline.

The DOE agrees that some disruption will be experienced by the local economy, just as it is as in most large-scale industrial developments. However, because most socioeconomic impacts can be anticipated and mitigated, major disruptions can be avoided in most cases. When guidelines §§ 960.5–2–1 and 960.5–2–6 (population density and socioeconomics) are taken together, areas of low population density within a commuting distance of significant labor pools could gain favor in site comparisons if the technical qualifications are equal. Socioeconomic and environmental impacts along local transportation routes will be addressed in the siting process. Postclosure impacts, however difficult to assess, will be the subject of impact-mitigation discussions and agreements between affected States, affected Indian tribes, and the DOE.

Other comments said that (1) the guidelines should emphasize net gains in the overall economy and in employment, (2) the term "affected area" should be changed to "affected region," and (3) the cost of the repository should be taken into account as a socioeconomic impact.

The DOE agrees that net gains in employment and in the local economy should be considered a favorable condition and has revised the guideline accordingly. With respect to the use of "affected area" versus "affected region," repository development may produce socioeconomic impacts in an area of several counties, but it will probably have minimal effect on the economy of an entire region of the country. The costs of the repository need not be treated as a socioeconomic impact because they will be borne by the owners of the radioactive waste. Furthermore, cost ranks below public health and safety, the quality of the environment, and socioeconomic conditions.

Also mentioned were possible adverse impacts on agriculture, tourism, and recreation, but another commenter pointed out that the services and facilities developed for repository

workers and their families could enhance the ability of an area to accommodate tourists and seasonal populations.

The DOE is aware of the concern about adverse effects on agriculture, tourism, and recreation. One potentially adverse condition in the socioeconomics guideline is the potential for major disruptions of primary sectors of the economy of the affected area. The DOE will work with States, affected Indian tribes, and localities to anticipate and mitigate such effects if they arise.

Commenters on the alternative guidelines were also concerned about the potentially adverse condition regarding the acquisition of water rights and the effects thereof. One maintained that a model of water usage should be developed. Two commenters asked that disqualifying conditions be specified for water supplies. One commenter requested that the DOE add water use to acquisition of water rights as a potentially adverse condition. Several commenters asked for a guideline that would protect producing aquifers.

The DOE will evaluate water usage during the engineering design of a repository in a specific rock type. With respect to the requests for disqualifying conditions for water supplies, the qualifying condition for the socioeconomic guideline indicates that a potential site is not qualified unless adverse impacts on water supplies can be mitigated or compensated. This guideline reflects the DOE's position that, if adverse impacts on water supplies can be mitigated, then it is not appropriate to disqualify a site because of potential adverse impacts on water supplies. The issue is the ability to mitigate or compensate for adverse impacts, not the potential for their occurrence. The DOE expects that, where water is scarce, there will be controls on its use. Where water usage is controlled by administrative means other than water rights per se, the DOE will consider the acquisition of water through such other administrative controls to be equivalent to the acquisition of water rights. Producing aquifers are protected through the system guideline on environmental quality and the technical guideline on socioeconomics.

One commenter was concerned that the perceived risk of a repository might induce anxiety and stress, causing some people to leave the area, and complained that the issue was not addressed in the guidelines.

The DOE recognizes that the risk of new technologies involving hazardous materials may be perceived to be greater by the general public than it is by technical experts. However, past experience with other new technologies suggests that the anxieties of the public may be alleviated as the technology is seen to be effective and its benefits become more apparent. The overriding emphasis of the guidelines on public health and safety, as well as the DOE's commitment to open communication and public involvement throughout the siting process, is intended to help alleviate public concerns about the risks of a repository. Perceived risk, however, is not an appropriate topic for general repository-siting guidelines; it is a subjective condition that cannot be fairly compared among sites.

The DOE recognizes that the possible impacts of rapid, large-scale growth in sparsely populated rural areas are legitimate concerns in siting a major facility. Therefore, the socioeconomics guideline has been revised to more clearly indicate that the existing socioeconomic base (population, labor force, infrastructure, services, etc.) will be explicitly considered in site selection. The final guideline on socioeconomics includes a qualifying condition, a set of four favorable conditions, and a set of four potentially adverse conditions. Because of the complexity of socioeconomic interactions, the possibility of mitigation, and the extensive analysis and planning required by the Act, the DOE took the position in the guidelines of November 1983 that socioeconomic impacts do not represent an absolute disqualifying condition.

The qualifying condition in the final guideline will ensure that any significant adverse social or economic impacts will be addressed; it will also ensure that the system guideline, whose objective is to protect the socioeconomic well-being of the population, will be met. The qualifying condition also specifies the range of socioeconomic considerations that will be addressed in the analysis.

The four favorable conditions in the final guideline are (1) the ability of an affected area to absorb project-related population changes; (2) the availability of an adequate labor force; (3) projected net increases in employment and in public and private revenues; and (4) the lack of significant disruption to primary sectors of the economy of the affected area.

The four potentially adverse conditions are (1) potential for significant impacts on community services, housing, and public revenues; (2) the lack of an adequate labor force; (3) water-right acquisition that would have potential adverse impacts on the development of the affected area; and (4) potential for major disruption to primary sectors of the economy of the affected area. Since these potentially adverse conditions could be mitigated in many cases, they would not disqualify a site.

In response to the NRC's preliminary concurrence condition 7, which requested additional disqualifying conditions that are directed at the specific factors listed in Section 112(a) of the Act, disqualifying condition § 960.5–2–6(d) was added to the guideline on socioeconomic impacts. This disqualifying condition is concerned with potential effects on the rights of users of water and proximity to water supplies. It was not included in the November 1983 guidelines because these factors were implicitly or explicitly included in the system guideline on environmental quality and the qualifying condition for socioeconomic impacts ("competition for resources such as land, water, and construction materials"). However, to accommodate the NRC's request, the DOE developed an explicit disqualifier. Although this disqualifying condition could have been included in guideline § 960.4–2–8–1, Natural Resources, it was included here because the DOE believes that the most serious effects of a significant degradation of major water sources would be socioeconomic. In editing the final guidelines, the explanatory paragraph that followed the statement of the qualifying condition was deleted because the parameters to be considered are now listed in Appendix IV.

Section 960.5–2–7 Transportation. The objective of the transportation guideline is to ensure that proper consideration is given to the transportation of waste to a repository site, as it could affect the health and safety of the public, the environment, and the cost of waste disposal. The guideline requires the evaluation of a site's proximity to adequate highways and railroads, the characteristics of access routes from existing highways and railroads to the site, the costs and other impacts of designing and constructing the access routes, and the impacts of transporting waste over the access routes. The guideline indirectly requires the consideration of proximity to the sources of waste because one of the favorable conditions is stated in terms of a comparison of costs and risks among sites.

In the proposed guidelines of February 1983, transportation was treated as a subset of population density and distribution. Many comments on the proposed guidelines emphasized the importance of transportation and the

need for a separate, more comprehensive guideline. Some comments raised generic issues and problems that cannot be solved by the siting of a repository; such issues are not appropriate for guidelines that govern siting. Apparently, the purpose of including transportation in the siting guidelines was not clearly understood.

In response to the many requests, the DOE prepared a separate, more comprehensive guideline on transportation. This guideline is not intended to govern the movement of waste over the national system of highways and railroads; regulations of the NRC (10 CFR Part 71) and the Department of Transportation (49 CFR Parts 171–178) govern that part of waste transportation. The guideline is intended to govern only the transportation issues that are important in choosing sites for characterization and development. The guideline now makes clear that it is concerned primarily with site-specific conditions. It does not address the nationwide transportation of waste, beyond the comparative assessment of costs and risks for the considered sites.

A number of comments stated that there are transportation-related factors that would disqualify a site and called for specific disqualifying conditions in the guideline. The examples cited included transport over rivers, watersheds, reservoirs, high bridges, and through Indian reservations; rail access routes that are too long; concentration of routes through population centers; transport over routes that do not comply with DOT regulations; and the lack of direct rail access. Also cited were increased risk or environmental impact relative to other sites or radiation doses from transportation over local highways in excess of the EPA limit in 40 CFR Part 191.

The DOE does not feel justified in defining explicit disqualification thresholds, because transportation costs, risks, and impacts must be evaluated in relation to the repository system as a whole. None of the suggested disqualifying conditions would make the construction of a satisfactory repository system so difficult that a site should be eliminated simply because the condition is present. Consequently, no disqualifying conditions have been added to the transportation guideline. Furthermore, EPA standards cited above are not applicable to transportation, nor is it appropriate for the DOE to include such standards in its transportation exposure assessments. However, the maximum individual exposure along local access routes is expected to be a very small fraction of that due to natural background radiation.

Some comments cited as adverse conditions (1) transport over bridges whose height above the terrain below exceeds the conditions of the NRC hypothetical accident tests or (2) local highways and railroads that are in poor condition. These considerations are included in the revised guideline under potentially adverse conditions that would require further evaluation or possibly mitigation measures.

Several comments cited transportation-related conditions that should be considered in siting the repository. Examples are access to the site; the feasibility of access route construction, cost and environmental impacts; visual impacts, air pollution, and noise impacts; adverse weather conditions; extremely heavy loads on railroads; and the availability of air and water transportation modes. Extremely heavy loading is not included because the loaded railroad cars serving the repository will meet standard railroad requirements on wheel loading and spacing and gross loadings.

Two commenters discussed the assumptions made by the DOE in previous transportation assessments and pointed out that the current assumption about the fraction of waste transported by rail (90 percent) contradicts the current practices of nuclear-reactor facilities. They also suggested that rail access is a primary qualifying condition and that the DOE should use dedicated trains for transporting waste to the repository.

Various assumptions about the fractions of waste transported by rail and truck have been and will continue to be used by the DOE in assessing the risks, costs, and environmental impacts of transporting waste to a repository. It is neither necessary nor desirable to fix on this set of assumptions now; analyses will be done to cover a range of reasonable values. The actual values that will pertain 15 to 20 years hence, when operations begin, are difficult to predict now. Many logistic, economic, and service factors will be involved in the choice between rail and truck transport. The use of dedicated trains has been studied by the Interstate Commerce Commission. Whether they will be used is still under consideration, but is not an issue for siting guidelines to specify.

One commenter cited the cost of access-route construction as a major factor and suggested that a limit be placed on transportation-related costs in terms of a maximum percentage of the total disposal cost; exceeding this value would disqualify the site. The DOE does not agree that any minimum level of transportation-related cost alone should disqualify a site, because such costs may be offset by other site-specific factors, including the costs of the repository itself. Transportation-related costs, including access-route construction, will be included in the total system cost for comparison with the costs of other siting options.

One commenter stated that the guideline does not offer an adequate method for comparing transportation costs and risks and the DOE must develop such methods for accurately making such comparisons among siting options. The comment goes on to say that specific origin-and-destination pairs, specific routes, and route-specific data on population density, accident rates, travel restrictions, and the site should be considered.

The DOE contends that current methods and analytical tools are adequate, but is nevertheless continuing to make improvements in them. General guidelines for siting purposes are, in any case, not an appropriate place to require the development of improved methods.

A number of comments emphasized the importance of waste-shipment routing and the population density along such routes. This is largely a generic issue, inappropriate for siting guidelines, that the Department of Transportation (DOT) has addressed in its recent final rule (49 CFR 177.825). The DOT has defined preferred routes but given to the States the opportunity to identify and analyze alternative routes, in accordance with DOT guidelines, and designate such routes that they may deem necessary to accommodate local conditions. This may include routes in the vicinity of the repository if considered necessary by State officials. Thus, no specific treatment of this subject appears in the guidelines.

Several comments requested greater emphasis on the proximity of repositories to waste sources for both the first and subsequent repositories. A favorable condition in the transportation guideline requires the evaluation and comparison of total life-cycle waste-transportation costs and risks for each siting option. The guideline on regionality (§ 960.3–1–3) requires consideration of the proximity of the second repository to locations where radioactive waste is generated or temporarily stored.

A number of comments addressed such generic issues as the role of the States in regulating the transportation of nuclear materials, the adequacy of

shipping casks, the applicability of specific EPA standards, and defense-waste shipments to a commercial repository. In the opinion of the DOE, these comments did not address issues that would allow differentiation among proposed sites, since the same conditions exist for the various siting options. In addition, many of these comments raised issues that are either not related to the guidelines or are covered under other applicable Federal regulations that are the responsibility of other Federal agencies. Consequently, these comments are not reflected in the final guidelines.

In editing the final guidelines, the statement of the qualifying condition (§ 960.5–2–7(a)) was revised by simplifying the phrase "radiological or non-radiological risk to the public health and safety" to "risk to the public" and by inserting the phrase "taking into account programmatic, technical, social, economic, and environmental factors."

Ease and Cost of Siting, Construction, Operation, and Closure

Section 960.5–2–8 Surface Characteristics. The preclosure guideline on surface characteristics is concerned with conditions that are important to the ease and cost of siting, constructing, operating, and closing a repository. In sites that are prone to periodic flooding, are located in a rugged terrain, or have other adverse surface features, special measures may be necessary for repository construction, operation, and closure. The cost of repository construction, operation, and closure could rise to prohibitive levels if a large number of special measures were necessary for these phases. However, other features of the site—those that would significantly enhance waste isolation—could be more important than the higher costs associated with adverse surface characteristics.

Four commenters expressed concern about repository flooding through the possible failure of shafts, shaft liners, seals, or other engineered components of the repository; they suggested that such failures be added to the first potentially adverse condition in the alternative guideline, which dealt specifically with flooding (§ 960.5.2.8(b)(1)). The DOE agrees with this suggestion because the flooding of surface or subsurface facilities could endanger the safety of personnel and interrupt repository operations. The phrase "or the failure of engineered components of the repository" was therefore added to the potentially adverse condition in the final guideline. This phrase was selected because it is a general statement that encompasses all of the concerns raised by the commenter.

One commenter requested that the potentially adverse condition concerned with flooding be elevated to a disqualifying condition. The DOE decided against this approach because the existence of surface characteristics with a significant potential for flooding does not necessarily mean that the repository will be flooded. Simple engineering measures, such as dikes or berms, could reduce the risk of flooding to an acceptable level that would meet applicable licensing requirements. Such measures have been used for both nuclear and nonnuclear facilities for many years.

Two commenters pointed out that in some specific instances the favorable condition of "generally flat terrain" would be unfavorable. One felt that slow and uniform drainage in flat areas might affect the hydrologic performance of the repository; the other felt that waste disposal in the side of a mountain (above surrounding floodplains) would not meet the favorable condition. After evaluating these concerns, the DOE still contends that a generally flat terrain is a favorable condition because it facilitates construction, operation, and closure; however, a favorable condition that specifically addresses the drainage question was added to the final guideline. The second commenter is correct in stating that a repository located in rugged terrain or in the side of a mountain may not be able to meet this favorable condition, but not meeting a favorable condition does not disqualify a site. It would, however, indicate the need for special measures, and hence potential increases in costs during construction, operation, and closure.

Three commenters requested that, in the alternative guideline, the statement "compliance with applicable non-radiological regulations" be expanded to include air-quality standards and radiological requirements. The DOE modified the guideline by deleting the reference to applicable non-radiological regulations because they are already generally covered by the final guideline on environmental quality (§ 960.5–2–5). The DOE believes that, for these general guidelines, a general treatment of non-radiological requirements is more appropriate than specific examples of such requirements. Similarly, air quality standards were already covered by the first two potentially adverse conditions and the first disqualifying condition of the alternative guideline on environmental quality. Preclosure radiological requirements are specifically addressed in the first preclosure system guideline (§ 960.5–1(1)) by invoking the requirements of 10 CFR Part 20, 10 CFR Part 60, and proposed 40 CFR Part 191, Subpart A.

Three commenters requested additions to the surface-characteristics guideline that are already covered in other preclosure guidelines—namely, personnel safety, the standards the Occupational Safety and Health Administration (OSHA), and the offsite disposal of salt. Personnel safety and OSHA requirements are covered by the preclosure guideline on rock characteristics (§ 960.5–2–9). The offsite disposal of salt is covered by the constraints imposed under the preclosure guideline on environmental quality (§ 960.5–2–5).

Among the suggestions for the surface-characteristics guideline was the addition of favorable soil characteristics and conditions. Even though favorable soil characteristics and conditions might make construction and site restoration slightly easier, the DOE does not believe that these features should be significant in selecting a repository site. Two issues raised in the comments on the preclosure guideline on rock characteristics are not pertinent to this siting guideline: preclosure monitoring and reliance on engineered barriers (see Section III.A for DOE responses to the engineered-barrier issue).

Section 960.5–2–9 Rock Characteristics. The objective of the preclosure guideline on rock characteristics is to ensure that due consideration is given to those characteristics of the host rock that may affect (1) the ease and cost of repository construction, operation, and closure and (2) the safety of repository workers. Among those characteristics are the thickness and lateral extent of the host rock, geomechanical properties that are favorable for the maintenance of underground openings, and conditions that would allow the construction of shafts and the underground facility with reasonably available technology.

Ten commenters were concerned that the disqualifying condition in the draft revised guideline did not specifically include the safety requirements of the Occupational Safety and Health Administration and the Mine Safety and Health Administration. This concern arose because the proposed disqualifying condition stated that "the site shall be *disqualified* if the applicable nonradiological safety requirements of the DOE could not be met." To eliminate this concern, the DOE rewrote the disqualifying condition

as follows: "The site shall be disqualified if the rock characteristics are such that the activities associated with repository construction, operation, or closure are predicted to cause significant risk to the health and safety of personnel, taking into account mitigating measures that use reasonably available technology."

Five commenters objected to the phrase "engineering measures beyond the state of the art" in the second potentially adverse condition in the alternative guideline. As explained in the discussion of the postclosure guideline on rock characteristics, this phrase was changed to "engineering measures beyond reasonably available technology."

Four comments asked the DOE to reclassify the potentially adverse conditions as disqualifying ones. This was not done because, by itself, none of the potentially adverse conditions are necessarily unacceptable and hence should not disqualify a site. Their designation as potentially adverse ensures that these conditions will be given due consideration. Another comment suggested that the converse of favorable condition 960.5.2.9(a)(1) be used as a disqualifying condition. The converse of this condition would not be disqualifying, because, while the flexibility of designing and locating a repository would be reduced, the ability of the host rock to contain a respository would not be eliminated.

Three commenters expressed concern that retrievability was not adequately addressed in the alternative guidelines and felt that preclosure rock characteristics were important to ensuring retrievability. The DOE agrees that rock characteristics are important to retrievability, but feels that many other guidelines are also important in this regard. However, the retrievability issue is more pertinent to repository design than to site selection, and, if the requirements of the final guidelines taken as a whole are met, retrievability will be ensured. Furthermore, the DOE is required by 10 CFR Part 60 to maintain retrieval as an option for 50 years if unforeseen circumstances would require the removal of emplaced wastes.

Among the issues raised in the comments was that of thermal effects on in-situ stresses. In response to this concern, the DOE added a potentially adverse condition, § 960.4–2–3(c)(3), to specifically address thermal effects.

One commenter was concerned that the available data might not allow a complete analysis of the disqualifier contained in the proposed guidelines. This issue is covered by one of the implementation guidelines, "Basis for Site Evaluations" (§ 960.3–1–5), and Appendix III to the siting guidelines, which specifies what type of finding the DOE is to make at major decision points in the site-selection process.

Section 960.5–2–10 Hydrology. The preclosure technical guideline on hydrology is concerned with (1) the potential effects of ground water on the construction and sealing of shafts and other underground openings, including the repository itself; (2) the potential for flooding of underground workings by surface water; and (3) the availability of water for repository construction and operation. Its objectives are to ensure that the geohydrologic setting will (1) be compatible with repository construction, operation, and closure and (2) not compromise the functions of shaft liners and seals.

Eleven commenters objected to the term "state of the art" in the potentially adverse condition of the alternative guideline. Some argued that the potentially adverse condition, as written with the "state-of-the-art" phrase included, should be disqualifying. Others suggested that the phrase should be replaced by "reasonably available technology" or similar words. The DOE agrees that "state of the art" is inappropriate because it suggests technology that may not have been fully demonstrated and tested and substituted the term "reasonably available technology," which is defined in § 960.2 of the guidelines.

The presence or absence of aquifers within or above the host rock was an issue raised by eight commenters. The absence of aquifers between the host rock and the land surface is recognized as a favorable condition in the preclosure guideline. Some commenters suggested that the presence of aquifers between the host rock and the land surface should be explicitly stated as a potentially adverse condition; others recommended that the absence of aquifers be a qualifying condition or, conversely, that the presence of aquifers be a disqualifying condition. The presence of aquifers between the host rock and the land surface must be carefully considered in repository design and construction. However, many mines and other underground facilities have been successfully constructed below aquifers, and accepted and proved engineering measures are available to allow underground construction and operation under many types of ground-water conditions. That is not to say that some ground-water conditions may not require very costly engineering measures, or that some ground-water conditions may not be so severe as to preclude construction. For these reasons, the DOE did not stipulate the absence or presence of aquifers between the host rock in the qualifying condition of the preclosure hydrology guideline, but a potentially adverse condition deals with aquifers whose presence could raise serious questions about the feasibility of construction.

Four comments recommended that the converse of the favorable condition pertaining to the availability of potable and construction water be explicitly stated as a disqualifying condition; they believe that the unavailability of water for construction and operation should disqualify a site. The issue lies in the meaning of the words "available" and "unavailable." Water might not be available locally at a site, but it might be available from a source some distance away. Water must be available for construction and operation, and locally available water would presumably be less expensive than water obtained from a more distant source. Thus in the preclosure hydrology guideline the DOE assumes that water can be made available and regards ready availability as a favorable condition.

One commenter suggested the addition of a potentially adverse condition pertaining to a geohydrologic system that would not allow predictive modeling before construction. The rationale for this suggestion is related to the potential for adverse effects on the hydrologic system caused by construction activities. The difficulty of modeling is addressed in the postclosure geohydrology guideline as a potentially adverse condition, and the DOE believes it would be redundant to include a similar statement in the preclosure guideline.

In consideration of the NRC's request, in preliminary concurrence condition 7, for additional disqualifying conditions that address the factors specified in Section 112(a) of the Act, the DOE agreed to develop a disqualifier for the final preclosure guideline on hydrology. This condition, § 960.5–2–10(d), is concerned with the need to use engineering measures that are beyond reasonably available technology for exploratory-shaft construction or for repository construction, operation, or closure.

Section 960.5–2–11 Tectonics. The objective of the preclosure guideline on tectonics is to ensure that the selected site is in a geologic setting in which any projected effects of expected tectonic phenomena or igneous activity will be such that the requirements of system guideline § 960.5–1(a)(3) can be met.

Five commenters complained that no disqualifying conditions were proposed

for the preclosure tectonics guideline. Some recommended that the opposite of the qualifying condition should be used, while others recommended that some of the potentially adverse conditions be changed to disqualifying ones. The DOE believed that the existence of a potentially adverse condition does not mean that the site is disqualified. The existence of any such condition would require an understanding of the condition to ensure that repository design and operation could adequately accommodate its effects. Using the converse of the qualifying conditions adds nothing to the guidelines since all acceptable sites must meet the requirements of the qualifying conditions. The guideline was therefore not changed to reflect these recommendations.

Two commenters felt that the historical record of earthquakes should be based solely on instrument recordings. This approach would severely limit the amount of historical data that could be considered because seismic recording equipment has been available for a relatively short period of time (20th century). In developing a historical record for seismicity, it is important to look as far back into the recorded past as can be done for a particular area of the country. While the DOE agrees that seismic-instrument recording should be included in the historical record, other historical records must also be used. For this reason the suggestion was not accepted.

One commenter recommended that "man-induced seismicity," a particular tectonic phenomenon, be added to the qualifying condition. The DOE believes that this particular aspect of tectonics is no more important than the other aspects and should not be called out separately. No change was made.

In response to the NRC's preliminary concurrence condition 7, the DOE reevaluated the preclosure guideline on tectonics and added a disqualifying condition. This condition is concerned with the need to use engineering measures beyond reasonably available technology to ensure that tectonic ground motion will not adversely affect exploratory-shaft construction or repository construction, operation, or closure. As shown in Appendix III to the siting guidelines, this disqualifying condition can be used early in the siting process (i.e., in the identification of potentially acceptable sites).

V. References

1. U.S. Department of Energy, Final Environmental Impact Statement—Management of Commercially Generated Radioactive Waste, DOE/EIS-0046F, October 1980.

2. U.S. Department of Energy, Mission Plan for the Civilian Radioactive Waste Management Program, draft, DOE/RW-0005, 1984.

3. U.S. Department of Energy, Program Objectives, Functional Requirements, and System Performance Criteria, NWTS-33(1), National Waste Terminal Storage Program, 1982.

4. U.S. Department of Energy, Site Performance Criteria, NWTS-33(2), National Waste Terminal Storage Program, 1981.

5. National Research Council-National Academy of Sciences, Geological Criteria for Repositories for High-Level Radioactive Waste, August 1978.

6. International Atomic Energy Agency, Site Selection Factors for Repositories of Solid High-Level and Alpha-Bearing Wastes in Geologic Formations, Technical Report No. 177, October 1977.

7. G.D. Brunton and W.C. McClain, Geological Criteria for Radioactive Waste Repositories, Y/OWI/TM-47, Office of Waste Isolation, Union Carbide Corporation, November 28, 1977.

8. U.S. Department of Energy, Final Environmental Impact Statement—Waste Isolation Pilot Plant, DOE/EIS-0026, October 1980.

9. Comptroller General of the United States, The Nation's Nuclear Waste—Proposals for Organization and Siting, EMD-79-77, General Accounting Office, June 21, 10079.

10. Congressional Record—House, October 18, 1979, p. H 9367 to H 9371.

11. U.S. Nuclear Regulatory Commission, "Advance Notice of Rulemaking on Technical Criteria for Regulating Geologic Disposal of High-Level Radioactive Waste," 10 CFR Part 60, May 1980.

12. U.S. Environmental Protection Agency, "Environmental Radiation Protection Standards for Nuclear Power Operations," 40 CFR Part 190.

13. U.S. Nuclear Regulatory Commission, "Standards for Protection Against Radiation," 10 CFR Part 20.

14. U.S. Nuclear Regulatory Commission, "Disposal of High-Level Radioactive Wastes in Geologic Repositories," 10 CFR Part 60, Subpart E (final draft), November 18, 1982.

15. U.S. Environmental Protection Agency, "Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes," 40 CFR Part 191, Federal Register, Vol. 47, pp. 58196-58206, December 29, 1982 (proposed rule).

16. U.S. Department of Energy, Record of Responses to Public Comments on Proposed General Guidelines for Recommendation of Sites for Nuclear Waste Repositories, DOE/RW-0001, Washington, D.C., 1983.

17. U.S. Nuclear Regulatory Commission, "Disposal of High-Level Radioactive Wastes in Geologic Repositories—Technical Criteria," 10 CFR Part 60, July 1983.

18. S.W. Lohman et al., Definitions of Selected Ground Water Terms—Revisions and Conceptual Refinements, U.S. Geological Survey Water-Supply Paper 1988, U.S. Geological Survey, 1972, p.21.

19. R.L. Bates and J.A. Jackson, eds., Glossary of Geology, 2nd edition, American Geological Institute, 1980.

VI. Compliance With the National Environmental Policy Act (NEPA)

The issuance of these guidelines is a preliminary decision making activity pursuant to Section 112(e) of the Nuclear Waste Policy Act of 1982 and therefore does not require the preparation of an environmental impact statement pursuant to Section 102(2)(C) of NEPA or any other environmental review under Section 102(2) (E) or (F) of NEPA.

VII. Regulatory Flexibility Analysis

The DOE certifies that these guidelines will not have a significant economic impact on a substantial number of small entities, since they merely articulate the proposed considerations for the Secretary of Energy's recommendations to the President of proposed sites for repositories. Accordingly, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

VIII. Paperwork Reduction Analysis

This rule contains no new or amended recordkeeping, reporting, or application requirement, or any other type of information collection requirement subject to the Paperwork Reduction Act (Pub. L. 96-511).

IX. Executive Order No. 12291

These final guidelines were reviewed under Executive Order 12291 (48 FR 13193). The DOE has concluded that the guidelines are not a "major rule" under the Executive Order, because they 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, and Federal, State, or local government agencies, 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. Pursuant to Section 3(c)(3) of the Executive Order, the final guidelines were submitted to the Director of the Office of Management and Budget for a 10-day review. The Director has concluded his review and had no comments.

List of Subjects in 10 CFR Part 960

Environmental protection, Geologic repositories, Nuclear energy, Nuclear materials, Radiation protection, Waste disposal.

(The Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*); Energy Reorganization Act of 1974 (42 U.S.C. 5801 *et seq.*); Department of Energy Organization Act of 1977 (42 U.S.C. 7101 *et seq.*); Nuclear Waste Policy Act of 1982 (Pub. L. 97–425, 96 Stat. 2201))

For the reasons set out in the preamble, Chapter III of Title 10 of the Code of Federal Regulations is amended as follows:

Issued at Washington, D.C., November 30, 1984.

Donald Paul Hodel,

Secretary of Energy.

Part 960 is added to 10 CFR Chapter III to read as follows:

PART 960—GENERAL GUIDELINES FOR THE RECOMMENDATION OF SITES FOR NUCLEAR WASTE REPOSITORIES

Subpart A—General Provisions

Sec.

960.1 Applicability.
960.2 Definitions.

Subpart B—Implementation Guidelines

960.3 Implementation guidelines.
960.3–1 Siting provisions.
960.3–1–1 Diversity of geohydrologic settings.
960.3–1–2 Diversity of rock types.
960.3–1–3 Regionality.
960.3–1–4 Evidence of siting decisions.
960.3–1–4–1 Site identification as potentially acceptable.
960.3–1–4–2 Site nomination for characterization.
960.3–1–4–3 Site recommendation for characterization.
960.3–1–4–4 Site recommendation for repository development.
960.3–1–5 Basis for site evaluations.
960.3–2 Siting process.
960.3–2–1 Site screening for potentially acceptable sites.
960.3–2–2 Nomination of sites as suitable for characterization.
960.3–2–2–1 Evaluation of all potentially acceptable sites.
960.3–2–2–2 Selection of sites within geohydrologic settings.
960.3–2–2–3 Comparative evaluation of all sites proposed for nomination.
960.3–2–2–4 The environmental assessment.
960.3–2–2–5 Formal site nomination.
960.3–2–3 Recommendation of sites for characterization.
960.3–2–4 Recommendation of sites for the development of repositories.
960.3–3 Consultation.
960.3–4 Environmental impacts.

Subpart C—Postclosure guidelines

960.4 Postclosure guidelines.
960.4–1 System guideline.
960.4–2 Technical guidelines.
960.4–2–1 Geohydrology.
960.4–2–2 Geochemistry.
960.4–2–3 Rock characteristics.
960.4–2–4 Climatic changes.
960.4–2–5 Erosion.
960.4–2–6 Dissolution.
960.4–2–7 Tectonics.
960.4–2–8 Human interference.
960.4–2–8–1 Natural resources.
960.4–2–8–2 Site ownership and control.

Subpart D—Preclosure Guidelines

960.5 Preclosure guidelines.
960.5–1 System guidelines.
960.5–2 Technical guidelines.
960.5–2–1 Population density and distribution.
960.5–2–2 Site ownership and control.
960.5–2–3 Meteorology.
960.5–2–4 Offsite installations and operations.

Environment, Socioeconomics, and Transportation

960.5–2–5 Environmental quality.
960.5–2–6 Socioeconomic impacts.
960.5–2–7 Transportation.

Ease and Cost of Siting, Construction, Operation and Closure

960.5–2–8 Surface characteristics.
960.5–2–9 Rock characteristics.
960.5–2–10 Hydrology.
960.5–2–11 Tectonics.
Appendix I—NRC and EPA Requirements for Postclosure Repository Performance
Appendix II—NRC and EPA Requirements for Preclosure Repository Performance
Appendix III—Application of the System and Technical Guidelines During the Siting Process
Appendix IV—Types of Information for the Nomination of Sites as Suitable for Characterization

Authority: The Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*); Energy Reorganization Act of 1974 (42 U.S.C. *et seq.*); Department of Energy Organization Act of 1977 (42 U.S.C. 7101 *et seq.*); Nuclear Waste Policy Act of 1982 (Pub. L. 97–425, 96 Stat. 2201).

Subpart A—General Provisions

§ 960.1 Applicability.

These guidelines were developed in accordance with the requirements of Section 112(a) of the Nuclear Waste Policy Act of 1982 for use by the Secretary of Energy in evaluating the suitability of sites for the development of repositories. The guidelines will be used for suitability evaluations and determinations made pursuant to Section 112(b) and any preliminary suitability determinations required by Section 114(f). The guidelines set forth in this Part are intended to complement the requirements set forth in the Act, 10 CFR Part 60, and 40 CFR Part 191. The DOE recognizes NRC jurisdiction for the resolution of differences between the guidelines and 10 CFR Part 60. The guidelines have received the concurrence of the NRC. The DOE contemplates revising the guidelines from time to time, as permitted by the Act, to take into account revisions made to the above regulations and to otherwise update the guidelines as necessary. The DOE will submit the revisions to the NRC and obtain its concurrence before issuance.

§ 960.2 Definitions.

As used in this part:

"Accessible environment" means the atmosphere, the land surface, surface water, oceans, and the portion of the lithosphere that is outside the controlled area.

"Act" means the Nuclear Waste Policy Act of 1982.

"Active fault" means a fault along which there is recurrent movement, which is usually indicated by small, periodic displacements or seismic activity.

"Affected area" means either the area of socioeconomic impact or the area of environmental impact, each of which will vary in size among potential repository sites.

"Affected Indian tribe" means any Indian tribe (1) within whose reservation boundaries a repository for radioactive waste is proposed to be located or (2) whose federally defined possessory or usage rights to other lands outside the reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of such a facility: *Provided* That the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe.

"Affected State" means any State that (1) has been notified by the DOE in accordance with Section 116(a) of the Act as containing a potentially acceptable site; (2) contains a candidate site for site characterization or repository development; or (3) contains a site selected for repository development.

"Application" means the act of making a finding of compliance or noncompliance with the qualifying or disqualifying conditions specified in the guidelines of Subparts C and D, in accordance with the types of findings specified in Appendix III.

"Aquifer" means a formation, a group of formations, or a part of a formation that contains sufficient saturated permeable material to yield significant quantities of water to wells and springs.

"Barrier" means any material or structure that prevents or substantially delays the movement of water or radionuclides.

"Candidate site" means an area, within a geohydrologic setting, that is recommended by the Secretary of

Energy under Section 112 of the Act for site characterization, approved by the President under Section 112 of the Act for characterization, or undergoing site characterization under Section 113 of the Act.

"Closure" means final backfilling of the remaining open operational areas of the underground facility and boreholes after the termination of waste emplacement, culminating in the sealing of shafts.

"Confining unit" means a body of impermeable or distinctly less permeable material stratigraphically adjacent to one or more aquifers.

"Containment" means the confinement of radioactive waste within a designated boundary.

"Controlled area" means a surface location, to be marked by suitable monuments, extending horizontally no more than 10 kilometers in any direction from the outer boundary of the underground facility, and the underlying subsurface, which area has been committed to use as a geologic repository and from which incompatible activities would be prohibited before and after permanent closure.

"Cumulative releases of radionuclides" means the total number of curies of radionuclides entering the accessible environment in any 10,000-year period, normalized on the basis of radiotoxicity in accordance with 40 CFR Part 191. The peak cumulative release of radionuclides refers to the 10,000-year period during which any such release attains its maximum predicted value.

"Decommissioning" means the permanent removal from service of surface facilities and components neceessary for preclosure operations only, after repository closure, in accordance with regulatory requirements and environmental policies.

"Determination" means a decision by the Secretary that a site is suitable for site characterization for the selection of a repository site or that a site is suitable for the development of a repository, consistent with applications of the guidelines of Subparts C and D in accordance with the provisions set forth in Subpart B.

"Disposal" means the emplacement in a repository of high-level radioactive waste, spent nuclear fuel, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits the recovery of such waste, and the isolation of such waste from the accessible environment.

"Disqualifying condition" means a condition that, if present at a site, would eliminate that site from further consideration.

"Disturbed zone" means that portion of the controlled area, excluding shafts, whose physical or chemical properties are predicted to change as a result of underground facility construction or heat generated by the emplaced radioactive waste such that the resultant change of properties could have a significant effect on the preformance of the geologic repository.

"DOE" means the U.S. Department of Energy or its duly authorized representatives.

"Effective porosity" means the amount of interconnected pore space and fracture openings available for the transmission of fluids, expressed as the ratio of the volume of interconnected pores and openings to the volume of rock.

"Engineered-barrier system" means the manmade components of a disposal system designed to prevent the release of radionuclides from the underground facility or into the geohydrologic setting. Such term includes the radioactive-waste form, radioactive-waste canisters, materials placed over and around such canisters, any other components of the waste package, and barriers used to seal penetrations in and into the underground facility.

"Environmental assessment" means the document required by Section 112(b)(1)(E) of the Nuclear Waste Policy Act of 1982.

"Environmental impact statement" means the document required by Section 102(2)(C) of the National Environmental Policy Act of 1969. Sections 114(a) and 114(f) of the Nuclear Waste Policy Act of 1982 include certain limitations on the National Environmental Policy Act requirements as they apply to the preparation of an environmental impact statement for the development of a repository at a characterized site.

"EPA" means the U.S. Environmental Protection Agency or its duly authorized representatives.

"Evaluation" means the act of carefully examining the characteristics of a site in relation to the requirements of the qualifying or disqualifying conditions specified in the guidelines of Subparts C and D. Evaluation includes the consideration of favorable and potentially adverse conditions.

"Excepted" means assumed to be probable or certain on the basis of existing evidence and in the absence of significant evidence to the contrary.

"Expected repository performance" means the manner in which the repository is predicted to function, consideration those conditions, processes, and events that are likely to prevail or may occur during the time period of interest.

"Facility" means any structure, system, or system component, including engineered barriers, created by the DOE to meet repository-performance or functional objectives.

"Fault" means a fracture or a zone of fractures along which there has been displacement of the side relative to one another parallel to the fracture or zone of fractures.

"Faulting" means the process of fracturing and displacement that produces a fault.

"Favorable condition" means a condition that, though not necessary to qualify a site, is presumed, if present, to enhance confidence that the qualifying condition of a particular guideline can be met.

"Finding" means a conclusion that is reached after evaluation.

"Geohydrologic setting" means the system of geohydrologic units that is located within a given geologic setting.

"Geohydrologic system" means the geohydrologic units within a geologic setting, including any recharge, discharge, interconnections between units, and any natural or man-induced processes or events that could affect ground-water flow within or among those units.

"Geohydrologic unit" means an aquifer, a confining unit, or a combination of aquifers and confining units comprising a framework for a reasonably distinct geohydrologic system.

"Geologic repository" means a system, requiring licensing by the NRC, that is intended to be used, or may be used, for the disposal of radioactive waste in excavated geologic media. A geologic repository includes (1) the geologic-repository operations area and (2) the portion of the geologic setting that provides isolation of the radioactiv waste and is located within the controlled area.

"Geologic-repository operations area" means a radioactive-waste facility that is part of the geologic repository, including both surface and subsurface areas and facilities where waste-handling activities are conducted.

"Geologic setting" means the geologi hydrologic, and geochemical systems o the region in which a geologic-repositor operations area is or may be located.

"Geomorphic processes" means geologic processes that are responsible for the general configuration of the Earth's surface, including the development of present landforms and their relationships to underlying structures, and are responsible for the geologic changes recorded by these surface features.

"Ground water" means all subsurface water as distinct from surface water.

"Ground-water flux" means the rate of ground-water flow per unit area of porous or fractured media measured perpendicular to the direction of flow.

"Ground-water sources" means aquifers that have been or could be economically and technologically developed as sources of water in the foreseeable future.

"Ground-water travel time" means the time required for a unit volume of ground water to travel between two locations. The travel time is the length of the flow path divided by the velocity, where velocity is the average ground-water flux passing through the cross-sectional area of the geologic medium through which flow occurs, perpendicular to the flow direction, divided by the effective porosity along the flow path. If discrete segments of the flow path have different hydrologic properties, the total travel time will be the sum of the travel times for each discrete segment.

"Guideline" means a statement of policy or procedure that may include, when appropriate, qualifying, disqualifying, favorable, or potentially adverse conditions as specified in the "guidelines."

"Guidelines" means Part 960 of Title 10 of the Code of Federal Regulations—General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories.

"High-level radioactive waste" means (1) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations and (2) other highly radioactive material that the NRC, consistent with existing law, determines by rule requires permanent isolation.

"Highly populated area" means any incoporated place (recognized by the decennial reports of the U.S. Bureau of the Census) of 2,500 or more persons, or any census designated place (as defined and delineated by the Bureau) of 2,500 or more persons, unless it can be demonstrated that any such place has a lower population density than the mean value for the continental United States. Counties or county equivalents, whether incorporated or not, are specifically excluded form the definition of "place" as used herein.

"Host rock" means the geologic medium in which the waste is emplaced, specifically the geologic materials that directly encompass and are in close proximity to the underground facility.

"Hydraulic conductivity" means the volume of water that will move through a medium in a unit of time under a unit hydraulic gradient through a unit area measured perpendicular to the direction of flow.

"Hydraulic gradient" means a change in the static pressure of ground water, expressed in terms of the height of water above a datum, per unit of distance in a given direction.

"Hydrologic process" means any hydrologic phenomenon that exhibits a continuous change in time, whether slow or rapid.

"Hydrologic properties" means those properties of a rock that govern the entrance of water and the capacity to hold, transmit, and deliver water, such as porosity, effective porosity, specific retention, permeability, and the directions of maximum and minimum permeabilities.

"Igneous activity" means the emplacement (intrusion) of molten rock material (magma) into material in the Earth's crust or the expulsion (extrusion) of such material onto the Earth's surface or into its atmosphere or surface water.

"Isolation" means inhibiting the transport of radioactive material so that the amounts and concentrations of this material entering the accessible environment will be kept within prescribed limits.

"Likely" means processing or displaying the qualities, characteristics, or attributes that provide a reasonable basis for confidence that what is expected indeed exists or will occur.

"Lithosphere" means the solid part of the Earth, including any ground water contained within it.

"Member of the public" means any individual who is not engaged in operations involving the management, storage, and disposal of radioactive waste. A worker so engaged is a member of the public except when on duty at the geologic-repository operations area.

"Mitigation" means (1) avoiding the impact altogether by not taking a certain action or parts of an action; (2) minimizing impacts by limiting the degree or magnitude of the action and its implementation; (3) rectifying the impact by repairing, rehabilitating, or restoring the affected environment; (4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; or (5) compensating for the impact by replacing or providing substitute resources or environments.

"Model" means a conceptual description and the associated mathematical representation of a system, subsystem, component, or condition that is used to predict changes from a baseline state as a function of internal and/or external stimuli and as a function of time and space.

"NRC" means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

"Perched ground water" means unconfined ground water separated from an underlying body of ground water by an unsaturated zone. Its water table is a perched water table. Perched ground water is held up by a perching bed whose permeability is so low that water percolating downward through it is not able to bring water in the underlying unsaturated zone above atmospheric pressure.

"Performance assessment" means any analysis that predicts the behavior of a system or system component under a given set of constant and/or transient conditions. Performance assessments will include estimates of the effects of uncertainties in data and modeling.

"Permanent closure" is synonymous with "closure."

"Postclosure" means the period of time after the closure of the geologic repository.

"Potentially acceptable site" means any site at which, after geologic studies and field mapping but before detailed geologic data gathering, the DOE undertakes preliminary drilling and geophysical testing for the definition of site location.

"Potentially adverse condition" means a condition that is presumed to detract from expected system performance, but further evaluation, additional data, or the identification of compensating or mitigating factors may indicate that its effect on the expected system performance is acceptable.

"Preclosure" means the period of time before and during the closure of the geologic repository.

"Pre-waste-emplacement" means before the authorization of repository construction by the NRC.

"Qualifying condition" means a condition that must be satisfied for a site to be considered acceptable with respect to a specific guideline.

"Quaternary Period" means the second period of the Cenozoic Era, following the Tertiary, beginning 2 to 3 million years ago and extending to the present.

"Radioactive waste" or "waste" means high-level radioactive waste and other radioactive materials, including spent nuclear fuel, that are received for emplacement in a geologic repository.

"Radioactive-waste facility" means a facility subject to the licensing and related regulatory authority of the NRC

pursuant to Sections 202(3) and 202(4) of the Energy Reorganization Act of 1974 (88 Stat. 1244).

"Radionuclide retardation" means the process or processes that cause the time required for a given radionuclide to move between two locations to be greater than the ground-water travel time, because of physical and chemical interactions between the radionuclide and the geohydrologic unit through which the radionuclide travels.

"Reasonably available technology" means technology which exists and has been demonstrated or for which the results of any requisite development, demonstration, or confirmatory testing efforts before application will be available within the required time period.

"Repository"is synonymous with "geologic repository."

"Repository closure" is synonymous with "closure."

"Repository construction" means all excavation and mining activities associated with the construction of shafts, shaft stations, rooms, and necessary openings in the underground facility, preparatory to radioactive-waste emplacement, as well as the construction of necessary surface facilities, but excluding site-characterization activities.

"Repository operation" means all of the functions at the site leading to and involving radioactive-waste emplacement in the underground facility, including receiving, transportation, handling, emplacement, and, if necessary, retrieval.

"Repository support facilities" means all permanent facilities constructed in support of site-characterization activities and repository construction, operation, and closure activities, including surface structures, utility lines, roads, railroads, and similar facilities, but excluding the underground facility.

"Restricted area" means any area access to which is controlled by the DOE for purposes of protecting individuals from exposure to radiation and radioactive materials before repository closure, but not including any areas used as residential quarters, although a separate room or rooms in a residential building may be set apart as a restricted area.

"Retrieval" means the act of intentionally removing radioactive waste before repository closure from the underground location at which the waste had been previously emplaced for disposal.

"Saturated zone" means that part of the Earth's crust beneath the water table in which all voids, large and small, are ideally filled with water under pressure greater than atmospheric.

"Secretary" means the Secretary of Energy.

"Site" means a potentially acceptable site or a candidate site, as appropriate, until such time as the controlled area has been established, at which time the site and the controlled area are the same.

"Site characterization" means activities, whether in the laboratory or in the field, undertaken to establish the geologic conditions and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory shafts, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the suitability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

"Siting" means the collection of exploration, testing, evaluation, and decision-making activities associated with the process of site screening, site nomination, site recommendation, and site approval for characterization or repository development.

"Source term" means the kinds and amounts of radionuclides that make up the source of a potential release of radioactivity.

"Spent nuclear fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

"Surface facilities" means repository support facilities within the restricted area.

"Surface water" means any waters on the surface of the Earth, including fresh and salt water, ice, and snow.

"System" means the geologic setting at the site, the waste package, and the repository, all acting together to contain and isolate the waste.

"System performance" means the complete behavior of a repository system in response to the conditions, processes, and events that may affect it.

"Tectonic" means of, or pertaining to, the forces involved in, or the resulting structures or features of, "tectonics."

"Tectonics" means the branch of geology dealing with the broad architecture of the outer part of the Earth, that is, the regional assembling of structural or deformational features and the study of their mutual relations, origin, and historical evolution.

"To the extent practicable" means the degree to which an intended course of action is capable of being effected in a manner that is reasonable and feasible within a framework of constraints.

"Underground facility" means the underground structure and the rock required for support, including mined openings and backfill materials, but excluding shafts, boreholes, and their seals.

"Unsaturated zone" means the zone between the land surface and the water table. Generally, water in this zone is under less than atmospheric pressure, and some of the voids may contain air or other gases at atmospheric pressure. Beneath flooded areas or in perched water bodies, the water pressure locally may be greater than atmospheric.

"Waste form" means the radioactive waste materials and any encapsulating or stabilizing matrix.

"Waste package" means the waste form and any containers, shielding, packing, and other sorbent materials immediately surrounding an individual waste container.

"Water table" means that surface in a body of ground water at which the water pressure is atmospheric.

Subpart B—Implementation Guidelines

§ 960.3 Implementation guidelines.

The guidelines of this Subpart establish the procedure and basis for applying the postclosure and the preclosure guidelines of Subparts C and D, respectively, to evaluations of the suitability of sites for the development of repositories. As may be appropriate during the siting process, this procedure requires consideration of a variety of geohydrologic settings and rock types, regionality, and environmental impacts and consultation with affected States, affected Indian tribes, and Federal agencies.

§ 960.3–1 Siting provisions.

The siting provisions establish the framework for the implementation of the siting process specified in § 960.3–2. Sections 960.3–1–1 and 960.3–1–2 require that consideration be given to sites situated in different geohydrologic settings and different types of host rock, respectively. These diversity guidelines are intended to balance the process of site selection by requiring consideration of a variety of geologic conditions and media, and thereby enhance confidence in the technical suitability of sites selected for the development of repositories. As required by the Act, § 960.3–1–3 specifies consideration of a regional distribution of repositories after recommendation of a site for development of the first repository. Section 960.3–1–4 describes the evidence

that is required to support siting decisions. Section 960.3–1–5 establishes the basis for site evaluations against the postclosure and the preclosure guidelines of Subparts C and D during the various phases of the siting process.

§ 960.3–1–1 Diversity of geohydrologic settings.

Consideration shall be given to a variety of geohydrologic settings in which sites for the development of repositories may be located. To the extent practicable, sites recommended as candidate sites for characterization shall be located in different geohydrologic settings.

§ 960.3–1–2 Diversity of rock types.

Consideration shall be given to a variety of geologic media in which sites for the development of repositories may be located. To the extent practicable, and with due consideration of candidate sites characterized previously or approved for such characterization if the circumstances apply, sites recommended as candidate sites for characterization shall have different types of host rock.

§ 960.3–1–3 Regionality.

In making site recommendations for repository development after the site for the first repository has been recommended, the Secretary shall give due consideration to the need for, and the advantages of, a regional distribution in the siting of subsequent repositories. Such consideration shall take into account the proximity of sites to locations at which waste is generated or temporarily stored and at which other repositories have been or are being developed.

§ 960.3–1–4 Evidence for siting decisions.

The siting process involves a sequence of four decisions: The identification of potentially acceptable sites; the nomination of sites as suitable for characterization; the recommendation of sites as candidate sites for site characterization; and after the completion of site characterization and nongeologic data gathering, the recommendation of a candidate site for the development of a repository. Each of these decisions will be supported by the evidence specified below.

§ 960.3–1–4–1 Site identification as potentially acceptable.

The evidence for the identification of a potentially acceptable site shall be the types of information specified in Appendix IV of this part. Such evidence will be relatively general and less detailed than that required for the nomination of a site as suitable for characterization. Because the gathering of detailed geologic data will not take place until after the recommendation of a site for characterization, the levels of information may be relatively greater for the evaluation of those guidelines in Subparts C and D that pertain to surface-identifiable factors for such site. The sources of information shall include the literature in the public domain and the private sector, when available, and will be supplemented in some instances by surface investigations and conceptual engineering design studies conducted by the DOE. Geologic surface investigations may include the mapping of identifiable rock masses, fracture and joint characteristics, and fault zones. Other surface investigations will consider the aquatic and terrestrial ecology; water rights and uses; topography; potential offsite hazards; natural resource concentrations; national or State protected resources; existing transportation systems; meteorology and climatology; population densities, centers, and distributions; and general socioeconomic characteristics.

§ 960.3–1–4–2 Site nomination for characterization.

The evidence required to support the nomination of a site as suitable for characterization shall include the types of information specified in Appendix IV of this part and shall be contained or referenced in the environmental assessments to be prepared in accordance with the requirements of the Act. The source of this information shall include the literature and related studies in the public domain and the private sector, when available, and various meteorological, environmental, socioeconomic, and transportation studies conducted by the DOE in the affected area; exploratory boreholes in the region of such site, including lithologic logging and hydrologic and geophysical testing of such boreholes, laboratory testing of core samples for the evaluation of geochemical and engineering rock properties, and chemical analyses of water samples from such boreholes; surface investigations, including geologic mapping and geophysical surveys, and compilations of satellite imagery data; in situ or laboratory testing of similar rock types under expected repository conditions; evaluations of natural and man-made analogs of the repository and its subsystems, such as geothermally active areas, underground excavations, and case histories of socioeconomic cycles in areas that have experienced intermittent large-scale construction and industrial activities; and extrapolations of regional data to estimate site-specific characteristics and conditions. The exact types and amounts of information to be collected within the above categories, including such details as the specific types of hydrologic tests, combinations of geophysical tests, or number of exploratory boreholes, are dependent on the site-specific needs for the application of the guidelines of Subparts C and D, in accordance with the provisions of this Subpart and the application requirements set forth in Appendix III of this part. The evidence shall also include those technical evaluations that use the information specified above and that provide additional bases for evaluating the ability of a site to meet the qualifying conditions of the guidelines of Subparts C and D. In developing the above-mentioned bases for evaluation, as may be necessary, assumptions that approximate the characteristics or conditions considered to exist at a site, or expected to exist or occur in the future, may be used. These assumptions will be realistic but conservative enough to underestimate the potential for a site to meet the qualifying condition of a guideline; that is, the use of such assumptions should not lead to an exaggeration of the ability of a site to meet the qualifying condition.

§ 960.3–1–4–3 Site recommendation for characterization.

The evidence required to support the recommendation of a site as a candidate site for characterization shall consist of the evaluations and data contained or referenced in the environmental assessment for such site, unless the Secretary certifies that such information, in the absence of additional preliminary borings or excavations, will not be adequate to satisfy applicable requirements of the Act.

§ 960.3–1–4–4 Site recommendation for repository development.

The evidence required to support the recommendation of a candidate site for the development of a repository, after the completion of characterization activities at such site, shall consist of the information specified in Section 114(a) of the Act for the comprehensive statement of the basis for such recommendation and Section 114(f) of the Act for the environmental impact statement. This evidence shall be obtained by the characterization of such site, according to the requirements specified in Section 113(b) of the Act and in 10 CFR 60.11, and by nongeologic data gathering.

§ 960.3–1–5 Basis for site evaluations.

Evaluations of individual sites and comparisons between and among sites shall be based on the postclosure and preclosure guidelines specified in Subparts C and D, respectively. Except for screening for potentially acceptable sites as specified in § 960.3–2–1, such evaluations shall place *primary significance* on the postclosure guidelines and *secondary significance* on the preclosure guidelines, with each set of guidelines considered collectively for such purposes. Both the postclosure and the preclosure guidelines consist of a system guideline or guidelines and corresponding groups of technical guidelines. The postclosure guidelines of Subpart C contain eight technical guidelines in one group. The preclosure guidelines of Subpart D contain eleven technical guidelines separated into three groups that represent, *in decreasing order of importance*, preclosure radiological safety; environment, socioeconomics, and transportation; and ease and cost of siting, construction, operation, and closure. The relative significance of any technical guideline to its corresponding system guideline is site specific. Therefore, for each technical guideline, an evaluation of compliance with the qualifying condition shall be made in the context of the collection of system elements and the evidence related to that guideline, considering on balance the favorable conditions and the potentially adverse conditions identified at a site. Similarly, for each system guideline, such evaluation shall be made in the context of the group of technical guidelines and the evidence related to that system guideline. For purposes of recommending sites for development as respositories, such evidence shall include analyses of expected respository performance to assess the likelihood of demonstrating compliance with 40 CFR Part 191 and 10 CFR Part 60, in accordance with § 960.4–1. A site shall be disqualified at any time during the siting process if the evidence supports a finding by the DOE that a disqualifying condition exists or the qualifying condition of any system or technical guideline cannot be met. Comparisons between and among sites shall be based on the system guidelines, to the extent practicable and in accordance with the levels of relative significance specified above for the postclosure and the preclosure guidelines. Such comparisons are intended to allow comparative evaluations of sites in terms of the capabilities of the natural barriers for waste isolation and to identify innate deficiencies that could jeopardize compliance with such requirements. If the evidence for the sites is not adequate to substantiate such comparisons, then the comparisons shall be based on the groups of technical guidelines under the postclosure and the preclosure guidelines, considering the levels of relative significance appropriate to the postclosure and the preclosure guidelines and the order of importance appropriate to the subordinate groups within the preclosure guidelines. Comparative site evaluations shall place primary importance on the natural barriers of the site. In such evaluations for the postclosure guidelines of Subpart C, engineered barriers shall be considered only to the extent necessary to obtain realistic source terms for comparative site evaluations based on the sensitivity of the natural barriers to such realistic engineered barriers. For a better understanding of the potential effects of engineered barriers on the overall performance of the repository system, these comparative evaluations shall consider a range of levels in the performance of the engineered barriers. That range of performance levels shall vary by at least a factor of 10 above and below the engineered-barrier performance requirements set forth in 10 CFR 60.113, and the range considered shall be identical for all sites compared. The comparisons shall assume equivalent engineered-barrier performance for all sites compared and shall be structured so that engineered barriers are not relied upon to compensate for deficiencies in the geologic media. Furthermore, engineered barriers shall not be used to compensate for an inadequate site; mask the innate deficiencies of a site; disguise the strengths and weaknesses of a site and the overall system; and mask differences between sites when they are compared. Site comparisons performed to support the recommendation of sites for the development of repositories in § 960.3–2–4 shall evaluate predicted releases of radionuclides to the accessible environment. For the purposes of such comparison, the accessible environment shall consist of the atmosphere, the land surface, any nearby surface water, and those portions of the lithosphere that are situated more than 10 kilometers in a horizontal direction from the outer boundary of the original location of the waste emplacement in the geologic repository. Releases of different radionuclides shall be combined by the methods specified in Appendix A of 40 CFR Part 191. The comparisons specified above shall consist of two comparative evaluations that predict radionuclide releases for 100,000 years after repository closure and shall be conducted as follows. First, the sites shall be compared by means of evaluations that emphasize the performance of the natural barriers at the site. Second, the sites shall be compared by means of evaluations that emphasize the performance of the total repository system. These second evaluations shall consider the expected performance of the repository system; be based on the expected performance of waste packages and waste forms, in compliance with the requirements of 10 CFR 60.113, and on the expected hydrologic and geochemical conditions at each site; and take credit for the expected performance of all other engineered components of the repository system. The comparison of isolation capability shall be one of the significant considerations in the recommendation of sites for the development of repositories. The first of the two comparative evaluations specified in the preceding paragraph shall take precedence unless the second comparative evaluation would lead to substantially different recommendations. In the latter case, the two comparative evaluations shall receive comparable consideration. Sites with predicted isolation capabilities that differ by less than a factor of 10, with similar uncertainties, may be assumed to provide equivalent isolation.

§ 960.3–2 Siting process.

The siting process begins with site screening for the identification of potentially acceptable sites. This process was completed for purposes of the first repository before the enactment of the Act, and the identification of such sites was made after enactment in accordance with the provisions of section 116(a) of the Act. The screening process for the identification of potentially acceptable sites for the second and subsequent repositories shall be conducted in accordance with the requirements specified in § 960.3–2–1 of this Subpart. The nomination of any site as suitable for characterization shall follow the process specified in § 960.3–2–2, and such nomination shall be accompanied by an environmental assessment as specified in section 112(b)(1)(E) of the Act. The recommendation of sites as candidate sites for characterization and the recommendation of a characterized site for the development of a repository shall be accomplished in accordance with the requirements specified in §§960.3–2–3 and 960.3–2–4, respectively.

§ 960.3-2-1 Site screening for potentially acceptable sites.

To identify potentially acceptable sites for the development of other than the first repository, the process shall begin with site-screening activities that consider large land masses that contain rock formations of suitable depth, thickness, and lateral extent and have structural, hydrologic, and tectonic features favorable for waste containment and isolation. Within those large land masses, subsequent site-screening activities shall focus on successively smaller and increasingly more suitable land units. This process shall be developed in consultation with the States that contain land units under consideration. It shall be implemented in a sequence of steps that first applies the applicable disqualifying conditions to eliminate land units on the basis of the evidence specified in § 960.3-1-4-1 and in accordance with the application requirements set forth in Appendix III of this Part. After the disqualifying conditions have been applied, the favorable and potentially adverse conditions, as identified for each remaining land unit, shall be evaluated. The presence of favorable conditions shall favor a given land unit, while the presence of potentially adverse conditions shall penalize that land unit. Recognizing that favorable conditions and potentially adverse conditions for different technical guidelines can exist in the same land unit, the DOE shall seek to evaluate the composite favorability of each land unit. Land units that, in the aggregrate, exhibit potentially adverse conditions shall be deferred in favor of land units that exhibit favorable conditions. The siting provisions that require diversity of geohydrologic settings and rock types and consideration of regionality, as specified in §§ 960.3-1-1, 960.3-1-2, and 960.3-1-3, respectively, may be used to discriminate between land units and to establish the range of options in site screening. To identify a site as potentially acceptable, the evidence shall support a finding that the site is not disqualified in accordance with the application requirements set forth in Appendix III of this Part and shall support the decision by the DOE to proceed the continued investigation of the site on the basis of the favorable and potentially adverse conditions identified to date. In continuation of the screening process after such identification and before site nomination, the DOE may defer from further consideration land units or potentially acceptable sites or portions thereof on the basis of additional information or by the application of the siting provisions for diversity of geohydrologic settings, diversity of rock types, and regionality (§§ 960.3-1-1, 960.3-1-2, and 960.3-1-3, respectively). The deferral of potentially acceptable sites will be described in the environmental assessments that accompany the nomination of at least five sites as suitable for characterization. In order to identify potentially acceptable sites for the second and subsequent repositories, the Secretary shall *first* identify the State within which the site is located in a decision-basis document that describes the process and the considerations that led to the identification of such site and that has been issued previously in draft for review and comment by such State. *Second,* when such document is final, the Secretary shall notify the Governor and the legislature of that State and the tribal council of any affected Indian tribe of the potentially acceptable site.

§ 960.3-2-2 Nomination of sites as suitable for characterization.

From the sites identified as potentially acceptable, the Secretary shall nominate at least five sites determined suitable for site characterization for the selection of each repository site. For the second repository, at least three of the sites shall not have been nominated previously. Any site nominated as suitable for characterization for the first repository, but not recommended as a candidate site for characterization, may not be nominated as suitable for characterization for the second repository. The nomination of a site as suitable for characterization shall be accompanied by an environmental assessment as specified in section 112(b)(1)(E) of the Act. Such nomination shall be based on evaluations in accordance with the guidelines of this Part, and the bases and relevant details of those evaluations and of the decision processes involved therein shall be contained in the environmental assessment for the site in the manner specified in this Subpart. The evidence required to support such evaluations and siting decisions is specified in § 960.3-1-4-2.

§ 960.3-2-2-1 Evaluation of all potentially acceptable sites.

First, in considering sites for nomination, each of the potentially acceptable sites shall be evaluated on the basis of the disqualifying conditions specified in the technical guidelines of Subparts C and D, in accordance with the application requirements set forth in Appendix III of this part. This evaluation shall support a finding by the DOE that such sites is not disqualified.

§ 960.3-2-2-2 Selection of sites within geohydrologic settings.

Second, the siting provision requiring diversity of geohydrologic settings, as specified in § 960.3-1-1, shall be applied to group all potentially acceptable sites according to their geohydrologic settings. *Third,* for those geohydrologic settings that contain more than one potentially acceptable site, the preferred site shall be selected on the basis of a comparative evaluation of all potentially acceptable sites in that setting. This evaluation shall consider the distinguishing characteristics displayed by the potentially acceptable sites within the setting and the related guidelines from Subparts C and D. That is, the appropriate guidelines shall be selected primarily on the basis of the kinds of evidence among sites for which distinguishing characteristics can be identified. Such comparative evaluation shall be made on the basis of the qualifying conditions for those guidelines, considering, on balance, the favorable conditions and potentially adverse conditions identified at each site. Due consideration shall also be given to the siting provisions specifying the basis for site evaluations in § 960.3-1-5, to the extent practicable, and diversity of rock types in § 960.3-1-2, if the circumstances so apply. If less than five geohydrologic settings are available for consideration, the above process shall be used to select two or more preferred sites from those settings that contain more than one potentially acceptable site, as required to obtain the number of sites to be nominated as suitable for characterization. For purposes of the second and subsequent repositories, due consideration shall also be given to the siting provision for regionality as specified in § 960.3-1-3. *Fourth,* each preferred site within a geohydrologic setting shall be evaluated as to whether such site is suitable for the development of a repository under the qualifying condition of each guideline specified in Subparts C and D that does not require site characterization as a prerequisite for the application of such guideline. The guidelines considered appropriate to this evaluation have been selected on the basis of their exclusion under the definition of site characterization as specified in § 960.2. Although the final application of these guidelines, in accordance with the provisions set forth in Appendix III of this Part, does not require geologic data from site-characterization activities, such application will require additional data beyond those specified in Appendix IV of this part, which will be obtained

concurrently with site characterization. Such guidelines include those specified in § 960.4–2–8–2 (Site Ownership and Control) of Subpart C; §§ 960.5–1(a)(1) and 960.5–1(a)(2) of Subpart D (preclosure system guidelines for radiological safety and environmental quality, socioeconomics, and transportation); and §§ 960.5–2–1 through 960.5–2–7 of Subpart D (Population Density and Distribution, Site Ownership and Control, Meteorology, Offsite Installations and Operations, Environmental Quality, Socioeconomic Impacts, and Transportation). This evaluation shall consider on balance those favorable conditions and potentially adverse conditions identified as such at a preferred site in relation to the qualifying condition of each such guideline. For each such guideline, this evaluation shall focus on the suitability of the site for the development of a repository by considering the activities from the start of site characterization through decommissioning and shall support a finding by the DOE in accordance with the application requirements set forth in Appendix III of this part. *Fifth*, each preferred site within a geohydrologic setting shall be evaluated as to whether such site is suitable for site characterization under the qualifying conditions of those guidelines specified in Subparts C and D that require characterization (i.e., subsurface geologic, hydrologic, and geochemical data gathering). Such guidelines include those specified in § 960.4–1(a) (postclosure system guideline); §§ 960.4–2–1 through 960.4–2–8–1 of Subpart C (Geohydrology, Geochemistry, Rock Characteristics, Climatic Changes, Erosion, Dissolution, Tectonics, Human Interference, and Natural Resources); §960.5–1(a)(3) (preclosure system guideline for ease and cost of siting, construction, operation, and closure); and § 960.5–2–8 through 960.5–2–11 of Subpart D (Surface Characteristics, Rock Characteristics, Hydrology, and Tectonics). This evaluation shall consider on balance the favorable conditions and potentially adverse conditions identified as such at a preferred site in relation to the qualifying condition of each such guideline. For each such guideline, this evaluation shall focus on the suitability of the site for characterization and shall support a finding by the DOE in accordance with the application requirements set forth in Appendix III of this part.

§ 960.3–2–2–3 Comparative evaluation of all sites proposed for nomination.

Sixth, for those potentially acceptable sites to be proposed for nomination, as determined by the process specified in § 960.3–2–2–2, a reasonable comparative evaluation of each such site with all other such sites shall be made. For each site and for each guideline specified in Subparts C and D, the DOE shall summarize the evaluations and findings specified under § 960.3–2–2–1 and under the fourth and fifth provisions of § 960.3–2–2–2. Each such summary shall allow comparisons to be made among sites on this basis of each guideline.

§ 960.3–2–2–4 The environmental assessment.

To document the process specified above, and in compliance with section 112(b)(1)(E) of the Act, an environmental assessment shall be prepared for each site proposed for nomination as suitable for characterization. Each such environmental assessment shall describe the decision process by which such site was proposed for nomination as described in the preceding six steps and shall contain or reference the evidence that supports such process according to the requirements of § 960.3–1–4–2 and Appendix IV of this part. As specified in the Act, each environmental assessment shall include an evaluation of the effects of the site-characterization activities at the site on public health and safety and the environment; a discussion of alternative activities related to site characterization that may be taken to avoid such impact; and an assessment of the regional and local impacts of locating a repository at the site. The draft environmental assessment for each site proposed for nomination as suitable for characterization shall be made available by the DOE for public comment after the Secretary has notified the Governor and legislature of the State in which the site is located, and the governing body of the affected Indian tribe where such site is located, of such impending availability.

§ 960.3–2–2–5 Formal site nomination.

After the final environmental assessments have been prepared, the Secretary shall nominate at least five sites that he determines suitable for site characterization for the selection of a repository site, and, in so doing, he shall cause to have published in the **Federal Register** a notice specifying the sites so nominated and announcing the availability of the final environmental assessments for such sites. This determination by the Secretary shall be based on the final environmental assessments for such sites, including, in particular, consideration of the available evidence, evaluations, and the resultant findings for the guidelines of Subparts C and D so specified under the fourth and fifth provisions of § 960.3–2–2–2. Before nominating a site, the Secretary shall notify the Governor and legislature of the State in which the site is located, and the governing body of the affected Indian tribe where such site is located, of such nomination and the basis for such nomination.

§ 960.3–2–3 Recommendation of sites for characterization.

After the nomination of at least five sites as suitable for site characterization for the selection of the first repository, the Secretary shall recommend in writing to the President not less than three candidate sites for such characterization. The recommendation decision shall be based on the available geophysical, geologic, geochemical, and hydrologic data; other information; associated evaluations and findings reported in the environmental assessments accompanying the nominations; and the considerations specified below, unless the Secretary certifies that such available data will not be adequate to satisfy applicable requirements of the Act in the absence of further preliminary borings or excavations. On the basis of the evidence and in accordance with the siting provision specifying the basis for site evaluations in § 960.3–1–5, the sites nominated as suitable for characterization shall be considered as to their order of preference as candidate sites for characterization. Subsequently, the siting provisions specifying diversity of geohydrologic settings, diversity of rock types, and, after the first repository, consideration of regionality in §§ 960.3–1–1, 960.3–1–2, and 960.3–1–3, respectively, shall be considered to determine a final order of preference for the characterization of such sites. Considering this order of preference together with the available siting alternatives specified in the Act, the sites recommended as candidate sites for characterization shall offer, on balance, the most advantageous combination of characteristics and conditions for the successful development of repositories at such sites. The process for the recommendation of sites as candidate sites for characterization for the selection of any subsequent repository shall be the same as that specified above for the first repository.

§ 960.3-2-4 Recommendation of sites for the development of repositories.

After completion of site characterization and nongeologic data gathering activities at the candidate sites for the development of the first repository, or from all of the characterized sites for the development of subsequent repositories, the candidate sites shall be compared with each other on the basis of the guidelines specified in Subparts C and D according to the siting provision specifying the basis for site evaluations in § 960.3-1-5. This comparison shall lead to a recommendation by the Secretary to the President of a site for the development of a repository. Together with any recommendation to the President to approve a site for the development of a repository, the Secretary shall make available to the public, and submit to the President, a comprehensive statement of the basis of such recommendation pursuant to the requirements specified in section 114(a)(1) of the Act, including an environmental impact statement prepared in accordance with the provisions of sections 114(a)(1)(D) and 114(f) of the Act. The environmental impact statement shall include the results of the comparative evaluation specified above and a description of the decision process that resulted in the selection of the candidate site recommended for the development of such repository.

§ 960.3-3 Consultation.

The DOE shall provide to designated officials of the affected States and to the governing bodies of any affected Indian tribe timely and complete information regarding determinations or plans made with respect to the siting, site characterization, design, development, construction, operation, closure, decommissioning, licensing, or regulation of a repository. Written responses to written requests for information from the designated officials of affected States or affected Indian tribes will be provided within 30 days after receipt of the written requests. In performing any study of an area for the purpose of determining the suitability of such area for the development of a repository, the DOE shall consult and cooperate with the Governor and the legislature of an affected State and the governing body of an affected Indian tribe in an effort to resolve concerns regarding public health and safety, environmental impacts, socioeconomic impacts, and technical aspects of the siting process. After notifying affected States and affected Indian tribes that potentially acceptable sites have been identified, or that a site has been approved for characterization, the DOE shall seek to enter into binding written agreements with such affected States or affected Indian tribes in accordance with the requirements of the Act. The DOE shall also consult, as appropriate, with other Federal agencies.

§ 960.3-4 Environmental impacts.

Environmental impacts shall be considered by the DOE throughout the site characterization, site selection, and repository development process. The DOE shall mitigate significant adverse environmental impacts, to the extent practicable, during site characterization and repository construction, operation, closure, and decommissioning.

Subpart C—Postclosure Guidelines

§ 960.4 Postclosure guidelines.

The guidelines in this Subpart specify the factors to be considered in evaluating and comparing sites on the basis of expected repository performance after closure. The postclosure guidelines are separated into a system guideline and eight technical guidelines. The system guideline establishes waste containment and isolation requirements that are based on NRC and EPA regulations. These requirements must be met by the repository system, which contains natural barriers and engineered barriers. The engineered barriers will be designed to complement the natural barriers, which provide the primary means for waste isolation.

§ 960.4-1 System guideline.

(a) *Qualifying Condition.* The geologic setting at the site shall allow for the physical separation of radioactive waste from the accessible environment after closure in accordance with the requirements of 40 CFR Part 191, Subpart B, as implemented by the provisions of 10 CFR Part 60. The geologic setting at the site will allow for the use of engineered barriers to ensure compliance with the requirements of 40 CFR Part 191 and 10 CFR Part 60 (see Appendix I of this Part).

§ 960.4-2 Technical guidelines.

The technical guidelines in this Subpart set forth qualifying, favorable, potentially adverse, and, in five guidelines, disqualifying conditions on the characteristics, processes, and events that may influence the performance of a repository system after closure. The favorable conditions and the potentially adverse conditions under each guideline are *not* listed in any assumed order of importance. Potentially adverse conditions will be considered if they affect waste isolation within the controlled area even though such conditions may occur outside the controlled area. The technical guidelines that follow establish conditions that shall be considered in determining compliance with the qualifying condition of the postclosure system guideline. For each technical guideline, an evaluation of qualification or disqualification shall be made in accordance with the requirements specified in Subpart B.

§ 960.4-2-1 Geohydrology.

(a) *Qualifying Condition.* The present and expected geohydrologic setting of a site shall be compatible with waste containment and isolation. The geohydrologic setting, considering the characteristics of and the processes operating within the geologic setting, shall permit compliance with (1) the requirements specified in § 960.4-1 for radionuclide releases to the accessible environment and (2) the requirements specified in 10 CFR 60.113 for radionuclide releases from the engineered-barrier system using reasonably available technology.

(b) *Favorable Conditions.* (1) Site conditions such that the pre-waste-emplacement ground-water travel time along any path of likely radionuclide travel from the disturbed zone to the accessible environment would be more than 10,000 years.

(2) The nature and rates of hydrologic processes operating within the geologic setting during the Quaternary Period would, if continued into the future, not affect or would favorably affect the ability of the geologic repository to isolate the waste during the next 100,000 years.

(3) Sites that have stratigraphic, structural, and hydrologic features such that the geohydrologic system can be readily characterized and modeled with reasonable certainty.

(4) For disposal in the saturated zone, at least one of the following pre-waste-emplacement conditions exists:

(i) A host rock and immediately surrounding geohydrologic units with low hydraulic conductivities.

(ii) A downward or predominantly horizontal hydraulic gradient in the host rock and in the immediately surrounding geohydrologic units.

(iii) A low hydraulic gradient in and between the host rock and the immediately surrounding geohydrologic units.

(iv) High effective porosity together with low hydraulic conductivity in rock units along paths of likely radionuclide

travel between the host rock and the accessible environment.

(5) For disposal in the unsaturated zone, at least one of the following pre-waste-emplacement conditions exists:

(i) A low and nearly constant degree of saturation in the host rock and in the immediately surrounding geohydrologic units.

(ii) A water table sufficiently below the underground facility such that the fully saturated voids continuous with the water table do not encounter the host rock.

(iii) A geohydrologic unit above the host rock that would divert the downward infiltration of water beyond the limits of the emplaced waste.

(iv) A host rock that provides for free drainage.

(v) A climatic regime in which the average annual historical precipitation is a small fraction of the average annual potential evapotranspiration.

Note.—The DOE will, in accordance with the general principles set forth in § 960.1 of these regulations, revise the guidelines as necessary, to ensure consistency with the final NRC regulations on the unsaturated zone, which were published as a proposed rule on February 16, 1984, in 49 FR 5934.

(c) *Potentially Adverse Conditions.* (1) Expected changes in geohydrologic conditions—such as changes in the hydraulic gradient, the hydraulic conductivity, the effective porosity, and the ground-water flux through the host rock and the surrounding geohydrologic units—sufficient to significantly increase the transport of radionuclides to the accessible environment as compared with pre-waste-emplacement conditions.

(2) The presence of ground-water sources, suitable for crop irrigation or human consumption without treatment, along ground-water flow paths from the host rock to the accessible environment.

(3) The presence in the geologic setting of stratigraphic or structural features—such as dikes, sills, faults, shear zones, folds, dissolution effects, or brine pockets—if their presence could significantly contribute to the difficulty of characterizing or modeling the geohydrologic system.

(d) *Disqualifying Condition.* A site shall be disqualified if the pre-waste-emplacement ground-water travel time from the disturbed zone to the accessible environment is expected to be less than 1,000 years along any pathway of likely and significant radionuclide travel.

§ 960.4-2-2 Geochemistry.

(a) *Qualifying Condition.* The present and expected geochemical characteristics of a site shall be compatible with waste containment and isolation. Considering the likely chemical interactions among radionuclides, the host rock, and the ground water, the characteristics of and the processes operating within the geologic setting shall permit compliance with (1) the requirements specified in § 960.4–1 for radionuclide releases to the accessible environment and (2) the requirements specified in 10 CFR 60.113 for radionuclide releases from the engineered-barrier system using reasonably available technology.

(b) *Favorable Conditions.* (1) The nature and rates of the geochemical processes operating within the geologic setting during the Quaternary Period would, if continued into the future, not affect or would favorably affect the ability of the geologic repository to isolate the waste during the next 100,000 years.

(2) Geochemical conditions that promote the precipitation, diffusion into the rock matrix, or sorption of radionuclides; inhibit the formation of particulates, colloids, inorganic complexes, or organic complexes that increase the mobility of radionuclides; or inhibit the transport of radionuclides by particulates, colloids, or complexes.

(3) Mineral assemblages that, when subjected to expected repository conditions, would remain unaltered or would alter to mineral assemblages with equal or increased capability to retard radionuclide transport.

(4) A combination of expected geochemical conditions and a volumetric flow rate of water in the host rock that would allow less than 0.001 percent per year of the total radionuclide inventory in the repository at 1,000 years to be dissolved.

(5) Any combination of geochemical and physical retardation processes that would decrease the predicted peak cumulative releases of radionuclides to the accessible environment by a factor of 10 as compared to those predicted on the basis of ground-water travel time without such retardation.

(c) *Potentially Adverse Conditions.* (1) Ground-water conditions in the host rock that could affect the solubility or the chemical reactivity of the engineered-barrier system to the extent that the expected repository performance could be compromised.

(2) Geochemical processes or conditions that could reduce the sorption of radionuclides or degrade the rock strength.

(3) Pre-waste-emplacement ground-water conditions in the host rock that are chemically oxidizing.

§ 960.4-2-3 Rock characteristics.

(a) *Qualifying condition.* The present and expected characteristics of the host rock and surrounding units shall be capable of accommodating the thermal, chemical, mechanical, and radiation stresses expected to be induced by repository construction, operation, and closure and by expected interactions among the waste, host rock, ground water, and engineered components. The characteristics of and the processes operating within the geologic setting shall permit compliance with (1) the requirements specified in § 960.4–1 for radionuclide releases to the accessible environment and (2) the requirements set forth in 10 CFR 60.113 for radionuclide releases from the engineered-barrier system using reasonably available technology.

(b) *Favorable Conditions.* (1) A host rock that is sufficiently thick and laterally extensive to allow significant flexibility in selecting the depth, configuration, and location of the underground facility to ensure isolation.

(2) A host rock with a high thermal conductivity, a low coefficient of thermal expansion, or sufficient ductility to seal fractures induced by repository construction, operation, or closure or by interactions among the waste, host rock, ground water, and engineered components.

(c) *Potentially Adverse Conditions.* (1) Rock conditions that could require engineering measures beyond reasonably available technology for the construction, operation, and closure of the repository, if such measures are necessary to ensure waste containment or isolation.

(2) Potential for such phenomena as thermally induced fractures, the hydration or dehydration of mineral components, brine migration, or other physical, chemical, or radiation-related phenomena that could be expected to affect waste containment or isolation.

(3) A combination of geologic structure, geochemical and thermal properties, and hydrologic conditions in the host rock and surrounding units such that the heat generated by the waste could significantly decrease the isolation provided by the host rock as compared with pre-waste-emplacement conditions.

§ 960.4-2-4 Climatic changes.

(a) *Qualifying Condition.* The site shall be located where future climatic conditions will not be likely to lead to radionuclide releases greater than those allowable under the requirements specified in § 960.4–1. In predicting the likely future climatic conditions at a site,

the DOE will consider the global, regional, and site climatic patterns during the Quaternary Period, considering the geomorphic evidence of the climatic conditions in the geologic setting.

(b) *Favorable Conditions.* (1) A surface-water system such that expected climatic cycles over the next 100,000 years would not adversely affect waste isolation.

(2) A geologic setting in which climatic changes have had little effect on the hydrologic system throughout the Quaternary Period.

(c) *Potentially Adverse Conditions.* (1) Evidence that the water table could rise sufficiently over the next 10,000 years to saturate the underground facility in a previously unsaturated host rock.

(2) Evidence that climatic changes over the next 10,000 years could cause perturbations in the hydraulic gradient, the hydraulic conductivity, the effective porosity, or the ground-water flux through the host rock and the surrounding geohydrologic units, sufficient to significantly increase the transport of radionuclides to the accessible environment.

§ 960.4-2-5 Erosion.

(a) *Qualifying Condition.* The site shall allow the underground facility to be placed at a depth such that erosional processes acting upon the surface will not be likely to lead to radionuclide releases greater than those allowable under the requirements specified in § 960.4-1. In predicting the likelihood of potentially disruptive erosional processes, the DOE will consider the climatic, tectonic, and geomorphic evidence of rates and patterns of erosion in the geologic setting during the Quaternary Period.

(b) *Favorable Conditions.* (1) Site conditions that permit the emplacement of waste at a depth of at least 300 meters below the directly overlying ground surface.

(2) A geologic setting where the nature and rates of the erosional processes that have been operating during the Quaternary Period are predicted to have less than one chance in 10,000 over the next 10,000 years of leading to releases of radionuclides to the accessible environment.

(3) Site conditions such that waste exhumation would not be expected to occur during the first one million years after repository closure.

(c) *Potentially Adverse Conditions.* (1) A geologic setting that shows evidence of extreme erosion during the Quaternary Period.

(2) A geologic setting where the nature and rates of geomorphic processes that have been operating during the Quaternary Period could, during the first 10,000 years after closure, adversely affect the ability of the geologic repository to isolate the waste.

(d) *Disqualifying Condition.* The site shall be *disqualified* if site conditions do not allow all portions of the underground facility to be situated at least 200 meters below the directly overlying ground surface.

§ 960.4-2-6 Dissolution.

(a) *Qualifying Condition.* The site shall be located such that any subsurface rock dissolution will not be likely to lead to radionuclide releases greater than those allowable under the requirements specified in § 960.4-1. In predicting the likelihood of dissolution within the geologic setting at a site, the DOE will consider the evidence of dissolution within that setting during the Quaternary Period, including the locations and characteristics of dissolution fronts or other dissolution features, if identified.

(b) *Favorable Condition.* No evidence that the host rock within the site was subject to significant dissolution during the Quaternary Period.

(c) *Potentially Adverse Condition.* Evidence of dissolution within the geologic setting—such as breccia pipes, dissolution cavities, significant volumetric reduction of the host rock or surrounding strata, or any structural collapse—such that a hydraulic interconnection leading to a loss of waste isolation could occur.

(d) *Disqualifying Condition.* The site shall be *disqualified* if it is likely that, during the first 10,000 years after closure, active dissolution, as predicted on the basis of the geologic record, would result in a loss of waste isolation.

§ 960.4-2-7 Tectonics.

(a) *Qualifying Condition.* The site shall be located in a geologic setting where future tectonic processes or events will not be likely to lead to radionuclide releases greater than those allowable under the requirements specified in § 960.4-1. In predicting the likelihood of potentially disruptive tectonic processes or events, the DOE will consider the structural, stratigraphic, geophysical, and seismic evidence for the nature and rates of tectonic processes and events in the geologic setting during the Quaternary Period.

(b) *Favorable Condition.* The nature and rates of igneous activity and tectonic processes (such as uplift, subsidence, faulting, or folding), if any, operating within the geologic setting during the Quaternary Period would, if continued into the future, have less than one chance in 10,000 over the first 10,000 years after closure of leading to releases of radionuclides to the accessible environment.

(c) *Potentially Adverse Conditions.* (1) Evidence of active folding, faulting, diapirism, uplift, subsidence, or other tectonic processes or igneous activity within the geologic setting during the Quaternary Period.

(2) Historical earthquakes within the geologic setting of such magnitude and intensity that, if they recurred, could affect waste containment or isolation.

(2) Indications, based on correlations of earthquakes with tectonic processes and features, that either the frequency of occurrence or the magnitude of earthquakes within the geologic setting may increase.

(4) More-frequent occurrences of earthquakes or earthquakes of higher magnitude than are representative of the region in which the geologic setting is located.

(5) Potential for natural phenomena such as landslides, subsidence, or volcanic activity of such magnitudes that they could create large-scale surface-water impoundments that could change the regional ground-water flow system.

(6) Potential for tectonic deformations—such as uplift, subsidence, folding, or faulting—that could adversely affect the regional ground-water flow system.

(d) *Disqualifying Condition.* A site shall be disqualified if, based on the geologic record during the Quaternary Period, the nature and rates of fault movement or other ground motion are expected to be such that a loss of waste isolation is likely to occur.

§ 960.4-2-8 Human interference.

The site shall be located such that activities by future generations at or near the site will not be likely to affect waste containment and isolation. In assessing the likelihood of such activities, the DOE will consider the estimated effectiveness of the permanent markers and records required by 10 CFR Part 60, taking into account site-specific factors, as stated in §§ 960.4-2-8-1 and 960.4-2-8-2, that could compromise their continued effectiveness.

§ 960.4-2-8-1 Natural resource.

(a) *Qualifying Condition.* This site shall be located such that—considering permanent markers and records and reasonable projections of value, scarcity, and technology—the natural resources, including ground water

suitable for crop irrigation or human consumption without treatment, present at or near the site will not be likely to give rise to interference activities that would lead to radionuclide releases greater than those allowable under the requirements specified in § 960.4–1.

(b) *Favorable Conditions.* (1) No known natural resources that have or are projected to have in the foreseeable future a value great enough to be considered a commercially extractable resource.

(2) Ground water with 10,000 parts per million or more of total dissolved solids along any path of likely radionuclide travel from the host rock to the accessible environment.

(c) *Potentially Adverse Conditions.* (1) Indications that the site contains naturally occurring materials, whether or not actually identified in such form that (i) economic extraction is potentially feasible during the foreseeable future or (ii) such materials have a greater gross value, net value, or commercial potential than the average for other areas of similar size that are representative of, and located in, the geologic setting.

(2) Evidence of subsurface mining or extraction for resources within the site if it could affect waste containment or isolation.

(3) Evidence of drilling within the site for any purpose other than repository-site evaluation to a depth sufficient to affect waste containment and isolation.

(4) Evidence of a significant concentration of any naturally occurring material that is not widely available from other sources.

(5) Potential for foreseeable human activities—such as ground-water withdrawal, extensive irrigation, subsurface injection of fluids, underground pumped storage, military activities, or the construction of large-scale surface-water impoundments—that could adversely change portions of the ground-water flow system important to waste isolation.

(d) *Disqualifying Conditions.* A site shall be disqualified if—

(1) Previous exploration, mining, or extraction activities for resources of commercial importance at the site have created significant pathways between the projected underground facility and the accessible environment; or

(2) Ongoing or likely future activities to recover presently valuable natural mineral resources outside the controlled area would be expected to lead to an inadvertent loss of waste isolation.

§ 960.4–2–8–2 Site ownership and control.

(a) *Qualifying Condition.* The site shall be located on land for which the DOE can obtain, in accordance with the requirements of 10 CFR Part 60, ownership, surface and subsurface rights, and control of access that are required in order that potential surface and subsurface activities as the site will not be likely to lead to radionuclide releases greater than those allowable under the requirements specified in § 960.4–1.

(b) *Favorable Condition.* Present ownership and control of land and all surface and subsurface rights by the DOE.

(c) *Potentially Adverse Condition.* Projected land-ownership conflicts that cannot be successfully resolved through voluntary purchase-sell agreements, nondisputed agency-to-agency transfers of title, or Federal condemnation proceedings.

Subpart D—Preclosure Guidelines

§ 960.5 Preclosure guidelines.

The guidelines in this Subpart specify the factors to be considered in evaluating and comparing sites on the basis of expected repository performance before closure. The preclosure guidelines are separated into three system guidelines and eleven technical guidelines.

§ 960.5–1 System guidelines.

(a) *Qualifying Conditions*—(1) *Preclosure Radiological Safety.* Any projected radiological exposures of the general public and any projected releases of radioactive materials to restricted and unrestricted areas during repository operation and closure shall meet the applicable safety requirements set forth in 10 CFR Part 20, 10 CFR Part 60, and 40 CFR 191, Subpart A (see Appendix II of this part).

(2) *Environment, Socioeconomics, and Transportation.* During repository siting, construction, operation, closure, and decommissioning the public and the environment shall be adequately protected from the hazards posed by the disposal of radioactive waste.

(3) *Ease and Cost of Siting, Construction, Operation, and Closure.* Repository siting, construction, operation, and closure shall be demonstrated to be technically feasible on the basis of reasonably available technology, and the associated costs shall be demonstrated to be reasonable relative to other available and comparable siting options.

§ 960.5–2 Technical guidelines.

The technical guidelines in this Subpart set forth qualifying, favorable, potentially adverse, and, in seven guidelines, disqualifying conditions for the characteristics, processes, and events that influence the suitability of a site relative to the preclosure system guidelines. These conditions are separated into three main groups: Preclosure radiological safety; environment, socioeconomics, and transportation; and ease and cost of siting, construction, operation, and closure. The first group includes conditions on population density and distribution, site ownership and control, meteorology, and offsite installations and operations. The second group includes conditions related to environmental quality and socioeconomic impacts in areas potentially affected by a repository and to the transportation of waste to a repository site. The third group includes conditions on the surface characteristics of the site, the characteristics of the host rock and surrounding strata, hydrology, and tectonics. The individual technical guidelines within each group, as well as the favorable conditions and the potentially adverse conditions under each guideline, are not listed in any assumed order of importance. The technical guidelines that follow establish conditions that shall be considered in determining compliance with the qualifying conditions of the preclosure system guidelines. For each technical guideline, an evaluation of qualification or disqualification shall be made in accordance with the requirements specified in Subpart B.

Preclosure Radiological Safety

§ 960.5–2–1 Population Density and Distribution.

(a) *Qualifying Condition.* The site shall be located such that, during repository operation and closure, (1) the expected average radiation dose to members of the public within any highly populated area will not be likely to exceed a small fraction of the limits allowable under the requirements specified in § 960.5–1(a)(1), and (2) the expected radiation dose to any member of the public in an unrestricted area will not be likely to exceed the limit allowable under the requirements specified in § 960.5–1(a)(1).

(b) *Favorable Conditions.* (1) A low population density in the general region of the site.

(2) Remoteness of site from highly populated areas.

(c) *Potentially Adverse Conditions.* (1) High residential, seasonal, or daytime population density within the projected site boundaries.

(2) Proximity of the site to highly populated areas, or to areas having at least 1,000 individuals in an area 1 mile

by 1 mile as defined by the most recent decennial count of the U.S. census.

(d) *Disqualifying Conditions.* A site shall be *disqualified* if—

(1) Any surface facility of a repository would be located in a highly populated area; or

(2) Any surface facility of a repository would be located adjacent to an area 1 mile by 1 mile having a population of not less than 1,000 individuals as enumerated by the most recent U.S. census; or

(3) The DOE could not develop an emergency preparedness program which meets the requirements specified in DOE Order 5500.3 (Reactor and Non-Reactor Facility Emergency Planning, Preparedness, and Response Program for Department of Energy Operations) and related guides or, when issued by the NRC, in 10 CFR Part 60, Subpart I, "Emergency Planning Criteria."

§ 960.5-2-2 Site Ownership and Control.

(a) *Qualifying Condition.* The site shall be located on land for which the DOE can obtain, in accordance with the requirements of 10 CFR 60.121, ownership, surface and subsurface rights, and control of access that are required in order that surface and subsurface activities during repository operation and closure will not be likely to lead to radionuclide releases to an unrestricted area greater than those allowable under the requirements specified in § 960.5-1(a)(1).

(b) *Favorable Condition.* Present ownership and control of land and all surface and subsurface mineral and water rights by the DOE.

(c) *Potentially Adverse Condition.* Projected land-ownership conflicts that cannot be successfully resolved through voluntary purchase-sell agreements, nondisputed agency-to-agency transfers of title, or Federal condemnation proceedings.

§ 960.5-2-3 Meteorology.

(a) *Qualifying Condition.* The site shall be located such that expected meteorological conditions during repository operation and closure will not be likely to lead to radionuclide releases to an unrestricted area greater than those allowable under the requirements specified in § 960.5-1(a)(1).

(b) *Favorable Condition.* Prevailing meteorological conditions such that any radioactive releases to the atmosphere during repository operation and closure would be effectively dispersed, thereby reducing significantly the likelihood of unacceptable exposure to any member of the public in the vicinity of the repository.

(c) *Potentially Adverse Conditions.* (1) Prevailing meteorological conditions such that radioactive emissions from repository operation of closure could be preferentially transported toward localities in the vicinity of the repository with higher population densities than are the average for the region.

(2) History of extreme weather phenomena—such as hurricanes, tornadoes, severe floods, or severe and frequent winter storms—that could significantly affect repository operation or closure.

§ 960.5-2-4 Offsite installations and operations.

(a) *Qualifying Condition.* The site shall be located such that present projected effects from nearby industrial, transportation, and military installations and operations, including atomic energy defense activities, (1) will not significantly affect repository siting, construction, operation, closure, or decommissioning or can be accommodated by engineering measures and (2), when considered together with emissions from repository operation and closure, will not be likely to lead to radionuclide releases to an unrestricted area greater than those allowable under the requirements specified in § 960.5-1(a)(1).

(b) *Favorable Condition.* Absence of contributing radioactive releases from other nuclear installations and operations that must be considered under the requirements of 40 CFR 191, Subpart A.

(c) *Potentially Adverse Conditions.* (1) The presence of nearby potentially hazardous installations or operations that could adversely affect repository operation or closure.

(2) Presence of other nuclear installations and operations, subject to the requirements of 40 CFR Part 190 or 40 CFR 191, Subpart A, with actual or projected releases near the maximum value permissible under those standards.

(d) *Disqualifying Condition.* A site shall be disqualified if atomic energy defense activities in proximity to the site are expected to conflict irreconcilably with repository siting, construction, operation, closure, or decommissioning.

Environment, Socioeconomics, and Transportation

§ 960.5-2-5 Environmental quality.

(a) *Qualifying Condition.* The site shall be located such that (1) the quality of the environment in the affected area during this and future generations will be adequately protected during repository siting, construction, operation, closure, and decommissioning, and projected environmental impacts in the affected area can be mitigated to an acceptable degree, taking into account programmatic, technical, social, economic, and environmental factors; and (2) the requirements specified in § 960.5-1(a)(2) can be met.

(b) *Favorable Conditions.* (1) Projected ability to meet, within time constraints, all Federal, State, and local procedural and substantive environmental requirements applicable to the site and the activities proposed to take place thereon.

(2) Potential significant adverse environmental impacts to present and future generations can be mitigated to an insignificant level through the application of reasonable measures, taking into account programmatic, technical, social, economic, and environmental factors.

(c) *Potentially Adverse Conditions.* (1) Projected major conflict with applicable Federal, State, or local environmental requirements.

(2) Projected significant adverse environmental impacts that cannot be avoided or mitigated.

(3) Proximity to, or projected significant adverse environmental impacts of the repository or its support facilities on, a component of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, or National Forest Land.

(4) Proximity to, and projected significant adverse environmental impacts of the repository or its support facilities on, a significant State or regional protected resource area, such as a State park, a wildlife area, or a historical area.

(5) Proximity to, and projected significant adverse environmental impacts of the repository and its support facilities on, a significant Native American resource, such as a major Indian religious site, or other sites of unique cultural interest.

(6) Presence of critical habitats for threatened or endangered species that may be compromised by the repository or its support facilities.

(d) *Disqualifying Conditions.* Any of the following conditions shall *disqualify* a site:

(1) During repository siting, construction, operation, closure, or decommissioning the quality of the environment in the affected area could not be adequately protected or projected environmental impacts in the affected area could not be mitigated to an acceptable degree, taking into account

programmatic, technical, social, economic, and environmental factors.

(2) Any part of the restricted area or repository support facilities would be located within the boundaries of a component of the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, or the National Wild and Scenic Rivers System.

(3) The presence of the restricted area or the repository support facilities would conflict irreconcilably with the previously designated resource-preservation use of a component of the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, the National Wild and Scenic Rivers System, or National Forest Lands, or any comparably significant State protected resource that was dedicated to resource preservation at the time of the enactment of the Act.

§ 960.5–2–6 Socioeconomic impacts.

(a) *Qualifying Condition.* The site shall be located such that (1) any significant adverse social and/or economic impacts induced in communities and surrounding regions by repository siting, construction, operation, closure, and decommissioning can be offset by reasonable mitigation or compensation, as determined by a process of analysis, planning, and consultation among the DOE, affected State and local government jurisdictions, and affected Indian tribes; and (2) the requirements specified in § 960.5–1(a)(2) can be met.

(b) *Favorable Conditions.* (1) Ability of an affected area to absorb the project-related population changes without significant disruptions of community services and without significant impacts on housing supply and demand.

(2) Availability of an adequate labor force in the affected area.

(3) Projected net increases in employment and business sales, improved community services, and increased government revenues in the affected area.

(4) No projected substantial disruption of primary sectors of the economy of the affected area.

(c) *Potentially Adverse Conditions.* (1) Potential for significant repository-related impacts on community services, housing supply and demand, and the finances of State and local government agencies in the affected area.

(2) Lack of an adequate labor force in the affected area.

(3) Need for repository-related purchase or acquisition of water rights, if such rights could have significant adverse impacts on the present or future development of the affected area.

(4) Potential for major disruptions of primary sectors of the economy of the affected area.

(d) *Disqualifying Condition.* A site shall be disqualified if repository construction, operation, or closure would significantly degrade the quality, or significantly reduce the quantity, of water from major sources of offsite supplies presently suitable for human consumption or crop irrigation and such impacts cannot be compensated for, or mitigated by, reasonable measures.

§ 960.5–2–7 Transportation.

(a) *Qualifying Condition.* The site shall be located such that (1) the access routes constructed from existing local highways and railroads to the site (i) will not conflict irreconcilably with the previously designated use of any resource listed in § 960.5–2–5(d) (2) and (3); (ii) can be designed and constructed using reasonably available technology; (iii) will not require transportation system components to meet performance standards more stringent than those specified in the applicable DOT and NRC regulations, nor require the development of new packaging containment technology; (iv) will allow transportation operations to be conducted without causing an unacceptable risk to the public or unacceptable environmental impacts, taking into account programmatic, technical, social, economic, and environmental factors; and (2) the requirements of § 960.5–1(a)(2) can be met.

(b) *Favorable Conditions.* (1) Availability of access routes from local existing highways and railroads to the site which have any of the following characteristics:

(i) Such routes are relatively short and economical to construct as compared to access routes for other comparable siting options.

(ii) Federal condemnation is not required to acquire rights-of-way for the access routes.

(iii) Cuts, fills, tunnels, or bridges are not required.

(iv) Such routes are free of sharp curves or steep grades and are not likely to be affected by landslides or rock slides.

(v) Such routes bypass local cities and towns.

(2) Proximity to local highways and railroads that provide access to regional highways and railroads and are adequate to serve the repository without significant upgrading or reconstruction.

(3) Proximity to regional highways, mainline railroads, or inland waterways that provide access to the national transportation system.

(4) Availability of a regional railroad system with a minimum number of interchange points at which train crew and equipment changes would be required.

(5) Total projected life-cycle cost and risk for transportation of all wastes designated for the repository site which are significantly lower than those for comparable siting options, considering locations of present and potential sources of waste, interim storage facilities, and other repositories.

(6) Availability of regional and local carriers—truck, rail, and water—which have the capability and are willing to handle waste shipments to the repository.

(7) Absence of legal impediment with regard to compliance with Federal regulations for the transportation of waste in or through the affected State and adjoining States.

(8) Plans, procedures, and capabilities for response to radioactive waste transportation accidents in the affected State that are completed or being developed.

(9) A regional meteorological history indicating that significant transportation disruptions would not be routine seasonal occurrences.

(c) *Potentially Adverse Conditions.* (1) Access routes to existing local highways and railroads that are expensive to construct relative to comparable siting options.

(2) Terrain between the site and existing local highways and railroads such that steep grades, sharp switchbacks, rivers, lakes, landslides, rock slides, or potential sources of hazard to incoming waste shipments will be encountered along access routes to the site.

(3) Existing local highways and railroads that could require significant reconstruction or upgrading to provide adequate routes to the regional and national transportation system.

(4) Any local condition that could cause the transportation-related costs, environmental impacts, or risk to public health and safety from waste transportation operations to be significantly greater than those projected for other comparable siting options.

Ease and Cost of Siting, Construction, Operation, and Closure

§ 960.5–2–8 Surface characteristics.

(a) *Qualifying Condition.* The site shall be located such that, considering the surface characteristics and

conditions of the site and surrounding area, including surface-water systems and the terrain, the requirements specified in § 960.5–1(a)(3) can be met during repository siting, construction, operation, and closure.

(b) *Favorable Conditions.* (1) Generally flat terrain.

(2) Generally well-drained terrain.

(c) *Potentially Adverse Condition.* Surface characteristics that could lead to the flooding of surface or underground facilities by the occupancy and modification of flood plains, the failure of existing or planned man-made surface-water impoundments, or the failure of engineered components of the repository.

§ 960.5–2–9 Rock characteristics.

(a) *Qualifying Condition.* The site shall be located such that (1) the thickness and lateral extent and the characteristics and composition of the host rock will be suitable for accommodation of the underground facility; (2) repository construction, operation, and closure will not cause undue hazard to personnel; and (3) the requirements specified in § 960.5–1(a)(3) can be met.

(b) *Favorable Conditions.* (1) A host rock that is sufficiently thick and laterally extensive to allow significant flexibility in selecting the depth, configuration, and location of the underground facility.

(2) A host rock with characteristics that would require minimal or no artificial support for underground openings to ensure safe repository construction, operation, and closure.

(c) *Potentially Adverse Conditions.* (1) A host rock that is suitable for repository construction, operation, and closure, but is so thin or laterally restricted that little flexibility is available for selecting the depth, configuration, or location of an underground facility.

(2) In situ characteristics and conditions that could require engineering measures beyond reasonably available technology in the construction of the shafts and underground facility.

(3) Geomechanical properties that could necessitate extensive maintenance of the underground openings during repository operation and closure.

(4) Potential for such phenomena as thermally induced fracturing, the hydration and dehydration of mineral components, or other physical, chemical, or radiation-related phenomena that could lead to safety hazards or difficulty in retrieval during repository operation.

(5) Existing faults, shear zones, pressurized brine pockets, dissolution effects, or other stratigraphic or structural features that could compromise the safety of repository personnel because of water inflow or construction problems.

(d) *Disqualifying Condition.* The site shall be *disqualified* if the rock characteristics are such that the activities associated with repository construction, operation, or closure are predicted to cause significant risk to the health and safety of personnel, taking into account mitigating measures that use reasonably available technology.

§ 960.5–2–10 Hydrology.

(a) *Qualifying Condition.* The site shall be located such that the geohydrologic setting of the site will (1) be compatible with the activities required for repository construction, operation, and closure; (2) not compromise the intended functions of the shaft liners and seals; and (3) permit the requirements specified in § 960.5–1(a)(3) to be met.

(b) *Favorable Conditions.* (1) Absence of aquifers between the host rock and the land surface.

(2) Absence of surface-water systems that could potentially cause flooding of the repository.

(3) Availability of the water required for repository construction, operation, and closure.

(c) *Potentially Adverse Condition.* Ground-water conditions that could require complex engineering measures that are beyond reasonably available technology for repository construction, operation, and closure.

(d) *Disqualifying Condition.* A site shall be disqualified if, based on expected ground-water conditions, it is likely that engineering measures that are beyond reasonably available technology will be required for exploratory-shaft construction or for repository construction, operation, or closure.

§ 960.5–2–11 Tectonics.

(a) *Qualifying Conditions.* The site shall be located in a geologic setting in which any projected effects of expected tectonic phenomena or igneous activity on repository construction, operation, or closure will be such that the requirements specified in § 960.5–1(a)(3) can be met.

(b) *Favorable Condition.* The nature and rates of faulting, if any, within the geologic setting are such that the magnitude and intensity of the associated seismicity are significantly less than those generally allowable for the construction and operation of nuclear facilities.

(c) *Potentially Adverse Conditions.* (1) Evidence of active faulting within the geologic setting.

(2) Historical earthquakes or past man-induced seismicity that, if either were to recur, could produce ground motion at the site in excess of reasonable design limits.

(3) Evidence, based on correlations of earthquakes with tectonic processes and features, (e.g., faults) within the geologic setting, that the magnitude of earthquakes at the site during repository construction, operation, and closure may be larger then predicted from historical seismicity.

(d) *Disqualifying Condition.* A site shall be disqualified if, based on the expected nature and rates of fault movement or other ground motion, it is likely that engineering measures that are beyond reasonably available technology will be required for exploratory-shaft construction or for repository construction, operation, or closure.

Appendix I—NRC and EPA Requirements for Postclosure Repository Performance

Under proposed 40 CFR Part 191, Subpart B—*Environmental Standards for Disposal*, § 191.13, "Containment Requirements", specifies that for 10,000 years after disposal (a) releases of radioactive materials to the accessible environment that are estimated to have more than one chance in 100 of occurring over a 10,000 year period ("reasonably foreseeable releases") shall be projected to be less than the quantities permitted by Table 2 of that regulation's Appendix; and (b) for "very unlikely releases" (i.e., those estimated to have between one chance in 100 and one chance in 10,000 of occurring over a 10,000 year period), the limits specified in Table 2 would be multiplied by 10. The basis for Table 2 is an upper limit on long term risks of 1,000 health effects over 10,000 years for a repository containing wastes generated from 100,000 metric tons of heavy metal of reactor fuel. For releases involving more than one radionuclide, the allowed release for each radionuclide is reduced to the fraction of its limit that insures that the overall limit on harm is not exceeded. Additionally, to provide confidence needed for compliance with the containment requirements specified above, § 191.14, "Assurance Requirements", specifies the disposal of radioactive waste in accordance with seven requirements, relating to prompt disposal of waste; selection and design of disposal systems to keep releases to the accessible environment as small as reasonably achievable; engineered and natural barriers; nonreliance on active institutional controls after closure; passive controls after closure; natural resource areas; and design of disposal systems to allow future recovery of wastes.

The guidelines will be revised as necessary after the adoption of final regulations by the EPA.

The implementation of 40 CFR Part 191, Subpart B is required by 10 CFR 60.112. 10 CFR 60.113 establishes minimum conditions to be met for engineered components and ground-water flow; specifically: (1) Containment of radioactive waste within the waste packages will be substantially complete for a period to be determined by the NRC taking into account the factors specified in 10 CFR 60.113(b) provided that such period shall be not less than 300 years nor more than 1,000 years after permanent closure of the geologic repository; (2) the release rate of any radionuclide from the engineered barrier system following the containment period shall not exceed one part in 100,000 per year of the inventory of that radionuclide calculated to be present at 1,000 years following permanent closure, or such other fraction of the inventory as may be approved or specified by the NRC, provided that this requirement does not apply to any radionuclide which is released at a rate less than 0.1% of the calculated total release rate limit. The calculated total release rate limit shall be taken to be one part in 100,000 per year of the inventory of radioactive waste originally emplaced in the underground facility that remains after 1,000 years of radioactive decay; and (3) the geologic repository shall be located so that pre-waste-emplacement ground-water travel time along the fastest path of likely radionuclide travel from the disturbed zone to the accessible environment shall be at least 1,000 years or such other travel time as may be approved or specified by the NRC.

The guidelines will be revised as necessary to ensure consistency with 10 CFR Part 60.

Appendix II—NRC and EPA Requirements for Preclosure Repository Performance

Under proposed 40 CFR Part 191, Subpart A—*Environmental Standards for Management and Storage*, Section 191.03, "Standards for Normal Operations", specifies: (1) That operations should be conducted so as to reduce exposure to members of the public to the extent reasonably achievable, taking into account technical, social, and economic considerations; and (2) that, except for variances permitted for unusual operations under Section 191.04 as an upper limit, normal operations shall be conducted in such a manner as to provide reasonable assurance that the combined annual dose equivalent to any member of the public due to: (i) operations covered by 40 CFR Part 190, (ii) planned discharges of radioactive material to the general environment from operations covered by this Subpart, and (iii) direct radiation from these operations; shall not exceed 25 millirems to the whole body, 75 millirems to the thyroid, or 25 millirems to any other organ.

The guidelines will be revised as necessary after the adoption of final regulations by the EPA.

The implementation of 40 CFR Part 191, Subpart A and 10 CFR Part 20 is required by 10 CFR 60.111. 10 CFR 60.111 also specifies requirements for waste retrieval, if necessary, including considerations of design, backfilling, and schedule. 10 CFR Part 20 establishes (a) exposure limits for operating personnel and (b) permissible concentrations of radionuclides in uncontrolled areas for air and water. The latter are generally less restrictive than 40 CFR 191, Subpart A, but may be limiting under certain conditions (i.e., if used as a maximum for short durations rather than annual averages).

The guidelines will be revised as necessary to ensure consistency with 10 CFR Part 60.

Appendix III—Application of the System and Technical Guidelines During the Siting Process

1. This appendix presents a table that specifies how the guidelines of Subparts C and D are to be applied at the principal decision points of the siting process. The decision points, as referenced in the table, are defined as follows:

"Potentially acceptable" means the decision point at which a site is identified as potentially acceptable.

"Nomination and recommendation" means the decision point at which a site is nominated as suitable for characterization or recommended as a candidate site for characterization.

"Repository site selection" means the decision point at which a site is recommended for the development of a repository.

2. The findings resulting from the application of a disqualifying condition for any particular guideline at a given decision point are denoted in the table by the numeral 1 or 2. The numerals 1 and 2 signify the types of findings that are required and are defined as follows:

"1" means *either* of the following:

(a) The evidence does *not* support a finding that the site is disqualified.

or

(b) The evidence supports a finding that the site is disqualified.

"2" means *either* of the following:

(a) The evidence supports a finding that the site is *not* disqualified on the basis of that evidence and is *not* likely to be disqualified.

or

(b) The evidence supports a finding that the site is disqualified or is likely to be disqualified.

3. The findings resulting from the application of a qualifying condition for any particular guideline at a given decision point are denoted in the table by the numeral 3 or 4. The numerals 3 and 4 signify the types of findings that are required and are defined as follows:

"3" means *either* of the following:

(a) The evidence does *not* support a finding that the site is *not* likely to meet the qualifying condition.

or

(b) The evidence supports a finding that the site is *not* likely to meet the qualifying condition, and therefore the site is disqualified.

"4" means *either* of the following:

(a) The evidence supports a finding that the site meets the qualifying condition and is likely to continue to meet the qualifying condition.

or

(b) The evidence supports a finding that the site cannot meet the qualifying condition or is unlikely to be able to meet the qualifying condition, and therefore the site is disqualified.

4. If performance assessments are used to substantiate any of the above findings, those assessments shall include estimates of the effects of uncertainties in data and modeling.

5. For both the disqualifying and qualifying conditions of any guideline, a higher finding (e.g., a "2" finding rather than "1") shall be made if there is sufficient evidence to support such a finding.

FINDINGS RESULTING FROM THE APPLICATION OF THE QUALIFYING AND DISQUALIFYING CONDITIONS OF THE TECHNICAL GUIDELINES AT MAJOR SITING DECISIONS

Section 960	Guideline	Condition	Siting decision		
			Potentially acceptable	Nomination and recommendation	Repository site selection
4-1(a)	System	Qualifying		3	4
4-2-1(a)	Geohydrology	do		3	4
4-2-1(d)	do	Disqualifying		1	2
4-2-2(a)	Geochemistry	Qualifying		3	4
4-2-3(a)	Rock Characteristics	do		3	4
4-2-4(a)	Climatic Changes	do		3	4
4-2-5(a)	Erosion	do		3	4
4-2-5(d)	do	Disqualifying	1	1	2
4-2-6(a)	Dissolution	Qualifying		3	4
4-2-6(d)	do	Disqualifying	1	1	2
4-2-7(a)	Tectonics	Qualifying		3	4
4-2-7(d)	do	Disqualifying	1	1	2
4-2-8-1(a)	Natural Resources	Qualifying		3	4
4-2-8-1(d)(1)	do	Disqualifying	1	1	2
4-2-8-1(d)(2)	do	do		1	2
4-2-8-2(a)	Site Ownership and Control	Qualifying		3	4
5-1(a)(1)	System	do		3	4
5-1(a)(2)	do	do		3	4
5-1(a)(3)	do	do		3	4
5-2-1(a)	Population Density and Distribution	do		3	4
5-2-1(d)(1)	do	Disqualifying	1	1	2
5-2-1(d)(2)	do	do	1	1	2
5-2-1(d)(3)	do	do		1	2
5-2-2(a)	Site Ownership and Control	Qualifying		3	4
5-2-3(a)	Meteorology	do		3	4
5-2-4(a)	Offsite Installations and Operations	do		3	4

FINDINGS RESULTING FROM THE APPLICATION OF THE QUALIFYING AND DISQUALIFYING CONDITIONS OF THE TECHNICAL GUIDELINES AT MAJOR SITING DECISIONS—Continued

Section 960	Guideline	Condition	Siting decision		
			Potentially acceptable	Nomination and recommendation	Repository site selection
5-2-4(d)	....do	Disqualifying	1	1	2
5-2-5(a)	Environmental Quality	Qualifying		3	4
5-2-5(d)(1)	....do	Disqualifying		1	2
5-2-5(d)(2)	....do	....do	1	1	2
5-2-5(d)(3)	....do	....do	1	1	2
5-2-6(a)	Socioeconomic Impacts	Qualifying		3	4
5-2-6(d)	....do	Disqualifying		1	2
5-2-7(a)	Transportation	Qualifying		3	4
5-2-8(a)	Surface Characteristics	....do		3	4
5-2-9(a)	Rock Characteristics	....do		3	4
5-2-9(d)	....do	Disqualifying		1	2
5-2-10(a)	Hydrology	Qualifying		3	4
5-2-10(d)	....do	Disqualifying		1	2
5-2-11(a)	Tectonics	Qualifying		3	4
5-2-11(d)	....do	Disqualifying	1	1	2

Appendix IV—Types of Information for the Nomination of Sites as Suitable for Characterization

The types of information specified below are those that the DOE expects will be included in the evidence used for evaluations and applications of the guidelines of Subparts C and D at the time of nomination of a site as suitable for characterization. The types of information listed under each guideline are considered to be the most significant for the evaluation of that guideline. However, the types of information listed under any particular guideline will be used, as necessary, for the evaluation of any other guideline. As stated in § 960.3-1-4-2, the DOE will use technically conservative assumptions or extrapolations of regional data, where necessary, to supplement this information. The information specified below will be supplemented with conceptual models, as appropriate, and analyses of uncertainties in the data.

Before site-characterization studies and related nongeologic data gathering activities, the evidence is not expected to provide precise information, but, rather, to provide a reasonable basis for assessing the merits or shortcomings of the site against the guidelines of Subparts C and D. Consequently, the types of information described below should be interpreted so as to accommodate differences among sites and differences in the information acquired before detailed studies.

The specific information required for the guideline applications set forth in Appendix III of this Part is expected to differ from site to site because of site-specific factors, both with regard to favorable and potentially adverse conditions and with regard to the sources and reliability of the information.The types of information specified in this appendix will be used except where the findings set forth in Appendix III of this part can be arrived at by reasonable alternative means or the information is not required for the particular site.

Section 960.4-2-1 Geohydrology.

Description of the geohydrologic setting of the site, in context with its geologic setting, in order to estimate the pre-waste-emplacement ground-water flow conditions. The types of information to support this description should include—

- Location and estimated hydraulic properties of aquifers, confining units, and aquitards.
- Potential areas and modes of recharge and discharge for aquifers.
- Regional potentiometric surfaces of aquifers.
- Likely flow paths from the repository to locations in the expected accessible environment, as based on regional data.
- Preliminary estimates of ground-water travel times along the likely flow paths from the repository to locations in the expected accessible environment.
- Current use of principal aquifers and State or local management plans for such use.

Section 960.4-2-2 Geochemistry.

Description of the geochemical and hydrochemical conditions of the host rock, of the surrounding geohydrologic units, and along likely ground-water paths to locations in the expected accessible environment, in order to estimate the potential for the migration of radionuclides. The types of information to support this description should include—

- Petrology of the rocks.
- Mineralogy of the rocks and general characteristics of fracture fillings.
- Geochemical and mechanical stability of the minerals under expected repository conditions.
- General characteristics of the ground-water chemistry (e.g., reducing/oxidizing conditions and the principal ions that may affect the waste package or radionuclide behavior).
- Geochemical properties of minerals as related to radionuclide transport.

Section 960.4-2-3 Rock characteristics.

Description of the geologic and geomechanical characteristics of the site, in context with the geologic setting, in order to estimate the capability of the host rock and surrounding rock units to accommodate the thermal, mechanical, chemical, and radiation stresses expected to be induced by repository construction, operation, and closure and by expected interactions among the waste, host rock, ground-water, and engineered components of the repository system. The types of information to support this description should include—

- Approximate geology and stratigraphy of the site, including the depth, thickness, and lateral extent of the host rock and surrounding rock units.
- Approximate structrual framework of the rock units and any major discontinuities identified from core samples.
- Approximate thermal, mechanical, and thermomechanical properties of the rocks, with consideration of the effects of time, stress, temperature, dimensional scale, and any major identified structural discontinuities.
- Estimates of the magnitude and direction of in situ stress and of temperature in the host rock and surrounding rock units.

Section 960.4-2-4 Climatic changes.

Description of the climatic conditions of the site region, in context with global and regional patterns of climatic changes during the Quaternary Period, in order to project likely future changes in climate such that potential impacts on the repository can be estimated. The types of information to support this description should include—

- Expected climatic conditions and cycles, based on extrapolation of climates during the Quaternary Period.
- Geomorphology of the site region and evidence of changes due to climatic changes.
- Estimated effects of expected climatic cycles on the surface-water and the ground-water systems.

Section 960.4-2-5 Erosion.

Description of the structure, stratigraphy, and geomorphology of the site, in context with the geologic setting, in order to estimate the depth of waste emplacement and the likelihood for erosional processes to uncover the waste in less than one million years. The types of information to support this description should include—

- Depth, thickness, and lateral extent of the host rock and the overlying rock units.
- Lithology of the stratigraphic units above the host rock.
- Nature and rates of geomorphic processes during the Quaternary Period.

Section 960.4-2-6 Dissolution.

Description of the stratigraphy, structure, hydrology, and geochemistry of the site, in context with the geologic setting, to delineate the approximate limits of subsurface rock dissolution, if any. This description should include such information as the following:

- The stratigraphy of the site, including rock units largely comprised of water-soluble minerals.
- The approximate extent and configuration of features indicative of dissolution within the geologic setting.

Section 960.4-2-7 Tectonics.

Description of the tectonic setting of the site, in context with its geologic setting, in order to project the tectonic stability of the site over the next 10,000 years and to identify tectonic features and processes that could be reasonably expected to have a potentially

adverse effect on the performance of the repository. The types of information to support this description should include—

- The tectonic history and framework of the geologic setting and the site.
- Quaternary faults in the geologic setting, including their length, displacement, and any information regarding the age of latest movement.
- Active tectonic processes, such as uplift, diapirism, tilting, subsidence, faulting, and volcanism.
- Estimate of the geothermal gradient.
- Estimate of the regional in situ stress field.
- The historical seismicity of the geologic setting.

Section 960.4–2–8 Human interference.

Section 960.4–2–8–1 Natural resources.

Description of the mineral and energy resources of the site, in order to project whether past or future exploration and recovery could have a potentially adverse effect on the performance of the repository. The types of information to support this description should include—

- Known occurrences of energy and mineral resources, including ground water.
- Estimates of the present and projected value of these resources compared with resources contained in other areas of similar size in the geologic setting.
- Past and present drilling and mining operations in the vicinity of the site.

Section 960.4–2–8–2 Site ownership and control.

Description of the ownership of land for the geologic-repository operations area and the controlled area, in order to evaluate whether the DOE can obtain ownership of, and control access to, the site. The types of information to support this description should include—

- Present land ownership.

Section 960.5–2–1 Population density and distribution.

Description of the population density and distribution of the site region, in order to identify highly populated areas and the nearest 1 mile by 1 mile area having a population greater than 1,000 persons. The types of information to support this description should include—

- The most-recent U.S. census, including population composition, distribution, and density.

Section 960.5–2–2 Site ownership and control.

Description of current ownership of land, including surface and subsurface mineral and water rights, in order to evaluate whether the DOE can obtain control of land within the projected restricted area. The types of information to support this description should include—

- Present land ownership.

Section 960.5–2–3 Meteorology.

The meteorological setting, as determined from the closest recording station, in order to project meteorological conditions during repository operation and closure and their potential effects on the transport of airborne emissions. The types of information to support this description should include—

- Wind and atmospheric-dispersion characteristics.
- Precipitation characteristics.
- Extreme weather phenomena.

Section 960.5–2–4 Offsite installations and operations.

Description of offsite installations and operations in the vicinity of the site in order to estimate their projected effects on repository construction, operation, or closure. The types of information to support this description should include—

- Location and nature of nearby industrial, transportation, and military installations and operations, including atomic energy defense activities.

Section 960.5–2–5 Environmental quality.

Description of environmental conditions in order to estimate potential impacts on public health and welfare and on environmental quality. The types of information to support this description should include—

- Applicable Federal, State, and local procedural and substantive environmental requirements.
- Existing air quality and trends.
- Existing surface-water and ground-water quality and quantity.
- Existing land resources and uses.
- Existing terrestrial and aquatic vegetation and wildlife.
- Location of any identified critical habitats for threatened or endangered species.
- Existing aesthetic characteristics.
- Location of components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, or National Forest Land.
- Location of significant State or regional protected resource areas, such as State parks, wildlife areas, or historical areas.
- Location of significant Native American resources such as major Indian religious sites, or other sites of unique cultural interest.

Section 960.5–2–6 Socioeconomic impacts.

Description of the socioeconomic conditions of the site, including population density and distribution, economics, community services and facilities, social conditions, and fiscal and government structure, in order to estimate the impacts that might result from site characterization and from the development of a repository at that site. The types of information to support this description should include—

- Population composition, density, and distribution.
- Economic base and economic activity, including major sectors of local economy.
- Employment distribution and trends by economic sector.
- Resource usage.
- Community services and infrastructure, including trends in use and current capacity utilization.
- Housing supply and demand.
- Life style and indicators of the quality of life.
- Existing social problems.
- Sources of, and trends in, local government expenditures and revenues.

Section 960.5–2–7 Transportation.

Description of the transportation facilities in the vicinity of the site in order to evaluate existing or required access routes or improvements. The types of information to support this description should include—

- Estimates of the overall cost and risk of transporting waste to the site.
- Description of the road and rail network between the site and the nearest Interstate highways and major rail lines; also, description of the waterway system, if any.
- Analyses of the adequacy of the existing regional transportation network to handle waste shipments; the movement of supplies for repository construction, operation, and closure; removal of nonradioactive waste from the site; and the transportation of the labor force.
- Improvements anticipated to be required in the transportation network and their feasibility, cost, and environmental impacts.
- Compatibility of the required transportation network improvements with the local and regional transportation and land-use plans.
- Analysis of weather impacts on transportation.
- Analysis of emergency response requirements and capabilities related to transportation.

Section 960.5–2–8 Surface characteristics.

Description of the surface characteristics of the site, in order to evaluate whether repository construction, operation, and closure are feasible on the basis of site characteristics that influence those activities. The types of information to support this description should include—

- Topography of the site.
- Existing and planned surface bodies of water.
- Definition of areas of landslides and other potentially unstable slopes, poorly drained material, or materials of low bearing strength or of high liquefaction potential.

Section 960.5–2–9 Rock characteristics.

Description of the geologic and geomechanical characteristics of the site, in context with the geologic setting, in order to project the capability of the host rock and the surrounding rock units to provide the space required for the underground facility and safe underground openings during repository construction, operation, and closure. The types of information to support this description should include—

- Depth, thickness, and lateral extent of the host rock.
- Stratigraphic and structural features within the host rock and adjacent rock units.
- Thermal, mechanical, and thermomechanical properties and constructibility characteristics of the rocks, with consideration of the effects of time, stress, temperature, dimensional scale, and any major identified structural discontinuities.
- Fluid inclusions and gas content in the host rock.

• Estimates of the magnitude and direction of in situ stress and of temperature in the host rock.

Section 960.5–2–10 Hydrology.

Description of the hydrology of the site, in context with its geologic setting, in order to project compatibility with repository construction, operation, and closure. The types of information to support this description should include—

• Surface-water systems, including recharge and runoff characteristics, and potential for flooding of the repository.

• Nature and location of aquifers, confining units, and aquitards.

• Potentiometric surfaces of aquifers.

• Hydraulic properties of geohydrologic units.

Section 960.5–2–11 Tectonics.

Description of the tectonic setting of the site, in context with the regional setting, in order to estimate any expected effects of tectonic activity on repository construction, operation, or closure. The types of information to support this description should include—

• Quaternary faults.

• Active tectonic processes.

• Preliminary estimates of expected ground motion caused by the maximum potential earthquake within the geologic setting.

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Federal Register

Thursday
December 6, 1984

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Public and Indian Housing

Prototype Cost Determinations Issued Under the United States Housing Act of 1937; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N-84-1470; FR-2048]

Prototope Cost Determinations Issued Under the United States Housing Act of 1937

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of prototype cost determinations.

SUMMARY: This Notice establishes prototype cost limits for the development of public housing new construction projects under the United States Housing Act of 1937. The prototype cost determinations stated in this Notice supersede the prototype cost schedules published on January 20, 1984 (49 FR 2608) and all amendments and additions to such schedules published before the date of this Notice. The prototype costs for Indian housing are not included in this Notice. These costs will be published separately.

FOR FURTHER INFORMATION CONTACT: Raymond W. Hamilton, Director, Development Division, Office of Public Housing, Room 4220, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 755-5282. (This is not a tool-free number.)

SUPPLEMENTARY INFORMATION: Section 6(b) of the United States Housing Act of 1937 (42 U.S.C. 1437d) requires HUD to determine costs in different areas for construction and equipment (prototype costs) of new dwelling units suitable for occupancy by low-income families. This determination must be made at least once a year and published in the **Federal Register**. The prototype costs constitute a limit on development cost for the construction and equipment of new public housing projects.

The schedules in this Notice represent the annual update of per unit prototype cost limits for development of Public Housing under 24 CFR Part 941 (§ 941.204). The cost determinations are based on actual public housing and insured multifamily project data from HUD Field Offices and construction cost information published by the private sector of the housing industry.

HUD also adopts special prototype costs for the development of Indian housing. While public and Indian prototype costs have been published together in past proceedings, this Notice only establishes prototype costs for public housing. Indian housing prototype costs will be published separately. Until that publication becomes effective, the Indian prototype costs published December 7, 1982 (47 FR 55136) shall remain in effect.

Since section 6(b) of the Act provides that the prototype costs shall become effective upon publication in the **Federal Register**, this Notice is effective today, the day of publication.

The following factors were considered in developing prototype costs:

1. Prototype cost comprise the cost of dwelling structures (Account No. 1460) and dwelling equipment (Account No. 1465), as described in HUD Low-Rent Housing Accounting Handbook 7510.1, Chapter 3, Section 15, and include a pro rata share of the builders' fee and overhead, insurance, social security, sales tax, and bonds.

2. Prototype costs do *not* include the costs of site acquisition, site improvement, nondwelling structures or spaces (and equipment), planning (architectural-engineering fees, permit fees, inspection, and similar costs), relocation, interest or PHA administrative costs, all of which are described in HUD Low-Rent Housing Accounting Handbook 7510.1, Chapter 3, Section 15.

3. Section 6(b) of the Act identifies the factors the Secretary is to consider in determining prototype costs, which include such things as the effectiveness of existing cost limits in the area, advice of local housing producers, maximization of energy conservation for heating, lighting and other purposes, and the extra durability required for safety, security and economical maintenance of the housing. (See 42 U.S.C. 1437d.)

4. Prototype costs are ceiling amounts that may be approved for dwelling construction and equipment costs of a particular project. Public housing developed under Part 941 also requires compliance with applicable HUD Minimum Property Standards and planning and design criteria described in HUD Public Housing Development Handbooks 7417.1 and 7417.1 REV-1.

Written comments will be considered, and additional amendments will be published, if the Department determines that acceptance of the comments is appropriate. Comments with respect to the cost limits for a given location should be sent to the local HUD office having jurisdiction for that location. A list of these offices follows:

Region I

Connecticut: Dept. of HUD, One Hartford Square West, Hartford, CT 06104-2943
Massachusetts: Dept. of HUD, Room 800, John F. Kennedy Building, Boston, MA 02203-0801
New Hampshire: Dept. of HUD, Norris-Cotton Federal Bldg., 275 Chestnut Street, Manchester, NH 03103-2487
Maine: As above
Vermont: As above
Rhode Island: Dept. of HUD, Room 330, John O. Pastore Federal Building and U.S. Post Office, Providence, RI 02903-1745

Region II

New Jersey: Dept. of HUD, Gateway Bldg. No. 1, Raymond Plaza, Newark, NJ 07102-5504
New York: Dept. of HUD, 26 Federal Plaza, New York, NY 10278-0068
Dept. of HUD, Statler Bldg., 107 Delaware Avenue, Buffalo, NY 14202-2986
Caribbean: Dept. of HUD, Federico Degetau Federal Bldg., U.S. Courthouse, Room 428, Carlos E. Chardon Avenue, Hato Rey, PR 00918-2276

Region III

Delaware: Dept. of HUD, 625 Walnut Street, Philadelphia, PA 19106-3392
District of Columbia: Dept. of HUD, Universal North Bldg., 1875 Connecticut Ave., Washington, D.C. 20009-5768
Maryland: Dept. of HUD, Equitable Bldg., 10 North Calvert Street Baltimore, MD 21202-1865
Pennsylvania: Dept. of HUD, 625 Walnut Street, Philadelphia, PA 19106-3392
Dept. of HUD, 445 Fort Pitt Blvd., Pittsburgh, PA 15219-1361
Virginia: Dept. of HUD, 701 East Franklin Street, Richmond, VA 23219-2591
West Virginia: Dept. of HUD, Kanawah Valley Blvd., Capitol and Lee Streets, Charleston, WV 25391-1794

Region IV

Alabama: Dept. of HUD, Daniel Bldg., 15 South 20th Street, Birmingham, AL 35233-2096
Florida: Dept. of HUD, 325 West Adams Street, Jacksonville, FL 32202-4303
Georgia: Dept. of HUD, 75 Spring Street, SW., Atlanta, GA 30303-3109
Kentucky: Dept. of HUD, 539 River City Mall, P.O. Box 1044, Louisville, KY 40201-1044
Mississippi: Dept. of HUD, 100 W. Capital Street, Jackson, MS 39269-1016
North Carolina: Dept. of HUD, 415 North Edgeworth Street, Greensboro, NC 27401-2107

South Carolina: Dept. of HUD, 1835–45 Assembly Street, Columbia, SC 29201–2480
Tennessee: Dept. of HUD, 1 Commerce Place, Suite 1600, Nashville, TN 37239–1600
Dept. of HUD, 1111 Northshore Drive, Knoxville, TN 37919–4090

Region V

Illinois: Dept. of HUD, 300 South Wacker Drive Chicago, ILL. 60606–5680
Indiana: Dept. of HUD, P.O. Box 7047, 151 North Delaware Street, Indianapolis, IN 46204–2526
Michigan: Dept. of HUD, 477 Michigan Ave., Detroit, MI 48226–2592
Dept. of HUD, 2922 Fuller Avenue NE., Grand Rapids, MI 49505–3409
Minnesota: Dept. of HUD, 220 South Second Street, Minneapolis MN 55401–2195
Ohio: Dept. of HUD, 200 North High Street, Columbus, OH 43215–2499
Dept. of HUD, 777 Rockwell Avenue, Cleveland, OH 44114–1670
Wisconsin: Dept. of HUD, 744 North Fourth Street, Milwaukee, WI 53203–2290

Region VI

Arkansas: Dept. of HUD, 300 West Capitol, Suite 700, Little Rock, AR 72201–3523
Louisiana: Dept. of HUD, 1661 Canal Street, New Orleans, LA 70172–0288
New Mexico: Dept. of HUD, 1403 Slocum, P.O. Box 20050 Dallas, TX 75207–0050
Oklahoma: Dept. of HUD, 200 NW. 5th Street, Oklahoma City, OK 73102–3202
Texas: Dept. of HUD, 221 W. Lancaster, P.O. Box 2905, Fort Worth, TX 76113–2905
Dept. of HUD, 800 Dolorosa, P.O. Box 9163 San Antonio, TX 78285–3301

Region VII

Iowa: Dept. of HUD, 210 Walnut Street, Des Moines, IA 50309–2155
Kansas: Dept. of HUD, 1103 Grand Ave., Kansas City, MO 64106–2496
Missouri: Dept. of HUD, 210 North Tucker Blvd., St. Louis, MO 63101–1997
Nebraska: Dept. of HUD, 210 South 16th Street, Omaha, NE 68102–1622

Region VIII

Colorado: Dept. of HUD, 1405 Curtis Street, Denver, CO 80202–2349
Montana: As above
North Dakota: As above
South Dakota: Dept. of HUD, 1405 Curtis Street, Denver, CO 80202–2349
Utah: As above
Wyoming: As above

Region IX

Arizona: Dept. of HUD, Federal Building, 450 Golden Gate Avenue, P.O. Box 36003, San Francisco, CA 94102–3448
California: As above
Dept. of HUD, 2500 Wilshire Boulevard, Los Angeles, CA 90057–4361
Dept. of HUD, 545 Downtown Plaza, P.O. Box 1978, Suite 250, Sacramento, CA 95809–1978
Guam: Dept. of HUD, Federal Building, 450 Golden Gate Avenue, P.O. Box 36003, San Francisco, CA 94102–3448
Hawaii: Dept. of HUD, 300 Ala Moana Boulevard, Suite 3318, Honolulu, HI 96813–4991
Nevada: Dept. of HUD, Federal Building, 450 Golden Gate Avenue, P.O. Box 36003, San Francisco, CA 94102–3448

Region X

Alaska: Dept. of HUD, 701 C Street, Module G, Anchorage, AK 99513–0001
Oregon: Dept. of HUD, 520 SW Sixth Avenue, Portland, OR 97204–1596
Washington: Dept. of HUD, 403 Arcade Plaza Building, 1321 Second Ave., Seattle, WA 98101–2054

A Finding of No Significant Impact with respect to the environment required by the National Environmental Policy Act (42 U.S.C. 4321–4347) is unnecessary since statutorily required prototype costs are categorically excluded under 24 CFR 50.20(1).

The Catalog of Federal Domestic Assistance program number is: 14.146, Low Income Housing-Assistance Program (public housing).

The prototype per unit cost schedules for all prototype cost areas, issued under 24 CFR Part 941, Prototype Cost Limits for Low-Income Public Housing are hereby established as shown on the tables set forth below entitled "Prototype Per Unit Cost Schedule—Regions I through X."

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d); sec. 6(b), U.S. Housing Act of 1937, 42 U.S.C. 1437d(b))

Dated: November 30, 1984.

Warren T. Lindquist,

Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210-33-M

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION I							
CONNECTICUT							
HARTFORD							
DETACHED AND SEMIDETACHED	27,750	33,150	36,400	43,650	52,550	58,500	61,200
ROW DWELLINGS	25,200	30,000	33,600	39,850	47,850	53,300	55,900
WALKUP	23,550	29,150	32,900	39,250	45,250	49,800	52,150
ELEVATOR-STRUCTURE	30,150	35,000	44,400	------	------	------	------
NEW MILFORD							
DETACHED AND SEMIDETACHED	26,500	31,800	35,100	42,050	50,550	56,250	58,900
ROW DWELLINGS	24,150	28,800	32,000	38,150	45,850	51,100	53,200
WALKUP	22,550	27,850	31,550	37,450	42,950	47,750	49,900
ELEVATOR-STRUCTURE	29,900	34,550	43,950	------	------	------	------
NEW HAVEN							
DETACHED AND SEMIDETACHED	26,650	31,900	35,150	42,200	50,900	56,550	59,150
ROW DWELLINGS	24,000	28,800	32,000	38,150	45,850	51,100	53,300
WALKUP	22,550	27,850	31,400	37,600	43,300	47,750	49,900
ELEVATOR-STRUCTURE	29,900	34,550	43,950	------	------	------	------
BRIDGEPORT							
DETACHED AND SEMIDETACHED	27,050	32,400	35,850	42,850	51,600	57,300	60,050
ROW DWELLINGS	24,150	28,800	32,000	38,150	45,850	51,100	53,200
WALKUP	22,500	27,700	31,500	37,200	43,100	47,550	49,750
ELEVATOR-STRUCTURE	30,500	35,350	44,850	------	------	------	------
NEW LONDON							
DETACHED AND SEMIDETACHED	27,050	32,500	35,850	42,700	51,800	57,550	60,100
ROW DWELLINGS	24,450	29,350	32,750	39,100	46,950	52,350	54,800
WALKUP	23,500	27,800	31,500	37,450	43,250	47,800	50,100
ELEVATOR-STRUCTURE	30,500	35,300	44,850	------	------	------	------
WINDHAM							
DETACHED AND SEMIDETACHED	27,050	32,500	35,850	42,700	51,800	57,550	60,100
ROW DWELLINGS	24,450	29,350	32,750	39,100	46,950	52,350	54,800
WALKUP	23,900	28,350	32,200	38,050	44,150	48,700	51,150
ELEVATOR-STRUCTURE	30,500	35,300	44,850	------	------	------	------
RIDGEFIELD							
DETACHED AND SEMIDETACHED	32,450	38,900	43,000	51,400	62,000	68,650	72,100
ROW DWELLINGS	29,600	35,400	39,450	46,900	56,500	63,050	65,850
WALKUP	28,350	35,050	39,650	47,050	54,550	60,000	63,150
ELEVATOR-STRUCTURE	35,150	40,800	51,700	------	------	------	------
NORWICH							
DETACHED AND SEMIDETACHED	26,950	32,450	35,850	42,750	51,550	57,300	59,950
ROW DWELLINGS	24,200	28,950	32,300	38,250	46,000	51,450	53,450
WALKUP	22,650	27,900	31,700	37,650	43,350	47,850	50,050
ELEVATOR-STRUCTURE	30,350	35,150	44,600	------	------	------	------
MAINE							
BANGOR							
DETACHED AND SEMIDETACHED	27,450	32,950	34,750	41,400	49,900	55,350	57,700
ROW DWELLINGS	24,250	29,000	32,100	38,350	46,150	51,250	53,600
WALKUP	21,700	26,800	30,500	36,000	41,850	46,000	48,350
ELEVATOR-STRUCTURE	28,650	33,400	42,150	------	------	------	------
AUGUSTA							
DETACHED AND SEMIDETACHED	28,450	33,750	37,350	44,900	53,850	59,950	62,550
ROW DWELLINGS	24,950	29,650	33,050	39,650	47,550	52,950	55,150
WALKUP	23,200	28,700	32,800	38,450	44,800	49,250	51,750
ELEVATOR-STRUCTURE	30,900	36,000	45,600	------	------	------	------
BRUNSWICK							
DETACHED AND SEMIDETACHED	28,250	33,600	37,000	44,350	53,450	59,300	62,200
ROW DWELLINGS	24,700	29,450	32,850	39,200	47,250	52,300	54,750
WALKUP	22,850	28,200	32,400	38,250	44,350	48,500	51,250
ELEVATOR-STRUCTURE	31,250	36,450	46,000	------	------	------	------
LEWISTON							
DETACHED AND SEMIDETACHED	28,250	33,600	37,000	44,350	53,450	59,300	62,200
ROW DWELLINGS	24,700	29,450	32,850	39,200	47,250	52,300	54,750
WALKUP	22,650	27,950	32,150	37,900	44,000	48,100	50,800
ELEVATOR-STRUCTURE	29,750	34,700	43,750	------	------	------	------
PORTLAND							
DETACHED AND SEMIDETACHED	28,250	33,600	37,000	44,350	53,450	59,300	62,200
ROW DWELLINGS	24,700	29,450	32,850	39,200	47,250	52,300	54,750
WALKUP	23,050	28,600	32,550	38,500	44,750	48,950	51,600
ELEVATOR-STRUCTURE	29,750	34,650	43,750	------	------	------	------
WATERVILLE							
DETACHED AND SEMIDETACHED	27,200	32,500	35,900	43,000	51,800	57,350	60,000
ROW DWELLINGS	24,100	28,650	31,700	37,900	45,800	50,800	53,100
WALKUP	22,000	27,300	31,100	36,650	42,500	46,650	49,150
ELEVATOR-STRUCTURE	29,950	35,100	44,250	------	------	------	------
MASSACHUSETTS							
BOSTON							
DETACHED AND SEMIDETACHED	27,650	32,800	36,300	43,450	52,250	58,050	60,800
ROW DWELLINGS	25,900	30,850	34,350	40,950	49,350	54,850	57,300
WALKUP	25,400	30,350	33,600	40,100	48,350	53,600	56,250
ELEVATOR-STRUCTURE	38,150	44,350	56,150	------	------	------	------
WORCESTER							
DETACHED AND SEMIDETACHED	26,350	31,400	34,850	41,500	50,150	55,650	58,350
ROW DWELLINGS	24,850	29,700	33,050	39,250	47,400	52,650	55,000
WALKUP	24,150	29,100	32,350	38,250	46,150	51,300	53,800
ELEVATOR-STRUCTURE	37,050	43,450	54,700	------	------	------	------
FALL RIVER							
DETACHED AND SEMIDETACHED	26,750	32,000	35,550	42,300	50,950	56,700	59,300
ROW DWELLINGS	25,300	30,050	33,650	40,050	48,100	53,550	56,050
WALKUP	24,800	29,250	32,850	39,100	47,300	52,600	55,050
ELEVATOR-STRUCTURE	35,650	41,450	52,500	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION I--CONTINUED							
NEW HAMPSHIRE							
MANCHESTER							
DETACHED AND SEMIDETACHED	23,550	29,250	32,350	38,750	46,400	51,750	54,350
ROW DWELLINGS	22,550	27,250	30,150	35,750	43,050	48,050	50,150
WALKUP	19,650	24,400	27,750	32,850	38,000	41,650	43,950
ELEVATOR-STRUCTURE	28,050	32,650	41,200	------	------	------	------
CONCORD							
DETACHED AND SEMIDETACHED	25,350	31,450	34,750	41,450	49,750	55,450	58,250
ROW DWELLINGS	24,050	28,950	32,200	38,150	46,150	51,300	53,500
WALKUP	20,550	25,450	28,850	34,200	39,650	43,500	45,800
ELEVATOR-STRUCTURE	27,950	32,650	41,150	------	------	------	------
DOVER							
DETACHED AND SEMIDETACHED	23,050	28,450	31,550	37,650	45,150	50,400	52,900
ROW DWELLINGS	21,850	26,250	29,200	34,650	41,700	46,400	48,400
WALKUP	18,950	23,450	26,800	31,700	39,600	44,100	45,400
ELEVATOR-STRUCTURE	28,750	33,300	42,150	------	------	------	------
KEENE							
DETACHED AND SEMIDETACHED	24,200	30,050	33,100	39,650	47,550	52,900	55,600
ROW DWELLINGS	23,050	27,750	30,850	36,650	44,200	49,400	51,350
WALKUP	20,150	24,900	28,300	33,700	38,950	42,700	44,800
ELEVATOR-STRUCTURE	25,600	30,950	39,100	------	------	------	------
NASHUA							
DETACHED AND SEMIDETACHED	23,550	29,250	32,350	38,750	46,400	51,750	54,350
ROW DWELLINGS	22,550	27,250	30,150	35,750	43,050	48,050	50,150
WALKUP	20,250	25,000	28,550	33,700	39,000	43,000	45,200
ELEVATOR-STRUCTURE	28,150	32,750	41,200	------	------	------	------
PORTSMOUTH							
DETACHED AND SEMIDETACHED	24,800	30,550	33,900	40,550	48,750	54,200	56,900
ROW DWELLINGS	23,700	28,350	31,700	37,600	45,050	50,200	52,600
WALKUP	20,650	25,600	29,200	34,550	39,850	43,750	45,950
ELEVATOR-STRUCTURE	28,650	33,250	42,100	------	------	------	------
RHODE ISLAND							
PROVIDENCE							
DETACHED AND SEMIDETACHED	30,050	35,850	39,450	47,350	57,000	63,400	66,350
ROW DWELLINGS	26,200	31,150	34,900	41,400	49,700	55,450	58,100
WALKUP	24,200	29,900	33,700	40,250	46,350	51,050	53,550
ELEVATOR-STRUCTURE	34,100	39,700	50,350	------	------	------	------
VERMONT							
BURLINGTON							
DETACHED AND SEMIDETACHED	24,200	29,050	32,000	38,300	46,100	51,200	53,600
ROW DWELLINGS	23,900	28,250	31,500	37,500	44,800	50,150	52,500
WALKUP	21,150	26,000	29,800	35,200	40,700	44,900	47,250
ELEVATOR-STRUCTURE	31,400	36,550	46,400	------	------	------	------
BENNINGTON							
DETACHED AND SEMIDETACHED	24,200	29,050	32,000	38,300	46,100	51,200	53,600
ROW DWELLINGS	23,900	28,250	31,500	37,500	44,800	50,150	52,500
WALKUP	21,150	26,000	29,800	35,200	40,700	44,900	47,250
ELEVATOR-STRUCTURE	31,750	37,000	46,900	------	------	------	------
BRATTLEBORO							
DETACHED AND SEMIDETACHED	24,200	29,050	32,000	38,300	46,100	51,200	53,600
ROW DWELLINGS	23,900	28,250	31,500	37,500	44,800	50,150	52,500
WALKUP	21,150	26,000	29,800	35,200	40,700	44,900	47,250
ELEVATOR-STRUCTURE	31,750	37,000	46,900	------	------	------	------
MONTPELIER							
DETACHED AND SEMIDETACHED	23,800	28,350	31,450	37,450	45,050	50,000	52,400
ROW DWELLINGS	23,100	27,500	30,500	36,350	43,500	48,650	50,950
WALKUP	20,550	25,350	28,850	34,200	39,300	43,550	45,700
ELEVATOR-STRUCTURE	31,750	37,000	46,900	------	------	------	------
RUTLAND							
DETACHED AND SEMIDETACHED	23,950	28,450	31,550	37,850	45,350	50,600	52,850
ROW DWELLINGS	23,500	27,850	30,950	36,800	44,100	49,350	51,500
WALKUP	20,850	25,450	29,100	34,650	39,900	44,100	46,450
ELEVATOR-STRUCTURE	31,950	37,200	46,950	------	------	------	------
REGION II							
NEW JERSEY							
CAMDEN							
DETACHED AND SEMIDETACHED	27,650	33,200	36,800	43,800	53,000	58,800	61,750
ROW DWELLINGS	25,000	29,850	33,050	39,500	47,150	52,700	55,150
WALKUP	23,400	28,950	33,000	39,150	45,400	49,800	52,700
ELEVATOR-STRUCTURE	34,750	40,450	51,300	------	------	------	------
ATLANTIC CITY							
DETACHED AND SEMIDETACHED	27,200	32,750	36,200	43,200	52,150	57,800	60,650
ROW DWELLINGS	24,350	29,150	32,400	38,450	46,100	51,650	53,700
WALKUP	22,900	28,450	32,450	38,250	44,500	48,950	51,600
ELEVATOR-STRUCTURE	33,200	38,600	48,850	------	------	------	------
BURLINGTON							
DETACHED AND SEMIDETACHED	27,600	33,050	36,800	43,650	52,750	58,500	61,500
ROW DWELLINGS	24,750	29,600	33,050	39,050	46,850	52,350	54,550
WALKUP	23,600	29,050	33,000	39,100	45,250	49,750	52,600
ELEVATOR-STRUCTURE	34,900	40,750	51,550	------	------	------	------
GLOUCESTER							
DETACHED AND SEMIDETACHED	27,200	32,750	36,200	43,200	52,200	57,950	60,850
ROW DWELLINGS	24,600	29,300	32,400	38,750	46,300	51,750	54,100
WALKUP	23,100	28,650	32,450	38,300	44,550	49,100	51,650
ELEVATOR-STRUCTURE	34,750	40,450	51,300	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION II--CONTINUED							
NEW JERSEY --CONTINUED							
TRENTON :							
DETACHED AND SEMIDETACHED	27,750	33,000	36,800	43,750	52,750	58,650	61,500
ROW DWELLINGS	24,900	29,550	33,050	39,200	47,050	52,400	54,950
WALKUP	23,650	29,250	33,000	39,350	45,450	50,000	52,650
ELEVATOR-STRUCTURE	38,350	44,450	56,400	------	------	------	------
VINELAND :							
DETACHED AND SEMIDETACHED	27,700	33,150	36,800	43,750	52,900	58,800	61,600
ROW DWELLINGS	24,750	29,750	33,050	39,250	47,050	52,500	54,950
WALKUP	23,400	29,000	33,000	39,050	45,000	49,700	52,450
ELEVATOR-STRUCTURE	35,900	41,700	52,950	------	------	------	------
NEWARK :							
DETACHED AND SEMIDETACHED	30,150	35,650	39,800	47,550	57,050	63,250	66,250
ROW DWELLINGS	25,950	30,850	34,250	40,700	49,050	54,700	57,200
WALKUP	22,950	28,600	32,600	38,550	44,750	49,100	51,900
ELEVATOR-STRUCTURE	36,250	42,100	53,150	------	------	------	------
ASBURY PARK :							
DETACHED AND SEMIDETACHED	30,150	35,650	39,800	47,550	57,050	63,250	66,250
ROW DWELLINGS	25,950	30,850	34,250	40,700	49,050	54,700	57,200
WALKUP	22,550	28,100	31,900	37,750	43,900	48,200	50,800
ELEVATOR-STRUCTURE	34,650	40,350	50,900	------	------	------	------
NORTH BERGEN :							
DETACHED AND SEMIDETACHED	30,150	35,650	39,800	47,550	57,050	63,250	66,250
ROW DWELLINGS	25,950	30,850	34,250	40,700	49,050	54,700	57,200
WALKUP	23,600	29,200	33,250	39,400	45,850	50,350	52,900
ELEVATOR-STRUCTURE	36,300	42,250	53,400	------	------	------	------
FREEHOLD :							
DETACHED AND SEMIDETACHED	30,150	35,650	39,800	47,550	57,050	63,250	66,250
ROW DWELLINGS	25,950	30,850	34,250	40,700	49,050	54,700	57,200
WALKUP	22,500	28,100	31,900	37,700	43,700	48,150	50,700
ELEVATOR-STRUCTURE	34,900	40,550	51,200	------	------	------	------
NEW YORK							
ALBANY :							
DETACHED AND SEMIDETACHED	24,400	29,150	32,150	38,300	46,400	51,400	53,950
ROW DWELLINGS	21,350	25,800	28,700	34,150	41,050	45,750	47,900
WALKUP	19,100	23,850	27,000	32,100	37,100	40,750	42,900
ELEVATOR-STRUCTURE	29,600	34,200	43,550	------	------	------	------
PLATTSBURGH :							
DETACHED AND SEMIDETACHED	23,100	27,650	30,700	36,600	44,150	48,950	51,400
ROW DWELLINGS	20,750	24,650	27,400	32,550	39,100	43,600	45,450
WALKUP	18,400	22,500	25,800	30,500	35,400	38,800	40,900
ELEVATOR-STRUCTURE	26,500	32,750	41,350	------	------	------	------
SYRACUSE :							
DETACHED AND SEMIDETACHED	24,500	29,350	32,300	38,700	46,750	51,900	54,350
ROW DWELLINGS	21,800	26,100	28,900	34,400	41,350	46,200	48,350
WALKUP	19,400	23,950	27,200	32,350	37,500	41,000	43,300
ELEVATOR-STRUCTURE	29,600	34,400	43,550	------	------	------	------
POUGHKEEPSIE :							
DETACHED AND SEMIDETACHED	25,650	30,650	34,000	40,550	48,950	54,300	56,850
ROW DWELLINGS	24,500	28,900	32,300	38,450	46,200	51,550	53,900
WALKUP	20,600	25,600	29,050	34,550	39,800	43,800	46,100
ELEVATOR-STRUCTURE	29,750	34,550	43,800	------	------	------	------
BINGHAMTON :							
DETACHED AND SEMIDETACHED	24,850	29,350	32,650	39,000	47,100	52,250	54,750
ROW DWELLINGS	22,050	26,400	29,250	34,850	41,850	46,800	48,800
WALKUP	19,600	24,350	27,700	32,700	37,950	41,550	43,900
ELEVATOR-STRUCTURE	26,750	31,050	39,350	------	------	------	------
BUFFALO :							
DETACHED AND SEMIDETACHED	25,600	30,600	34,000	40,550	48,850	54,400	56,900
ROW DWELLINGS	21,500	25,550	28,350	33,800	40,550	45,350	47,250
WALKUP	19,700	24,150	27,400	32,400	37,500	41,300	43,450
ELEVATOR-STRUCTURE	28,300	33,150	41,650	------	------	------	------
ROCHESTER :							
DETACHED AND SEMIDETACHED	25,100	29,950	33,050	39,550	47,800	52,850	55,450
ROW DWELLINGS	20,900	25,000	27,800	32,950	39,500	44,050	46,150
WALKUP	19,000	23,350	26,650	31,500	36,550	40,150	42,350
ELEVATOR-STRUCTURE	27,650	32,300	40,700	------	------	------	------
JAMESTOWN :							
DETACHED AND SEMIDETACHED	24,900	29,750	33,000	39,450	47,500	52,750	55,350
ROW DWELLINGS	20,750	24,900	27,500	32,650	39,350	44,000	45,800
WALKUP	19,000	23,350	26,650	31,500	36,550	40,150	42,350
ELEVATOR-STRUCTURE	27,500	32,050	40,550	------	------	------	------
ELMIRA :							
DETACHED AND SEMIDETACHED	26,600	31,750	35,400	42,250	50,900	56,450	59,250
ROW DWELLINGS	22,200	26,700	29,550	35,050	42,150	47,100	49,050
WALKUP	20,400	25,100	28,450	33,800	39,000	43,050	45,300
ELEVATOR-STRUCTURE	29,500	34,350	43,350	------	------	------	------
NEW YORK CITY (INNER) :							
DETACHED AND SEMIDETACHED	32,400	39,000	43,150	51,500	62,000	68,950	72,250
ROW DWELLINGS	31,950	38,050	42,250	50,250	60,250	67,200	70,450
WALKUP	29,950	37,300	42,200	50,000	57,950	63,650	67,100
ELEVATOR-STRUCTURE	45,750	49,400	56,150	67,350	78,050	83,100	------
NEW YORK CITY (METRO) :							
DETACHED AND SEMIDETACHED	27,650	31,700	35,900	42,550	49,250	51,700	54,300
ROW DWELLINGS	26,850	30,700	34,900	41,300	47,800	50,200	52,700
WALKUP	25,450	29,150	33,150	39,200	45,400	47,650	50,050
ELEVATOR-STRUCTURE	44,750	48,350	55,000	65,950	76,450	81,350	------
NASSAU COUNTY :							
DETACHED AND SEMIDETACHED	27,650	31,700	35,900	42,550	49,250	51,700	54,300
ROW DWELLINGS	26,850	30,700	34,900	41,300	47,800	50,200	52,700
WALKUP	25,450	29,150	33,150	39,200	45,400	47,650	50,050
ELEVATOR-STRUCTURE	37,950	43,500	49,450	59,400	68,800	73,250	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION II--CONTINUED							
NEW YORK --CONTINUED							
SUFFOLK COUNTY :							
DETACHED AND SEMIDETACHED	24,800	27,450	30,500	36,300	43,700	46,000	48,250
ROW DWELLINGS	24,400	26,800	29,800	35,500	42,500	44,600	46,800
WALKUP	22,800	26,050	29,700	35,050	40,500	44,650	47,000
ELEVATOR-STRUCTURE	35,350	40,600	46,150	55,250	64,100	68,250	------
WESTCHESTER COUNTY :							
DETACHED AND SEMIDETACHED	26,050	28,850	31,950	38,300	45,200	47,450	49,850
ROW DWELLINGS	25,600	28,150	31,300	37,300	44,700	46,950	49,350
WALKUP	23,400	26,950	30,500	36,100	41,900	43,950	46,150
ELEVATOR-STRUCTURE	37,650	45,750	48,950	58,600	67,950	------	------
ORANGE COUNTY :							
DETACHED AND SEMIDETACHED	24,550	27,950	31,050	37,050	44,650	46,900	49,250
ROW DWELLINGS	23,950	27,100	30,150	35,550	43,000	45,100	47,400
WALKUP	21,900	25,900	29,400	34,800	40,250	44,350	46,750
ELEVATOR-STRUCTURE	34,250	39,500	44,850	53,850	62,600	66,650	------
ROCKLAND COUNTY :							
DETACHED AND SEMIDETACHED	24,250	26,800	29,800	35,600	42,850	45,000	47,250
ROW DWELLINGS	23,800	26,300	29,250	34,650	41,650	43,650	45,900
WALKUP	22,100	25,350	28,750	34,100	39,500	43,400	45,700
ELEVATOR-STRUCTURE	36,300	38,850	44,100	52,950	61,400	65,300	------
PUERTO RICO							
SAN JUAN :							
DETACHED AND SEMIDETACHED	20,150	24,050	26,700	31,850	38,400	42,550	44,750
ROW DWELLINGS	19,900	23,800	26,500	31,150	37,700	41,850	43,900
WALKUP	16,800	20,850	23,650	28,150	32,500	35,800	37,700
ELEVATOR-STRUCTURE	21,900	25,750	32,400	36,050	39,500	------	------
OLD SAN JUAN :							
DETACHED AND SEMIDETACHED	24,050	28,900	31,900	38,150	46,050	51,050	53,600
ROW DWELLINGS	23,850	28,550	31,800	37,550	45,300	50,300	52,750
WALKUP	20,250	24,950	28,350	33,750	38,950	42,950	45,300
ELEVATOR-STRUCTURE	26,250	30,700	38,850	43,300	47,450	------	------
PONCE :							
DETACHED AND SEMIDETACHED	20,200	24,200	26,750	32,000	38,450	42,650	44,800
ROW DWELLINGS	20,000	23,950	26,600	31,200	37,800	41,950	44,000
WALKUP	17,000	20,900	23,750	28,150	32,650	35,850	37,750
ELEVATOR-STRUCTURE	22,050	25,800	32,550	36,150	39,650	------	------
MAYAGUEZ :							
DETACHED AND SEMIDETACHED	20,200	24,200	26,750	32,000	38,450	42,650	44,800
ROW DWELLINGS	20,000	23,950	26,600	31,200	37,800	41,950	44,000
WALKUP	17,000	20,900	23,750	28,150	32,650	35,850	37,750
ELEVATOR-STRUCTURE	22,050	25,800	32,550	36,150	39,650	------	------
ARECIBO :							
DETACHED AND SEMIDETACHED	20,200	24,200	26,750	32,000	38,450	42,650	44,800
ROW DWELLINGS	20,000	23,950	26,600	31,200	37,800	41,950	44,000
WALKUP	17,000	20,900	23,750	28,150	32,650	35,850	37,750
ELEVATOR-STRUCTURE	22,050	25,800	32,550	36,150	39,650	------	------
VIRGIN ISLANDS							
ST. THOMAS :							
DETACHED AND SEMIDETACHED	29,700	35,600	39,400	47,150	56,750	63,000	66,100
ROW DWELLINGS	29,450	35,050	38,950	46,350	55,650	62,000	65,000
WALKUP	25,300	31,000	35,300	41,800	48,600	53,300	56,150
ELEVATOR-STRUCTURE	30,450	35,400	45,100	50,000	54,950	------	------
ST. CROIX :							
DETACHED AND SEMIDETACHED	28,950	34,600	38,450	46,050	55,200	61,450	64,250
ROW DWELLINGS	28,800	34,400	38,200	45,300	54,450	60,650	63,500
WALKUP	24,400	30,050	34,100	40,300	46,900	51,650	54,250
ELEVATOR-STRUCTURE	29,650	34,650	43,800	48,750	53,500	------	------
REGION III							
DELAWARE							
WILMINGTON :							
DETACHED AND SEMIDETACHED	27,050	32,450	35,950	42,950	51,600	57,550	60,250
ROW DWELLINGS	22,400	26,700	29,450	35,200	42,550	47,200	49,550
WALKUP	20,800	25,450	28,950	34,650	40,100	43,750	46,150
ELEVATOR-STRUCTURE	30,700	35,650	45,500	------	------	------	------
DOVER :							
DETACHED AND SEMIDETACHED	26,700	32,350	35,700	42,550	51,100	57,100	59,650
ROW DWELLINGS	22,000	26,350	29,250	34,750	42,150	46,700	48,850
WALKUP	20,450	25,200	28,700	34,050	39,500	43,300	45,550
ELEVATOR-STRUCTURE	30,600	35,550	45,200	------	------	------	------
WASHINGTON, D.C.							
WASHINGTON, D.C. :							
DETACHED AND SEMIDETACHED	32,550	39,000	43,050	51,450	61,950	69,100	72,100
ROW DWELLINGS	25,750	30,800	34,050	40,600	48,900	54,550	56,850
WALKUP	23,650	28,950	33,300	39,100	45,450	50,200	52,650
ELEVATOR-STRUCTURE	34,150	39,400	50,050	------	------	------	------
MARYLAND							
BALTIMORE :							
DETACHED AND SEMIDETACHED	23,900	28,750	31,850	38,000	45,600	51,150	53,300
ROW DWELLINGS	19,300	23,300	25,650	30,650	36,800	40,850	42,900
WALKUP	17,900	22,100	25,100	29,750	34,550	37,850	39,900
ELEVATOR-STRUCTURE	28,800	33,450	42,500	------	------	------	------
BALTIMORE CITY :							
DETACHED AND SEMIDETACHED	25,750	31,000	34,300	40,850	49,000	54,950	57,300
ROW DWELLINGS	20,900	25,200	27,700	33,150	39,800	44,150	46,300
WALKUP	19,300	23,850	27,100	32,200	37,300	40,900	43,150
ELEVATOR-STRUCTURE	31,200	36,250	45,900	------	------	------	------
HAGERSTOWN :							
DETACHED AND SEMIDETACHED	23,850	28,500	31,650	37,850	45,500	50,800	53,000
ROW DWELLINGS	19,150	22,950	25,450	30,400	36,400	40,500	42,450
WALKUP	17,800	22,000	24,900	29,600	34,350	37,700	39,850
ELEVATOR-STRUCTURE	28,700	33,350	42,200	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION III--CONTINUED							
MARYLAND --CONTINUED							
SALISBURY							
DETACHED AND SEMIDETACHED	24,200	29,050	32,150	38,400	46,150	51,400	53,800
ROW DWELLINGS	19,650	23,400	25,850	30,950	37,200	41,350	43,250
WALKUP	18,100	22,400	25,350	30,150	34,950	38,250	40,350
ELEVATOR-STRUCTURE	29,200	33,950	42,900	------	------	------	------
WALDORF							
DETACHED AND SEMIDETACHED	24,950	30,000	33,250	39,550	47,450	53,150	55,450
ROW DWELLINGS	20,050	24,200	26,700	31,950	38,300	42,600	44,650
WALKUP	18,650	23,100	26,150	31,050	36,050	39,600	41,650
ELEVATOR-STRUCTURE	24,300	28,300	35,900	------	------	------	------
PENNSYLVANIA							
PHILADELPHIA							
DETACHED AND SEMIDETACHED	28,150	34,100	36,850	44,900	53,800	60,100	62,600
ROW DWELLINGS	24,350	29,300	32,400	38,500	46,350	51,700	53,650
WALKUP	20,800	25,750	29,300	34,550	40,100	44,250	46,400
ELEVATOR-STRUCTURE	34,050	39,500	50,100	------	------	------	------
ALLENTOWN							
DETACHED AND SEMIDETACHED	26,750	32,050	35,350	42,350	50,850	56,700	59,300
ROW DWELLINGS	22,700	27,250	30,100	35,900	43,100	48,000	50,050
WALKUP	20,750	25,700	29,200	34,550	40,000	44,100	46,250
ELEVATOR-STRUCTURE	30,800	35,700	45,150	------	------	------	------
BELLEFONTE							
DETACHED AND SEMIDETACHED	26,550	32,050	35,550	42,350	50,850	56,750	59,300
ROW DWELLINGS	22,650	27,200	30,150	35,900	43,100	48,100	49,900
WALKUP	20,850	25,750	29,300	34,500	40,100	44,150	46,250
ELEVATOR-STRUCTURE	32,200	37,300	47,550	------	------	------	------
WELLSBORO							
DETACHED AND SEMIDETACHED	27,300	32,600	36,250	43,200	52,000	57,700	60,550
ROW DWELLINGS	22,950	27,650	30,550	36,200	43,550	48,700	50,750
WALKUP	21,300	26,250	29,650	35,300	40,800	45,000	47,250
ELEVATOR-STRUCTURE	39,500	46,100	58,050	------	------	------	------
HARRISBURG							
DETACHED AND SEMIDETACHED	26,400	31,950	35,300	42,000	50,500	56,300	58,800
ROW DWELLINGS	22,500	26,950	29,850	35,450	42,700	47,550	49,550
WALKUP	20,550	25,450	28,950	34,250	39,800	43,750	45,900
ELEVATOR-STRUCTURE	30,900	35,950	45,500	------	------	------	------
LANCASTER							
DETACHED AND SEMIDETACHED	25,850	31,350	34,450	41,100	49,550	55,300	57,700
ROW DWELLINGS	22,000	26,400	29,050	34,700	41,800	46,500	48,400
WALKUP	20,150	24,850	28,350	33,550	38,950	42,900	45,000
ELEVATOR-STRUCTURE	30,500	35,300	44,750	------	------	------	------
YORK							
DETACHED AND SEMIDETACHED	25,850	31,350	34,450	41,100	49,550	55,300	57,700
ROW DWELLINGS	22,000	26,400	29,050	34,650	41,800	46,500	48,400
WALKUP	20,150	24,850	28,350	33,550	38,950	42,900	45,000
ELEVATOR-STRUCTURE	30,500	35,300	44,750	------	------	------	------
READING							
DETACHED AND SEMIDETACHED	26,200	31,800	34,950	41,750	50,200	56,050	58,550
ROW DWELLINGS	22,350	26,850	29,600	35,300	42,450	47,250	49,150
WALKUP	20,350	25,150	28,700	33,850	39,300	43,300	45,300
ELEVATOR-STRUCTURE	30,500	35,300	44,750	------	------	------	------
SCRANTON							
DETACHED AND SEMIDETACHED	27,250	32,900	36,250	43,200	52,000	57,900	60,500
ROW DWELLINGS	24,600	29,450	32,550	38,850	46,550	52,050	54,050
WALKUP	21,200	26,100	29,600	35,050	40,700	44,800	46,950
ELEVATOR-STRUCTURE	32,500	37,700	47,950	------	------	------	------
PITTSBURGH							
DETACHED AND SEMIDETACHED	28,500	34,100	37,800	44,850	53,900	60,100	62,800
ROW DWELLINGS	25,300	30,350	33,550	39,900	48,100	53,450	55,950
WALKUP	24,750	29,600	32,800	39,050	47,000	52,200	54,650
ELEVATOR-STRUCTURE	32,700	38,150	48,300	------	------	------	------
ALTOONA							
DETACHED AND SEMIDETACHED	27,300	32,750	36,350	43,300	51,800	57,900	60,400
ROW DWELLINGS	24,450	29,500	32,400	38,750	46,500	51,850	54,200
WALKUP	22,350	27,500	31,700	37,250	43,100	47,500	49,900
ELEVATOR-STRUCTURE	31,800	36,900	46,550	------	------	------	------
ERIE							
DETACHED AND SEMIDETACHED	27,900	33,400	36,950	44,000	52,950	59,000	61,600
ROW DWELLINGS	25,250	30,350	33,300	39,500	47,800	53,400	55,600
WALKUP	22,650	28,000	32,050	37,850	43,950	48,500	50,900
ELEVATOR-STRUCTURE	32,150	37,300	47,250	------	------	------	------
JOHNSTOWN							
DETACHED AND SEMIDETACHED	27,300	32,750	36,350	43,250	51,850	57,950	60,500
ROW DWELLINGS	24,550	29,400	32,400	38,500	46,600	51,750	54,050
WALKUP	22,350	27,700	31,700	37,300	43,300	47,700	50,100
ELEVATOR-STRUCTURE	31,650	36,800	46,550	------	------	------	------
VIRGINIA							
RICHMOND							
DETACHED AND SEMIDETACHED	18,350	22,100	27,200	32,550	39,200	43,550	45,450
ROW DWELLINGS	16,000	19,350	23,850	28,450	34,300	38,050	39,700
WALKUP	14,600	18,300	23,000	27,200	31,450	34,600	36,500
ELEVATOR-STRUCTURE	28,800	33,400	42,250	------	------	------	------
NORFOLK							
DETACHED AND SEMIDETACHED	17,150	20,700	25,350	30,250	36,450	40,600	42,400
ROW DWELLINGS	14,850	18,050	22,250	26,550	31,950	35,500	37,000
WALKUP	13,000	16,100	20,450	24,100	27,800	30,750	32,200
ELEVATOR-STRUCTURE	24,350	28,450	35,900	------	------	------	------
NEWPORT NEWS							
DETACHED AND SEMIDETACHED	16,400	19,750	24,250	28,950	34,900	38,750	40,400
ROW DWELLINGS	14,200	17,300	21,200	25,300	30,500	33,950	35,400
WALKUP	13,250	16,550	21,000	24,800	28,750	31,800	33,350
ELEVATOR-STRUCTURE	24,600	28,650	36,100	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION III--CONTINUED							
VIRGINIA --CONTINUED							
HARRISONBURG :							
DETACHED AND SEMIDETACHED	16,500	19,800	24,400	29,100	35,050	39,050	40,600
ROW DWELLINGS	14,200	17,350	21,250	25,450	30,600	34,150	35,500
WALKUP	13,100	16,300	20,750	24,350	28,350	31,200	32,800
ELEVATOR-STRUCTURE	22,500	26,150	33,100	------	------	------	------
NORTON :							
DETACHED AND SEMIDETACHED	21,050	25,400	31,150	37,450	45,050	49,950	52,150
ROW DWELLINGS	18,650	22,550	27,600	33,100	39,850	44,350	46,300
WALKUP	17,450	21,450	27,400	32,100	37,400	41,150	43,100
ELEVATOR-STRUCTURE	31,900	36,900	46,850	------	------	------	------
CHARLOTTESVILLE :							
DETACHED AND SEMIDETACHED	19,100	23,000	28,400	33,650	40,750	45,350	47,200
ROW DWELLINGS	16,550	20,100	24,700	29,650	35,700	39,650	41,300
WALKUP	15,350	19,100	25,350	28,650	33,250	36,650	38,600
ELEVATOR-STRUCTURE	26,100	30,350	38,500	------	------	------	------
WEST VIRGINIA							
CHARLESTON :							
DETACHED AND SEMIDETACHED	19,850	24,000	29,800	35,400	42,600	47,650	49,550
ROW DWELLINGS	17,700	21,350	26,300	31,450	37,650	41,950	43,800
WALKUP	16,450	20,500	26,100	30,800	36,050	39,400	41,350
ELEVATOR-STRUCTURE	30,400	35,200	44,750	------	------	------	------
BLUEFIELD :							
DETACHED AND SEMIDETACHED	19,400	23,500	28,850	34,500	41,500	46,350	48,150
ROW DWELLINGS	17,150	20,850	25,600	30,550	36,650	41,050	42,850
WALKUP	16,050	19,950	25,550	30,000	34,700	38,350	40,250
ELEVATOR-STRUCTURE	29,550	34,400	43,550	------	------	------	------
HUNTINGTON :							
DETACHED AND SEMIDETACHED	19,600	23,650	29,100	34,650	41,950	46,750	48,700
ROW DWELLINGS	17,200	20,950	26,000	30,850	36,950	41,350	43,100
WALKUP	16,300	20,150	25,600	30,350	35,150	38,750	40,600
ELEVATOR-STRUCTURE	29,900	34,700	44,150	------	------	------	------
PARKERSBURG :							
DETACHED AND SEMIDETACHED	20,000	24,150	29,850	35,550	42,850	47,850	49,900
ROW DWELLINGS	17,800	21,550	26,500	31,650	37,800	42,200	44,000
WALKUP	16,300	20,150	25,600	30,350	35,150	38,750	40,600
ELEVATOR-STRUCTURE	29,900	34,700	44,150	------	------	------	------
WHEELING :							
DETACHED AND SEMIDETACHED	19,400	23,500	28,850	34,500	41,500	46,350	48,150
ROW DWELLINGS	17,150	20,850	25,600	30,550	36,650	41,050	42,850
WALKUP	16,050	19,950	25,550	30,000	34,700	38,350	40,250
ELEVATOR-STRUCTURE	29,550	34,400	43,550	------	------	------	------
MARTINSBURG :							
DETACHED AND SEMIDETACHED	18,050	21,950	27,050	32,200	38,700	43,150	45,050
ROW DWELLINGS	16,150	19,400	23,800	28,250	34,300	38,050	39,900
WALKUP	14,750	18,400	23,500	27,550	32,050	35,400	37,200
ELEVATOR-STRUCTURE	29,550	34,400	43,550	------	------	------	------
FAIRMONT :							
DETACHED AND SEMIDETACHED	19,900	24,000	29,750	35,400	42,600	47,650	49,550
ROW DWELLINGS	17,700	21,350	26,300	31,450	37,650	41,950	43,950
WALKUP	15,950	19,800	25,050	29,700	34,250	37,900	39,850
ELEVATOR-STRUCTURE	29,500	34,400	43,400	------	------	------	------
POINT PLEASANT :							
DETACHED AND SEMIDETACHED	18,650	22,600	27,850	33,250	39,950	44,500	46,450
ROW DWELLINGS	16,500	20,050	24,700	29,400	35,300	39,300	41,200
WALKUP	15,550	19,350	24,600	28,850	33,500	37,000	38,750
ELEVATOR-STRUCTURE	29,850	34,550	43,900	------	------	------	------
REGION IV							
ALABAMA							
BIRMINGHAM :							
DETACHED AND SEMIDETACHED	15,900	19,400	23,850	28,650	34,500	38,200	40,000
ROW DWELLINGS	14,250	16,950	21,050	25,100	30,200	33,550	35,200
WALKUP	12,400	15,250	19,350	22,800	26,500	29,350	30,700
ELEVATOR-STRUCTURE	25,400	29,800	37,400	------	------	------	------
DOTHAN :							
DETACHED AND SEMIDETACHED	15,200	18,500	22,800	27,450	32,850	36,400	38,250
ROW DWELLINGS	13,950	16,900	20,700	24,600	29,750	33,100	34,650
WALKUP	11,650	14,650	18,500	21,950	25,400	27,950	29,450
ELEVATOR-STRUCTURE	24,700	28,850	36,350	------	------	------	------
FLORENCE :							
DETACHED AND SEMIDETACHED	15,450	18,700	22,800	27,650	33,150	36,850	38,500
ROW DWELLINGS	13,850	16,750	20,550	24,850	29,800	33,050	34,550
WALKUP	11,700	14,700	18,550	22,100	25,600	28,050	29,550
ELEVATOR-STRUCTURE	25,200	29,550	37,150	------	------	------	------
HUNTSVILLE :							
DETACHED AND SEMIDETACHED	15,050	18,250	22,600	26,850	32,400	36,050	37,750
ROW DWELLINGS	13,500	16,100	20,050	23,850	28,700	32,050	33,450
WALKUP	11,600	14,500	18,350	21,600	25,050	27,600	28,950
ELEVATOR-STRUCTURE	24,700	28,850	36,500	------	------	------	------
MOBILE :							
DETACHED AND SEMIDETACHED	16,750	20,250	25,000	29,800	35,900	39,900	41,650
ROW DWELLINGS	14,700	17,950	22,050	26,200	31,500	35,050	36,750
WALKUP	12,450	15,500	19,650	23,200	27,050	29,800	31,400
ELEVATOR-STRUCTURE	26,050	30,300	38,150	------	------	------	------
MONTGOMERY :							
DETACHED AND SEMIDETACHED	15,150	18,400	22,700	27,400	32,800	36,350	38,150
ROW DWELLINGS	13,500	16,300	20,100	23,850	28,800	32,050	33,550
WALKUP	11,650	14,600	18,450	21,850	25,350	27,750	29,350
ELEVATOR-STRUCTURE	25,000	29,300	36,700	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IV--CONTINUED							
ALABAMA --CONTINUED							
TUSCALOOSA :							
DETACHED AND SEMIDETACHED	15,050	18,250	22,600	26,850	32,400	36,050	37,750
ROW DWELLINGS	13,450	16,000	19,950	23,700	28,650	31,850	33,300
WALKUP	11,600	14,500	18,350	21,600	25,050	27,600	28,950
ELEVATOR-STRUCTURE	24,700	28,850	36,500	------	------	------	------
FLORIDA							
JACKSONVILLE :							
DETACHED AND SEMIDETACHED	13,900	17,250	22,100	25,900	30,200	32,800	34,450
ROW DWELLINGS	13,450	16,600	21,200	24,950	28,950	31,700	33,200
WALKUP	12,950	16,050	20,600	24,200	28,150	30,900	32,400
ELEVATOR-STRUCTURE	22,150	25,650	32,700	------	------	------	------
PENSACOLA :							
DETACHED AND SEMIDETACHED	13,900	17,150	21,850	25,550	29,900	32,650	34,250
ROW DWELLINGS	13,400	16,500	20,950	24,600	28,700	31,350	33,000
WALKUP	12,950	16,050	20,400	23,900	27,950	30,600	32,100
ELEVATOR-STRUCTURE	21,200	25,650	31,150	------	------	------	------
MIAMI :							
DETACHED AND SEMIDETACHED	17,300	20,700	25,500	30,550	36,800	40,900	42,800
ROW DWELLINGS	15,200	18,400	22,750	27,100	32,450	36,100	38,000
WALKUP	14,000	17,650	22,350	26,600	30,700	33,900	35,650
ELEVATOR-STRUCTURE	26,500	30,800	39,000	------	------	------	------
KEY WEST :							
DETACHED AND SEMIDETACHED	17,300	20,700	25,500	30,550	36,800	40,900	42,800
ROW DWELLINGS	15,200	18,350	22,750	27,100	32,450	36,050	37,950
WALKUP	14,000	17,650	22,350	26,600	30,700	33,900	35,650
ELEVATOR-STRUCTURE	26,500	30,800	39,000	------	------	------	------
TAMPA :							
DETACHED AND SEMIDETACHED	16,950	20,300	25,300	30,250	36,150	40,350	42,200
ROW DWELLINGS	15,150	18,200	22,650	27,000	32,600	36,250	37,950
WALKUP	12,300	16,050	20,350	24,200	28,100	30,850	32,350
ELEVATOR-STRUCTURE	26,650	31,000	39,250	------	------	------	------
ORLANDO :							
DETACHED AND SEMIDETACHED	16,500	19,700	24,350	29,150	34,950	39,050	40,750
ROW DWELLINGS	14,850	17,850	22,000	26,300	31,500	35,150	36,750
WALKUP	13,700	17,150	21,650	25,750	29,850	32,950	34,450
ELEVATOR-STRUCTURE	27,700	32,050	40,300	------	------	------	------
GEORGIA							
ATLANTA :							
DETACHED AND SEMIDETACHED	15,400	18,700	22,900	27,400	32,850	36,500	38,150
ROW DWELLINGS	14,950	18,050	22,400	26,550	32,000	35,550	37,200
WALKUP	14,100	17,350	22,150	26,100	30,300	33,200	35,000
ELEVATOR-STRUCTURE	25,400	29,350	37,350	------	------	------	------
ALBANY :							
DETACHED AND SEMIDETACHED	15,400	18,550	22,750	27,100	32,500	36,150	37,900
ROW DWELLINGS	14,900	18,000	22,150	26,350	31,650	35,350	36,950
WALKUP	13,950	17,300	21,950	25,750	30,150	32,950	34,800
ELEVATOR-STRUCTURE	25,150	29,250	36,950	------	------	------	------
AUGUSTA :							
DETACHED AND SEMIDETACHED	15,800	18,950	23,500	28,050	33,750	37,350	39,150
ROW DWELLINGS	15,550	18,600	22,800	27,450	33,000	36,500	38,250
WALKUP	14,150	17,350	22,150	26,200	30,300	33,550	35,050
ELEVATOR-STRUCTURE	23,650	27,350	34,750	------	------	------	------
BRUNSWICK :							
DETACHED AND SEMIDETACHED	14,450	17,400	21,400	25,600	30,750	34,200	35,650
ROW DWELLINGS	13,950	16,900	20,900	24,800	29,850	33,250	34,900
WALKUP	12,800	15,900	20,150	23,800	27,700	30,350	31,900
ELEVATOR-STRUCTURE	25,150	29,250	36,950	------	------	------	------
COLUMBUS :							
DETACHED AND SEMIDETACHED	14,950	18,050	22,400	26,850	32,300	35,650	37,500
ROW DWELLINGS	14,850	17,850	21,950	26,200	31,450	34,950	36,500
WALKUP	13,850	17,000	21,750	25,550	29,700	32,800	34,250
ELEVATOR-STRUCTURE	25,050	29,050	36,800	------	------	------	------
MACON :							
DETACHED AND SEMIDETACHED	15,300	18,150	22,750	27,050	32,700	36,050	37,800
ROW DWELLINGS	14,950	18,000	22,050	26,350	31,750	35,250	36,900
WALKUP	13,500	16,600	21,050	24,900	28,800	31,850	33,250
ELEVATOR-STRUCTURE	25,050	29,050	36,800	------	------	------	------
ROME :							
DETACHED AND SEMIDETACHED	14,500	17,450	21,700	25,950	31,100	34,450	36,100
ROW DWELLINGS	14,250	17,150	21,150	25,250	30,150	33,600	35,150
WALKUP	13,000	16,000	20,500	24,100	27,850	30,800	32,400
ELEVATOR-STRUCTURE	24,650	28,750	36,450	------	------	------	------
SAVANNAH :							
DETACHED AND SEMIDETACHED	14,450	17,400	21,400	25,600	30,750	34,200	35,650
ROW DWELLINGS	13,950	16,900	20,900	24,800	29,850	33,250	34,900
WALKUP	12,800	15,900	20,150	23,800	27,700	30,350	31,900
ELEVATOR-STRUCTURE	25,150	29,250	36,950	------	------	------	------
VALDOSTA :							
DETACHED AND SEMIDETACHED	14,900	17,950	22,300	26,700	32,050	35,500	37,150
ROW DWELLINGS	14,650	17,650	21,800	25,950	31,050	34,550	36,200
WALKUP	13,750	16,850	21,500	25,350	29,300	32,400	33,850
ELEVATOR-STRUCTURE	24,650	28,750	36,450	------	------	------	------
KENTUCKY							
LOUISVILLE :							
DETACHED AND SEMIDETACHED	17,750	21,200	26,150	31,400	37,750	41,850	43,900
ROW DWELLINGS	16,850	20,150	24,900	29,900	35,950	39,950	41,900
WALKUP	16,800	20,000	24,750	29,700	35,800	39,650	41,600
ELEVATOR-STRUCTURE	31,700	36,950	46,800	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IV--CONTINUED							
KENTUCKY --CONTINUED							
ASHLAND							
DETACHED AND SEMIDETACHED	18,300	21,850	27,000	32,300	38,950	43,100	45,200
ROW DWELLINGS	17,350	20,800	25,600	30,850	37,050	41,100	43,150
WALKUP	17,250	20,650	25,500	30,600	36,850	40,800	42,800
ELEVATOR-STRUCTURE	32,700	38,250	48,300	------	------	------	------
COVINGTON							
DETACHED AND SEMIDETACHED	18,300	21,850	27,000	32,300	38,950	43,100	45,200
ROW DWELLINGS	17,350	20,800	25,600	30,850	37,050	41,100	43,150
WALKUP	17,250	20,650	25,500	30,600	36,850	40,800	42,800
ELEVATOR-STRUCTURE	33,500	39,150	49,150	------	------	------	------
MIDDLESBORO							
DETACHED AND SEMIDETACHED	20,350	24,350	30,100	36,100	43,450	48,100	50,500
ROW DWELLINGS	19,400	23,200	28,650	34,450	41,400	45,900	48,200
WALKUP	19,300	23,000	28,500	34,200	41,150	45,600	47,850
ELEVATOR-STRUCTURE	31,700	36,950	46,800	------	------	------	------
OWENSBORO							
DETACHED AND SEMIDETACHED	17,750	21,200	26,150	31,400	37,750	41,850	43,900
ROW DWELLINGS	16,850	20,150	24,900	29,900	35,950	39,950	41,900
WALKUP	16,800	20,000	24,750	29,700	35,800	39,650	41,600
ELEVATOR-STRUCTURE	32,050	37,300	47,200	------	------	------	------
PADUCAH							
DETACHED AND SEMIDETACHED	17,900	21,400	26,450	31,650	38,150	42,250	44,400
ROW DWELLINGS	17,000	20,400	25,100	30,200	36,350	40,300	42,300
WALKUP	16,950	20,250	25,050	30,000	36,150	40,100	42,050
ELEVATOR-STRUCTURE	30,050	35,150	44,350	------	------	------	------
MISSISSIPPI							
JACKSON							
DETACHED AND SEMIDETACHED	15,650	19,000	23,400	27,950	33,700	37,350	39,100
ROW DWELLINGS	14,600	17,600	21,550	25,800	31,000	34,250	36,150
WALKUP	12,350	15,400	19,800	23,300	26,900	29,650	31,150
ELEVATOR-STRUCTURE	21,450	24,800	31,450	------	------	------	------
CORINTH							
DETACHED AND SEMIDETACHED	15,950	19,350	23,900	28,550	34,450	38,200	39,950
ROW DWELLINGS	14,250	17,400	21,550	25,550	30,950	34,200	35,900
WALKUP	12,900	15,950	20,300	23,900	27,900	30,500	32,050
ELEVATOR-STRUCTURE	21,900	25,300	31,950	------	------	------	------
GREENVILLE							
DETACHED AND SEMIDETACHED	15,650	19,000	23,400	27,950	33,700	37,350	39,100
ROW DWELLINGS	14,600	17,600	21,550	25,800	31,000	34,250	36,150
WALKUP	12,350	15,400	19,800	23,300	26,900	29,650	31,150
ELEVATOR-STRUCTURE	21,200	24,750	31,350	------	------	------	------
GREENWOOD							
DETACHED AND SEMIDETACHED	15,650	19,000	23,400	27,950	33,700	37,350	39,100
ROW DWELLINGS	14,600	17,600	21,550	25,800	31,000	34,250	36,150
WALKUP	12,900	16,100	20,400	24,050	27,950	30,750	32,300
ELEVATOR-STRUCTURE	21,450	24,800	31,450	------	------	------	------
GULFPORT							
DETACHED AND SEMIDETACHED	15,700	19,100	23,450	28,000	33,750	37,400	39,300
ROW DWELLINGS	14,650	17,650	21,750	25,850	31,050	34,400	36,200
WALKUP	12,150	15,300	19,350	22,700	26,400	29,000	30,300
ELEVATOR-STRUCTURE	21,600	25,250	31,850	------	------	------	------
HATTIESBURG							
DETACHED AND SEMIDETACHED	15,650	19,000	23,400	27,950	33,700	37,350	39,100
ROW DWELLINGS	14,600	17,600	21,550	25,800	31,000	34,250	36,150
WALKUP	12,350	15,400	19,800	23,300	26,900	29,650	31,150
ELEVATOR-STRUCTURE	21,450	24,800	31,450	------	------	------	------
SOUTHAVEN							
DETACHED AND SEMIDETACHED	15,500	18,600	23,150	27,400	33,100	36,650	38,550
ROW DWELLINGS	14,300	17,350	21,400	25,300	30,500	33,900	35,450
WALKUP	13,100	16,300	20,800	24,400	28,350	31,400	32,750
ELEVATOR-STRUCTURE	20,950	24,500	31,000	------	------	------	------
NORTH CAROLINA							
GREENSBORO							
DETACHED AND SEMIDETACHED	15,900	18,950	23,050	27,600	32,850	36,500	38,100
ROW DWELLINGS	15,350	18,050	22,350	26,350	31,650	35,150	36,750
WALKUP	13,400	16,250	20,550	24,150	28,000	30,600	32,200
ELEVATOR-STRUCTURE	24,350	28,400	35,950	------	------	------	------
ASHEVILLE							
DETACHED AND SEMIDETACHED	16,300	19,450	23,800	28,450	33,900	37,650	39,400
ROW DWELLINGS	16,050	19,150	23,350	27,600	33,150	36,900	38,400
WALKUP	14,100	17,450	21,950	25,750	29,700	32,150	34,250
ELEVATOR-STRUCTURE	25,150	29,000	36,700	------	------	------	------
CHARLOTTE							
DETACHED AND SEMIDETACHED	16,100	19,200	23,400	27,950	33,350	37,050	38,650
ROW DWELLINGS	15,600	18,550	22,750	26,850	32,000	35,550	37,200
WALKUP	14,100	17,350	21,950	25,700	29,600	32,400	34,100
ELEVATOR-STRUCTURE	24,350	28,400	35,950	------	------	------	------
DURHAM							
DETACHED AND SEMIDETACHED	15,550	18,500	22,700	27,050	32,300	36,000	37,650
ROW DWELLINGS	15,300	18,050	22,200	26,200	31,550	34,900	36,550
WALKUP	13,250	15,550	20,550	24,100	27,800	30,300	32,050
ELEVATOR-STRUCTURE	24,200	28,350	35,800	------	------	------	------
ELIZABETH CITY							
DETACHED AND SEMIDETACHED	17,050	20,450	24,850	29,650	35,400	39,450	41,050
ROW DWELLINGS	15,200	18,300	22,350	26,700	32,000	35,500	37,000
WALKUP	14,250	17,450	22,100	25,750	29,750	32,850	34,350
ELEVATOR-STRUCTURE	24,750	28,800	36,400	------	------	------	------
GREENVILLE							
DETACHED AND SEMIDETACHED	15,600	18,650	22,750	27,050	32,500	36,100	37,700
ROW DWELLINGS	15,300	18,100	22,300	26,100	31,450	34,850	36,500
WALKUP	12,900	15,900	20,200	23,550	27,150	29,700	31,350
ELEVATOR-STRUCTURE	23,950	27,200	33,800	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IV--CONTINUED							
NORTH CAROLINA --CONTINUED							
RALEIGH :							
DETACHED AND SEMIDETACHED	15,600	18,750	22,800	27,200	32,600	36,100	37,700
ROW DWELLINGS	15,300	18,250	22,200	26,200	31,550	34,900	36,550
WALKUP	13,050	16,150	20,250	24,050	27,700	30,350	32,050
ELEVATOR-STRUCTURE	24,200	28,350	35,800	------	------	------	------
WILMINGTON :							
DETACHED AND SEMIDETACHED	15,200	18,300	22,500	27,050	32,600	36,150	37,750
ROW DWELLINGS	15,050	17,900	21,650	25,450	30,400	33,800	35,400
WALKUP	13,850	17,000	21,400	24,950	28,950	31,650	33,200
ELEVATOR-STRUCTURE	24,350	28,050	34,900	------	------	------	------
WINSTON-SALEM :							
DETACHED AND SEMIDETACHED	16,050	19,050	23,300	27,850	33,350	36,750	38,600
ROW DWELLINGS	15,150	18,050	22,000	26,000	31,200	34,650	36,150
WALKUP	13,700	16,800	21,150	24,700	28,550	31,100	32,750
ELEVATOR-STRUCTURE	24,200	28,350	35,800	------	------	------	------
FAYETTEVILLE :							
DETACHED AND SEMIDETACHED	15,600	18,750	22,800	27,200	32,600	36,100	37,700
ROW DWELLINGS	15,200	18,050	22,000	26,000	31,200	34,650	36,150
WALKUP	13,700	16,800	21,250	24,800	28,700	31,350	32,900
ELEVATOR-STRUCTURE	23,750	27,200	33,750	------	------	------	------
SOUTH CAROLINA							
COLUMBIA :							
DETACHED AND SEMIDETACHED	15,450	18,700	23,000	27,500	33,100	36,700	38,500
ROW DWELLINGS	14,150	16,950	20,850	24,750	29,950	33,250	34,800
WALKUP	12,400	15,400	19,600	23,550	26,750	29,400	31,100
ELEVATOR-STRUCTURE	26,300	30,600	38,500	------	------	------	------
AIKEN :							
DETACHED AND SEMIDETACHED	15,450	18,700	23,000	27,500	33,050	36,750	38,550
ROW DWELLINGS	14,100	16,950	20,850	24,750	29,950	33,150	34,800
WALKUP	12,900	16,100	20,350	24,050	27,850	30,750	32,450
ELEVATOR-STRUCTURE	26,750	31,000	39,350	------	------	------	------
ANDERSON :							
DETACHED AND SEMIDETACHED	15,250	18,500	22,700	27,200	32,750	36,300	38,250
ROW DWELLINGS	13,950	16,700	20,700	24,600	29,650	32,850	34,300
WALKUP	12,000	14,800	18,950	22,500	25,850	28,600	30,100
ELEVATOR-STRUCTURE	26,600	30,850	38,650	------	------	------	------
BEAUFORT :							
DETACHED AND SEMIDETACHED	15,700	19,150	23,500	28,150	33,850	37,550	39,500
ROW DWELLINGS	14,450	17,600	21,350	25,400	30,500	33,950	35,650
WALKUP	12,750	15,850	20,000	23,550	27,450	30,200	31,700
ELEVATOR-STRUCTURE	27,050	31,250	39,500	------	------	------	------
CHARLESTON :							
DETACHED AND SEMIDETACHED	16,950	20,550	25,300	30,400	36,500	40,450	42,550
ROW DWELLINGS	15,500	18,650	23,200	27,550	33,100	36,750	38,450
WALKUP	13,300	16,750	21,150	24,950	28,950	31,800	33,450
ELEVATOR-STRUCTURE	27,650	32,000	40,500	------	------	------	------
FLORENCE :							
DETACHED AND SEMIDETACHED	14,750	17,950	22,000	26,500	31,800	35,450	37,050
ROW DWELLINGS	13,450	16,150	20,000	23,900	28,800	31,850	33,400
WALKUP	11,850	14,900	18,850	22,150	25,700	28,350	30,050
ELEVATOR-STRUCTURE	26,750	31,000	39,350	------	------	------	------
GREENVILLE :							
DETACHED AND SEMIDETACHED	15,500	18,800	23,200	27,550	33,300	37,000	38,750
ROW DWELLINGS	14,200	17,050	20,950	24,950	30,100	33,400	34,950
WALKUP	12,050	15,150	19,050	22,500	26,100	28,900	30,300
ELEVATOR-STRUCTURE	26,750	31,000	39,350	------	------	------	------
GREENWOOD :							
DETACHED AND SEMIDETACHED	15,500	18,800	23,300	27,700	33,250	37,000	38,800
ROW DWELLINGS	14,200	17,050	21,050	24,950	30,100	33,550	34,950
WALKUP	12,450	15,450	19,750	23,300	26,850	29,900	31,450
ELEVATOR-STRUCTURE	26,600	30,850	38,650	------	------	------	------
MYRTLE BEACH :							
DETACHED AND SEMIDETACHED	15,700	19,150	23,500	28,150	33,850	37,550	39,500
ROW DWELLINGS	14,450	17,600	21,350	25,400	30,500	33,950	35,650
WALKUP	12,750	15,850	20,000	23,550	27,450	30,200	31,700
ELEVATOR-STRUCTURE	27,050	31,250	39,500	------	------	------	------
NORTH AUGUSTA :							
DETACHED AND SEMIDETACHED	16,450	19,850	24,400	29,250	35,050	38,850	40,850
ROW DWELLINGS	14,800	17,950	22,150	26,150	31,800	35,150	36,750
WALKUP	13,100	16,350	20,800	24,300	28,250	31,300	32,900
ELEVATOR-STRUCTURE	27,900	32,400	40,900	------	------	------	------
ORANGEBURG :							
DETACHED AND SEMIDETACHED	15,450	18,700	23,000	27,500	33,100	36,700	38,500
ROW DWELLINGS	14,150	16,950	20,850	24,750	29,950	33,250	34,800
WALKUP	12,400	15,400	19,600	23,550	26,750	29,400	31,100
ELEVATOR-STRUCTURE	26,300	30,600	38,500	------	------	------	------
ROCKHILL :							
DETACHED AND SEMIDETACHED	15,550	18,950	23,300	28,050	33,500	37,350	39,150
ROW DWELLINGS	14,350	17,250	21,150	25,100	30,300	33,750	35,250
WALKUP	12,650	15,850	19,900	23,550	27,250	30,050	31,650
ELEVATOR-STRUCTURE	26,750	31,000	39,350	------	------	------	------
SPARTANSBURG :							
DETACHED AND SEMIDETACHED	15,950	19,250	23,550	28,300	34,100	37,750	39,550
ROW DWELLINGS	14,450	17,400	21,450	25,500	30,800	34,250	35,700
WALKUP	12,750	15,950	20,050	23,650	27,550	30,300	31,800
ELEVATOR-STRUCTURE	26,750	31,000	39,350	------	------	------	------
TENNESSEE							
KNOXVILLE :							
DETACHED AND SEMIDETACHED	16,400	19,700	24,250	29,100	35,150	38,850	40,750
ROW DWELLINGS	14,900	17,900	22,200	26,400	31,800	35,150	36,950
WALKUP	13,000	16,200	20,550	24,350	28,250	31,150	32,700
ELEVATOR-STRUCTURE	24,400	28,350	35,750	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IV--CONTINUED							
TENNESSEE --CONTINUED							
CHATTANOOGA :							
DETACHED AND SEMIDETACHED	15,900	19,100	23,500	28,200	34,000	37,400	39,300
ROW DWELLINGS	15,750	18,850	23,500	27,900	33,500	37,350	39,100
WALKUP	14,000	17,500	22,200	26,250	30,500	33,600	35,300
ELEVATOR-STRUCTURE	26,200	30,500	38,300	------	------	------	------
JOHNSON CITY :							
DETACHED AND SEMIDETACHED	15,550	18,750	23,050	27,450	33,250	36,850	38,550
ROW DWELLINGS	14,200	16,950	21,000	25,100	30,100	33,350	35,050
WALKUP	13,000	16,200	20,550	24,350	28,200	31,050	32,700
ELEVATOR-STRUCTURE	24,400	28,350	35,750	------	------	------	------
KINGSPORT :							
DETACHED AND SEMIDETACHED	16,100	19,500	23,850	28,550	34,550	38,100	40,100
ROW DWELLINGS	14,700	17,700	21,800	25,900	31,200	34,600	36,300
WALKUP	12,350	15,300	19,250	22,900	26,500	29,250	30,600
ELEVATOR-STRUCTURE	24,400	28,350	35,750	------	------	------	------
OAK RIDGE :							
DETACHED AND SEMIDETACHED	15,900	19,100	23,550	28,200	33,950	37,750	39,450
ROW DWELLINGS	14,500	17,500	21,550	25,700	30,950	34,200	36,000
WALKUP	12,950	16,200	20,500	24,300	28,200	31,050	32,600
ELEVATOR-STRUCTURE	24,400	28,350	35,750	------	------	------	------
MEMPHIS :							
DETACHED AND SEMIDETACHED	16,400	19,900	24,500	29,250	35,250	39,250	41,000
ROW DWELLINGS	15,550	18,900	23,450	27,800	33,350	37,150	38,950
WALKUP	13,800	17,050	21,850	25,750	29,800	32,800	34,450
ELEVATOR-STRUCTURE	24,450	28,350	35,700	------	------	------	------
JACKSON :							
DETACHED AND SEMIDETACHED	17,750	21,450	26,400	31,550	38,100	42,350	44,150
ROW DWELLINGS	16,800	20,500	25,250	29,950	36,000	40,200	42,200
WALKUP	15,350	18,900	24,350	28,700	33,100	36,450	38,350
ELEVATOR-STRUCTURE	24,450	28,350	35,700	------	------	------	------
UNION CITY :							
DETACHED AND SEMIDETACHED	17,800	21,600	26,550	31,750	38,400	42,600	44,600
ROW DWELLINGS	16,900	20,500	25,350	30,150	36,400	40,500	42,500
WALKUP	13,550	16,650	21,400	25,250	29,250	32,150	33,850
ELEVATOR-STRUCTURE	26,700	30,950	39,000	------	------	------	------
NASHVILLE :							
DETACHED AND SEMIDETACHED	15,800	18,950	23,350	27,900	33,600	37,500	39,100
ROW DWELLINGS	15,100	18,400	22,500	26,850	32,350	36,000	37,800
WALKUP	13,750	17,150	21,800	25,700	29,900	32,900	34,600
ELEVATOR-STRUCTURE	22,700	26,500	33,550	------	------	------	------
CLARKSVILLE :							
DETACHED AND SEMIDETACHED	15,100	18,350	22,550	26,900	32,500	36,150	37,850
ROW DWELLINGS	14,700	17,650	21,700	26,000	31,150	34,650	36,400
WALKUP	12,650	15,800	20,200	23,650	27,500	30,300	31,750
ELEVATOR-STRUCTURE	23,750	27,650	35,050	------	------	------	------
COLUMBIA :							
DETACHED AND SEMIDETACHED	15,800	19,000	23,500	28,000	33,650	37,550	39,200
ROW DWELLINGS	15,150	18,450	22,550	26,950	32,400	36,050	37,850
WALKUP	13,850	17,250	22,150	25,800	30,200	33,150	34,900
ELEVATOR-STRUCTURE	24,450	28,750	36,400	------	------	------	------
REGION V							
ILLINOIS							
CHICAGO :							
DETACHED AND SEMIDETACHED	26,900	32,850	40,200	47,900	57,600	64,250	67,200
ROW DWELLINGS	25,500	30,950	37,900	45,300	54,550	60,600	63,550
WALKUP	22,500	27,900	35,250	41,850	45,200	53,300	56,000
ELEVATOR-STRUCTURE	31,200	36,400	46,000	------	------	------	------
MOLINE :							
DETACHED AND SEMIDETACHED	21,200	25,750	31,800	37,800	45,650	50,700	53,050
ROW DWELLINGS	19,550	23,650	29,150	34,700	41,850	46,450	48,750
WALKUP	18,150	22,600	28,550	33,950	36,450	43,100	45,100
ELEVATOR-STRUCTURE	31,200	36,350	46,000	------	------	------	------
SPRINGFIELD :							
DETACHED AND SEMIDETACHED	21,750	26,400	32,450	38,850	46,700	51,850	54,350
ROW DWELLINGS	21,000	25,500	31,300	37,550	45,100	50,050	52,450
WALKUP	19,150	23,250	28,500	34,100	41,000	45,500	47,750
ELEVATOR-STRUCTURE	26,400	30,600	38,650	------	------	------	------
BELLEVILLE :							
DETACHED AND SEMIDETACHED	22,100	26,600	33,050	39,350	47,300	52,600	55,200
ROW DWELLINGS	20,600	24,650	30,550	36,300	43,550	48,750	50,850
WALKUP	19,050	23,700	30,150	35,550	41,200	45,600	47,850
ELEVATOR-STRUCTURE	27,950	32,400	40,950	------	------	------	------
EAST ST LOUIS :							
DETACHED AND SEMIDETACHED	22,000	26,550	33,050	39,400	47,200	52,550	55,000
ROW DWELLINGS	20,450	24,550	30,550	36,200	43,500	48,700	50,800
WALKUP	19,100	23,650	30,150	35,550	41,000	45,350	47,600
ELEVATOR-STRUCTURE	27,900	32,350	40,950	------	------	------	------
INDIANA							
INDIANAPOLIS :							
DETACHED AND SEMIDETACHED	18,700	22,600	27,750	33,200	39,850	44,350	46,350
ROW DWELLINGS	15,650	18,900	26,000	27,900	33,350	37,250	38,850
WALKUP	15,850	19,900	25,000	29,600	34,200	37,800	39,600
ELEVATOR-STRUCTURE	28,250	32,950	41,650	------	------	------	------
BLOOMINGTON :							
DETACHED AND SEMIDETACHED	18,800	22,650	28,000	33,450	40,100	44,600	46,750
ROW DWELLINGS	17,800	21,400	26,450	31,400	37,800	42,050	43,950
WALKUP	16,700	20,900	26,350	31,200	36,250	40,000	41,800
ELEVATOR-STRUCTURE	28,850	33,350	42,450	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION V--CONTINUED							
INDIANA --CONTINUED							
EVANSVILLE :							
DETACHED AND SEMIDETACHED	18,350	22,150	27,300	32,750	39,200	41,900	45,750
ROW DWELLINGS	17,650	21,100	26,050	30,950	37,300	41,650	43,450
WALKUP	16,250	20,400	25,800	30,450	35,300	38,850	40,750
ELEVATOR-STRUCTURE	27,850	32,500	41,200	------	------	------	------
FORT WAYNE :							
DETACHED AND SEMIDETACHED	18,100	21,850	26,950	32,050	38,550	43,250	44,850
ROW DWELLINGS	16,950	20,500	25,100	30,000	36,000	40,250	42,050
WALKUP	15,650	19,650	24,950	29,300	33,950	37,450	39,350
ELEVATOR-STRUCTURE	28,200	32,650	41,500	------	------	------	------
GARY :							
DETACHED AND SEMIDETACHED	20,750	25,150	31,050	37,000	44,400	49,250	51,650
ROW DWELLINGS	20,400	24,700	30,550	36,250	43,600	48,800	50,750
WALKUP	19,250	23,850	30,050	35,500	38,600	45,200	47,400
ELEVATOR-STRUCTURE	28,200	32,750	41,500	------	------	------	------
HAMMOND :							
DETACHED AND SEMIDETACHED	20,300	24,750	30,450	36,200	43,500	48,450	50,650
ROW DWELLINGS	19,700	23,850	29,400	34,850	41,900	46,850	48,850
WALKUP	17,700	22,250	27,950	33,050	38,300	42,100	44,300
ELEVATOR-STRUCTURE	28,800	33,350	42,250	------	------	------	------
LAFAYETTE :							
DETACHED AND SEMIDETACHED	19,150	23,200	28,500	34,000	40,650	45,450	47,600
ROW DWELLINGS	17,800	21,450	26,550	31,650	38,050	42,400	44,250
WALKUP	16,350	20,450	26,000	30,700	35,500	39,150	41,050
ELEVATOR-STRUCTURE	29,100	33,750	42,650	------	------	------	------
SOUTH BEND :							
DETACHED AND SEMIDETACHED	19,250	23,300	28,650	34,250	41,100	45,800	47,900
ROW DWELLINGS	18,650	22,600	27,750	33,000	39,650	44,350	46,300
WALKUP	17,000	21,200	26,700	31,600	36,500	40,200	42,200
ELEVATOR-STRUCTURE	29,300	34,100	43,100	------	------	------	------
TERRE HAUTE :							
DETACHED AND SEMIDETACHED	19,800	23,950	29,600	35,200	42,200	47,000	49,150
ROW DWELLINGS	19,450	23,300	28,850	34,400	41,150	46,000	48,150
WALKUP	18,300	22,600	28,700	34,050	39,350	43,250	45,500
ELEVATOR-STRUCTURE	29,700	34,500	43,850	------	------	------	------
MICHIGAN							
DETROIT :							
DETACHED AND SEMIDETACHED	24,050	25,450	31,200	37,300	44,800	50,000	52,200
ROW DWELLINGS	19,400	23,400	28,900	34,400	41,500	46,150	48,300
WALKUP	18,300	22,600	28,750	33,950	39,250	43,350	45,550
ELEVATOR-STRUCTURE	28,900	33,650	42,650	------	------	------	------
ANN ARBOR :							
DETACHED AND SEMIDETACHED	25,900	27,350	33,500	40,100	48,300	53,700	56,100
ROW DWELLINGS	20,850	25,200	31,100	37,000	44,700	49,600	52,000
WALKUP	19,050	23,500	29,800	35,300	40,700	45,100	47,200
ELEVATOR-STRUCTURE	28,900	33,650	42,650	------	------	------	------
FLINT :							
DETACHED AND SEMIDETACHED	26,850	28,400	34,950	41,750	50,150	55,850	58,750
ROW DWELLINGS	21,800	26,300	32,400	38,550	46,250	51,550	54,150
WALKUP	17,900	22,250	28,050	33,300	38,600	42,550	44,550
ELEVATOR-STRUCTURE	27,750	32,350	41,000	------	------	------	------
SAGINAW :							
DETACHED AND SEMIDETACHED	24,850	26,300	32,250	38,350	46,200	51,500	53,950
ROW DWELLINGS	20,050	24,300	29,800	35,600	42,750	47,550	49,900
WALKUP	18,050	22,550	28,450	33,850	39,250	43,100	45,250
ELEVATOR-STRUCTURE	27,750	32,350	41,000	------	------	------	------
YPSILANTI :							
DETACHED AND SEMIDETACHED	27,350	28,900	35,500	42,150	50,800	56,600	59,300
ROW DWELLINGS	22,250	26,500	32,900	39,100	47,200	52,300	54,950
WALKUP	18,300	22,700	28,600	33,950	39,250	43,350	45,600
ELEVATOR-STRUCTURE	28,550	33,400	42,200	------	------	------	------
GRAND RAPIDS :							
DETACHED AND SEMIDETACHED	22,050	26,750	32,900	39,200	47,150	52,750	55,000
ROW DWELLINGS	18,200	22,000	27,250	32,300	38,750	43,250	45,200
WALKUP	17,000	21,450	27,100	31,900	37,150	40,950	42,850
ELEVATOR-STRUCTURE	27,400	31,950	40,300	------	------	------	------
MT PLEASANT :							
DETACHED AND SEMIDETACHED	23,050	27,900	34,300	40,850	49,250	55,000	57,400
ROW DWELLINGS	19,050	22,900	28,400	33,650	40,350	45,100	47,200
WALKUP	17,750	22,350	28,300	33,300	38,700	42,700	44,700
ELEVATOR-STRUCTURE	28,600	33,350	41,950	------	------	------	------
BATTLE CREEK :							
DETACHED AND SEMIDETACHED	22,700	27,400	33,650	40,200	48,400	53,900	56,300
ROW DWELLINGS	18,650	22,450	27,750	33,100	39,850	44,400	46,400
WALKUP	17,000	21,150	26,950	31,800	36,800	40,700	42,650
ELEVATOR-STRUCTURE	28,150	32,700	41,150	------	------	------	------
BENTON HARBOR :							
DETACHED AND SEMIDETACHED	24,450	29,550	36,300	43,300	52,050	58,250	60,700
ROW DWELLINGS	20,200	24,300	30,000	35,700	42,850	45,650	49,900
WALKUP	18,200	22,650	28,600	34,000	39,100	43,300	45,500
ELEVATOR-STRUCTURE	29,450	34,350	43,300	------	------	------	------
JACKSON :							
DETACHED AND SEMIDETACHED	23,500	28,600	35,250	41,800	50,600	56,300	58,850
ROW DWELLINGS	19,550	23,350	28,950	34,500	41,550	46,250	48,400
WALKUP	18,250	22,950	28,950	34,350	39,450	43,850	45,850
ELEVATOR-STRUCTURE	29,300	34,050	43,000	------	------	------	------
LANSING :							
DETACHED AND SEMIDETACHED	26,250	31,700	39,100	46,550	55,950	62,500	65,450
ROW DWELLINGS	21,700	30,650	32,300	38,400	46,150	51,200	53,800
WALKUP	17,750	22,150	28,050	33,200	38,500	42,550	44,600
ELEVATOR-STRUCTURE	28,500	33,450	42,150	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION V--CONTINUED							
MICHIGAN --CONTINUED							
MARQUETTE :							
DETACHED AND SEMIDETACHED	24,350	29,550	36,250	43,200	52,100	58,150	60,750
ROW DWELLINGS	20,100	24,300	29,900	35,650	42,950	47,900	50,050
WALKUP	19,750	23,800	29,250	34,750	42,000	46,850	49,000
ELEVATOR-STRUCTURE	29,650	34,700	43,600	------	------	------	------
MUSKEGON :							
DETACHED AND SEMIDETACHED	22,250	26,850	33,250	39,550	47,600	53,250	55,450
ROW DWELLINGS	18,450	22,150	27,400	32,500	38,950	43,550	45,750
WALKUP	15,150	18,900	23,900	28,350	32,650	36,050	37,800
ELEVATOR-STRUCTURE	27,400	31,950	40,300	------	------	------	------
TRAVERSE CITY :							
DETACHED AND SEMIDETACHED	24,350	29,450	36,300	43,300	51,950	58,150	60,600
ROW DWELLINGS	20,200	24,300	30,000	35,600	42,850	47,800	50,050
WALKUP	16,600	20,650	26,150	31,050	35,850	39,800	41,400
ELEVATOR-STRUCTURE	30,100	35,100	44,150	------	------	------	------
MINNESOTA							
MINNEAPOLIS :							
DETACHED AND SEMIDETACHED	23,300	28,200	34,850	41,650	49,950	55,600	58,150
ROW DWELLINGS	20,850	25,400	31,150	37,200	44,650	49,650	52,000
WALKUP	19,300	24,200	30,400	35,850	41,400	45,900	48,000
ELEVATOR-STRUCTURE	30,200	34,900	44,350	------	------	------	------
DULUTH :							
DETACHED AND SEMIDETACHED	23,700	28,650	35,200	42,200	50,700	56,550	59,050
ROW DWELLINGS	21,300	25,700	31,700	37,750	45,300	50,550	52,850
WALKUP	19,800	24,550	31,250	36,800	42,500	47,050	49,300
ELEVATOR-STRUCTURE	30,650	35,600	44,900	------	------	------	------
MANKATO :							
DETACHED AND SEMIDETACHED	22,100	27,100	33,250	39,650	47,800	53,150	55,600
ROW DWELLINGS	20,600	24,800	30,650	36,550	44,050	48,950	51,050
WALKUP	19,300	23,700	30,300	35,800	41,250	45,500	47,950
ELEVATOR-STRUCTURE	28,800	33,400	42,200	------	------	------	------
ROCHESTER :							
DETACHED AND SEMIDETACHED	22,800	27,600	34,100	40,600	48,950	54,350	56,850
ROW DWELLINGS	21,200	25,450	31,500	37,550	45,050	50,000	52,500
WALKUP	19,750	24,500	31,000	36,700	42,500	46,900	49,250
ELEVATOR-STRUCTURE	28,100	32,800	41,600	------	------	------	------
ST CLOUD :							
DETACHED AND SEMIDETACHED	22,100	26,750	33,250	39,550	47,400	52,750	55,250
ROW DWELLINGS	20,800	25,150	31,000	37,000	44,300	49,550	51,650
WALKUP	19,050	23,700	30,200	35,650	41,200	45,450	47,650
ELEVATOR-STRUCTURE	27,850	32,300	40,800	------	------	------	------
WORTHINGTON :							
DETACHED AND SEMIDETACHED	21,200	25,700	31,700	37,850	45,250	50,600	52,850
ROW DWELLINGS	19,800	23,700	29,300	34,850	41,950	46,600	48,850
WALKUP	18,050	22,500	28,550	33,650	38,850	42,800	45,100
ELEVATOR-STRUCTURE	27,600	32,150	40,700	------	------	------	------
OHIO							
CINCINNATI :							
DETACHED AND SEMIDETACHED	20,600	24,950	30,800	36,800	44,050	49,150	51,500
ROW DWELLINGS	19,900	24,100	29,700	35,200	42,200	47,100	49,500
WALKUP	18,650	23,000	29,300	34,750	40,050	44,100	46,400
ELEVATOR-STRUCTURE	30,900	35,900	45,350	------	------	------	------
DAYTON :							
DETACHED AND SEMIDETACHED	20,600	24,950	30,800	36,800	44,050	49,150	51,500
ROW DWELLINGS	20,300	24,650	30,400	36,150	43,350	48,300	50,650
WALKUP	18,650	23,000	29,300	34,750	40,050	44,100	46,400
ELEVATOR-STRUCTURE	30,900	35,900	45,350	------	------	------	------
CLEVELAND :							
DETACHED AND SEMIDETACHED	19,850	24,350	29,700	35,600	42,700	47,550	49,850
ROW DWELLINGS	19,500	23,450	29,050	34,750	41,650	46,600	48,550
WALKUP	18,150	22,400	28,350	33,700	38,950	43,050	45,250
ELEVATOR-STRUCTURE	26,650	31,150	39,350	------	------	------	------
AKRON :							
DETACHED AND SEMIDETACHED	19,650	23,850	29,300	35,050	42,100	46,850	49,150
ROW DWELLINGS	19,300	23,100	28,700	34,300	40,850	45,900	47,900
WALKUP	17,950	22,100	27,900	33,250	38,450	42,400	44,600
ELEVATOR-STRUCTURE	26,250	30,800	38,850	------	------	------	------
FINDLAY :							
DETACHED AND SEMIDETACHED	18,200	22,150	27,100	32,350	38,900	43,350	45,250
ROW DWELLINGS	17,750	21,450	26,500	31,550	37,900	42,300	44,200
WALKUP	16,500	20,350	25,800	30,750	35,500	39,150	41,150
ELEVATOR-STRUCTURE	24,350	28,300	35,800	------	------	------	------
LORAIN :							
DETACHED AND SEMIDETACHED	19,750	24,100	29,500	35,300	42,300	47,200	49,400
ROW DWELLINGS	19,400	23,150	28,800	34,400	41,100	46,050	48,150
WALKUP	18,050	22,200	28,050	33,350	38,600	42,600	44,700
ELEVATOR-STRUCTURE	26,350	30,900	39,000	------	------	------	------
MANSFIELD :							
DETACHED AND SEMIDETACHED	18,500	22,650	27,700	33,100	39,750	44,250	46,350
ROW DWELLINGS	18,150	21,850	27,000	32,250	38,700	43,300	45,100
WALKUP	16,900	20,900	26,350	31,400	36,300	40,000	42,050
ELEVATOR-STRUCTURE	24,700	28,900	36,600	------	------	------	------
TOLEDO :							
DETACHED AND SEMIDETACHED	19,850	24,350	29,700	35,600	42,700	47,550	49,850
ROW DWELLINGS	19,500	23,450	29,050	34,750	41,650	46,600	48,550
WALKUP	18,150	22,400	28,350	33,700	38,950	43,050	45,250
ELEVATOR-STRUCTURE	26,650	31,150	39,350	------	------	------	------
YOUNGSTOWN :							
DETACHED AND SEMIDETACHED	19,200	23,500	28,500	34,150	41,000	45,700	47,900
ROW DWELLINGS	18,800	22,600	27,950	33,300	39,950	44,650	46,650
WALKUP	17,400	21,550	27,200	32,450	37,450	41,350	43,450
ELEVATOR-STRUCTURE	25,600	29,950	37,750	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION V--CONTINUED							
OHIO --CONTINUED							
COLUMBUS :							
DETACHED AND SEMIDETACHED	20,000	24,100	29,850	35,600	42,750	47,650	49,900
ROW DWELLINGS	19,000	22,900	28,350	33,600	40,400	45,150	47,150
WALKUP	18,000	22,300	28,150	33,500	38,600	42,550	44,850
ELEVATOR-STRUCTURE	27,700	32,150	40,700	------	------	------	------
ATHENS :							
DETACHED AND SEMIDETACHED	20,250	24,500	30,300	35,850	43,400	48,600	50,450
ROW DWELLINGS	18,700	22,350	27,600	33,000	39,550	44,100	46,150
WALKUP	17,350	21,650	27,500	32,550	37,650	41,450	43,750
ELEVATOR-STRUCTURE	28,000	32,650	41,300	------	------	------	------
LIMA :							
DETACHED AND SEMIDETACHED	20,000	24,100	29,850	35,600	42,750	47,650	49,900
ROW DWELLINGS	18,600	22,350	27,600	32,950	39,550	44,050	46,150
WALKUP	17,400	21,700	27,500	32,600	37,700	41,500	43,650
ELEVATOR-STRUCTURE	27,700	32,150	40,700	------	------	------	------
NEWARK :							
DETACHED AND SEMIDETACHED	19,500	23,600	29,100	34,700	41,700	46,650	48,600
ROW DWELLINGS	18,600	22,350	27,550	32,850	39,450	43,950	46,050
WALKUP	17,350	21,650	27,450	32,550	37,600	41,450	43,400
ELEVATOR-STRUCTURE	27,000	31,400	39,700	------	------	------	------
SPRINGFIELD :							
DETACHED AND SEMIDETACHED	20,000	24,100	29,850	35,600	42,750	47,650	49,900
ROW DWELLINGS	18,800	22,800	28,050	33,500	40,200	44,600	46,750
WALKUP	17,800	22,050	27,850	33,200	38,100	42,150	44,300
ELEVATOR-STRUCTURE	27,700	32,150	40,700	------	------	------	------
SIDNEY :							
DETACHED AND SEMIDETACHED	20,200	24,750	30,400	36,250	43,450	48,800	50,800
ROW DWELLINGS	18,750	22,650	27,800	33,300	39,750	44,350	46,400
WALKUP	17,450	21,900	27,750	33,100	37,950	41,950	44,000
ELEVATOR-STRUCTURE	28,200	32,800	41,400	------	------	------	------
ZANESVILLE :							
DETACHED AND SEMIDETACHED	20,250	24,500	30,300	35,850	43,400	48,600	50,450
ROW DWELLINGS	19,300	23,250	28,700	34,150	41,000	45,900	48,000
WALKUP	17,950	22,250	28,050	33,450	38,600	42,450	44,800
ELEVATOR-STRUCTURE	28,000	32,650	41,300	------	------	------	------
WISCONSIN							
MILWAUKEE :							
DETACHED AND SEMIDETACHED	24,800	30,150	37,150	44,300	53,250	59,350	62,200
ROW DWELLINGS	23,350	28,050	34,350	41,050	49,400	54,850	57,550
WALKUP	19,600	24,200	30,800	36,250	42,100	46,450	48,650
ELEVATOR-STRUCTURE	26,350	30,500	38,500	------	------	------	------
EAU CLAIRE :							
DETACHED AND SEMIDETACHED	24,100	29,100	35,850	42,950	51,550	57,550	60,050
ROW DWELLINGS	22,600	26,950	33,300	39,600	47,600	52,950	55,500
WALKUP	19,700	24,450	31,050	36,600	42,500	46,600	49,000
ELEVATOR-STRUCTURE	25,600	29,750	37,550	------	------	------	------
GREEN BAY							
DETACHED AND SEMIDETACHED	23,050	27,800	34,250	41,050	49,100	54,950	57,550
ROW DWELLINGS	20,950	25,000	30,800	36,950	44,200	49,300	51,550
WALKUP	18,250	22,700	28,550	33,800	39,200	43,300	45,250
ELEVATOR-STRUCTURE	24,400	28,400	36,000	------	------	------	------
MADISON :							
DETACHED AND SEMIDETACHED	24,400	29,700	36,500	43,550	52,500	58,450	61,100
ROW DWELLINGS	22,350	26,600	32,850	39,150	47,050	52,650	54,850
WALKUP	19,400	23,950	30,450	36,000	41,750	46,050	48,100
ELEVATOR-STRUCTURE	26,050	30,300	38,250	------	------	------	------
REEDSVILLE :							
DETACHED AND SEMIDETACHED	23,500	28,450	34,950	41,950	50,150	56,150	58,800
ROW DWELLINGS	21,300	25,850	31,600	37,800	45,350	50,450	52,950
WALKUP	18,750	23,300	29,200	34,700	40,250	44,250	46,450
ELEVATOR-STRUCTURE	25,100	29,100	36,800	------	------	------	------
SUPERIOR :							
DETACHED AND SEMIDETACHED	25,100	30,250	37,350	44,650	53,600	59,900	62,550
ROW DWELLINGS	23,400	28,050	34,550	41,300	49,800	55,150	57,900
WALKUP	20,400	25,200	31,850	37,750	43,650	48,200	50,550
ELEVATOR-STRUCTURE	26,600	30,950	39,150	------	------	------	------
WAUSAU :							
DETACHED AND SEMIDETACHED	23,500	28,450	34,950	41,950	50,150	56,150	58,800
ROW DWELLINGS	21,250	25,750	31,350	37,700	45,050	50,350	52,800
WALKUP	18,750	23,200	29,100	34,550	39,850	44,050	46,200
ELEVATOR-STRUCTURE	24,950	28,950	36,750	------	------	------	------
REGION VI							
ARKANSAS							
LITTLE ROCK :							
DETACHED AND SEMIDETACHED	17,450	21,150	26,150	31,150	37,400	41,700	43,350
ROW DWELLINGS	16,200	19,600	24,050	28,700	34,550	38,400	40,300
WALKUP	15,150	18,900	23,900	28,350	32,850	36,350	38,000
ELEVATOR-STRUCTURE	29,350	33,950	43,250	------	------	------	------
FAYETTEVILLE :							
DETACHED AND SEMIDETACHED	17,400	20,900	25,950	30,800	37,250	41,250	43,150
ROW DWELLINGS	16,050	19,500	23,950	28,550	34,400	38,100	39,850
WALKUP	13,650	17,100	21,600	25,500	29,700	32,650	34,150
ELEVATOR-STRUCTURE	29,150	33,700	42,450	------	------	------	------
FORT SMITH :							
DETACHED AND SEMIDETACHED	16,350	19,900	24,600	29,100	35,050	39,000	40,700
ROW DWELLINGS	15,400	18,650	23,100	27,450	32,950	36,650	38,400
WALKUP	14,450	17,850	22,600	26,700	30,900	34,150	35,750
ELEVATOR-STRUCTURE	29,600	34,450	43,550	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VI--CONTINUED							
ARKANSAS --CONTINUED							
JONESBORO :							
DETACHED AND SEMIDETACHED	16,250	19,550	24,350	28,800	34,700	38,600	40,100
ROW DWELLINGS	15,200	18,300	22,900	26,900	32,450	36,400	37,750
WALKUP	14,100	17,550	22,200	26,250	30,300	33,550	35,200
ELEVATOR-STRUCTURE	28,650	33,200	42,150	------	------	------	------
TEXARKANA :							
DETACHED AND SEMIDETACHED	16,800	20,250	25,050	29,850	35,900	39,800	41,550
ROW DWELLINGS	15,400	18,750	23,100	27,500	33,150	36,850	38,500
WALKUP	14,450	18,100	22,800	27,050	31,300	34,450	36,150
ELEVATOR-STRUCTURE	29,150	33,700	42,450	------	------	------	------
LOUISIANA							
NEW ORLEANS :							
DETACHED AND SEMIDETACHED	17,300	21,000	25,700	30,550	37,050	41,200	42,800
ROW DWELLINGS	16,300	19,800	24,700	29,300	35,150	39,050	41,100
WALKUP	15,600	19,400	24,350	28,650	33,250	36,800	38,250
ELEVATOR-STRUCTURE	29,800	34,500	43,900	------	------	------	------
BATON ROUGE :							
DETACHED AND SEMIDETACHED	18,600	22,350	27,650	32,700	39,400	44,050	45,750
ROW DWELLINGS	17,550	21,200	26,450	31,350	37,500	41,600	43,750
WALKUP	14,850	18,550	23,350	27,650	31,850	35,350	36,850
ELEVATOR-STRUCTURE	29,500	34,100	43,450	------	------	------	------
HOUMA :							
DETACHED AND SEMIDETACHED	17,250	20,750	25,550	30,350	36,700	40,700	42,400
ROW DWELLINGS	16,250	19,700	24,450	29,050	34,850	38,750	40,700
WALKUP	15,250	19,100	23,750	28,200	32,750	36,200	37,800
ELEVATOR-STRUCTURE	29,500	34,100	43,450	------	------	------	------
LAFAYETTE :							
DETACHED AND SEMIDETACHED	17,250	20,750	25,550	30,350	36,700	40,700	42,400
ROW DWELLINGS	16,250	19,700	24,450	29,050	34,850	38,750	40,700
WALKUP	15,450	19,350	23,950	28,450	33,100	36,400	38,100
ELEVATOR-STRUCTURE	29,500	34,100	43,450	------	------	------	------
LAKE CHARLES :							
DETACHED AND SEMIDETACHED	18,550	22,350	27,550	32,700	39,400	43,850	45,750
ROW DWELLINGS	17,500	21,150	26,450	31,350	37,500	41,600	43,750
WALKUP	15,700	19,650	24,700	29,200	33,800	37,500	39,100
ELEVATOR-STRUCTURE	29,800	34,500	43,900	------	------	------	------
SHREVEPORT :							
DETACHED AND SEMIDETACHED	16,950	20,300	25,250	29,850	36,100	40,300	41,950
ROW DWELLINGS	15,550	19,050	23,550	28,000	33,800	37,500	39,150
WALKUP	13,350	16,600	21,150	25,000	28,850	32,000	33,550
ELEVATOR-STRUCTURE	29,250	34,000	43,050	------	------	------	------
ALEXANDRIA :							
DETACHED AND SEMIDETACHED	15,400	18,400	22,850	27,250	32,650	36,500	38,150
ROW DWELLINGS	15,050	17,350	21,450	25,550	30,600	34,200	35,750
WALKUP	13,000	16,100	20,500	24,200	28,050	30,900	32,550
ELEVATOR-STRUCTURE	28,400	33,000	41,600	------	------	------	------
MARSHALL :							
DETACHED AND SEMIDETACHED	15,450	18,450	22,950	27,350	32,800	36,650	38,200
ROW DWELLINGS	14,500	17,700	21,800	26,000	31,200	34,800	36,300
WALKUP	12,950	16,050	20,400	24,000	27,900	30,850	32,150
ELEVATOR-STRUCTURE	27,100	31,500	39,950	------	------	------	------
MONROE :							
DETACHED AND SEMIDETACHED	15,300	18,300	22,600	26,900	32,450	36,250	37,650
ROW DWELLINGS	14,300	17,300	21,300	25,450	30,550	34,050	35,500
WALKUP	13,350	16,550	20,950	24,800	28,750	31,650	33,300
ELEVATOR-STRUCTURE	29,000	33,550	42,800	------	------	------	------
NEW MEXICO							
ALBUQUERQUE :							
DETACHED AND SEMIDETACHED	18,350	22,000	24,550	29,200	35,100	39,300	40,950
ROW DWELLINGS	17,000	20,300	22,600	27,050	32,300	36,000	37,850
WALKUP	14,700	18,200	20,650	24,400	28,400	31,100	32,700
ELEVATOR-STRUCTURE	25,750	30,050	38,050	------	------	------	------
ALAMOGORDO :							
DETACHED AND SEMIDETACHED	19,300	22,950	25,700	30,550	36,800	41,100	42,850
ROW DWELLINGS	17,650	21,150	23,550	28,100	33,550	37,350	39,250
WALKUP	15,250	18,950	21,400	25,300	29,350	32,350	34,000
ELEVATOR-STRUCTURE	24,250	28,200	35,550	------	------	------	------
ARTESIA :							
DETACHED AND SEMIDETACHED	19,300	22,950	25,600	30,500	36,800	41,050	42,500
ROW DWELLINGS	17,650	21,150	23,600	28,300	33,700	37,500	39,350
WALKUP	15,350	19,000	21,400	25,700	29,550	32,650	34,100
ELEVATOR-STRUCTURE	24,600	28,600	36,200	------	------	------	------
CARLSBAD :							
DETACHED AND SEMIDETACHED	19,500	23,450	26,100	31,100	37,400	41,700	43,350
ROW DWELLINGS	17,900	21,600	24,050	28,800	34,250	38,200	40,100
WALKUP	15,200	19,000	21,400	25,300	29,350	32,400	33,950
ELEVATOR-STRUCTURE	24,600	28,600	36,200	------	------	------	------
CLOVIS :							
DETACHED AND SEMIDETACHED	19,300	22,950	25,600	30,500	36,800	41,050	42,500
ROW DWELLINGS	17,650	21,150	23,600	28,300	33,700	37,500	39,350
WALKUP	15,200	18,850	21,200	25,300	29,250	32,250	33,750
ELEVATOR-STRUCTURE	24,350	28,250	35,550	------	------	------	------
FORT SUMNER :							
DETACHED AND SEMIDETACHED	19,850	24,000	26,750	31,750	38,300	42,800	44,550
ROW DWELLINGS	18,450	22,150	24,600	29,300	35,150	39,050	41,050
WALKUP	16,000	19,800	22,300	26,550	30,700	33,750	35,550
ELEVATOR-STRUCTURE	25,300	29,550	37,250	------	------	------	------
GALLUP :							
DETACHED AND SEMIDETACHED	21,000	25,200	28,200	33,450	40,400	45,100	46,900
ROW DWELLINGS	19,050	22,700	25,450	30,200	36,150	40,250	42,200
WALKUP	16,350	20,400	23,050	27,400	31,750	34,900	36,500
ELEVATOR-STRUCTURE	25,900	30,350	38,150	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VI--CONTINUED							
NEW MEXICO --CONTINUED							
HOBBS							
DETACHED AND SEMIDETACHED	19,300	22,950	25,600	30,500	36,800	41,050	42,500
ROW DWELLINGS	17,650	21,150	23,600	28,300	33,700	37,500	39,350
WALKUP	15,350	19,000	21,400	25,700	29,550	32,650	34,100
ELEVATOR-STRUCTURE	24,350	28,250	35,550	------	------	------	------
LAS CRUCES							
DETACHED AND SEMIDETACHED	19,300	22,950	25,600	30,500	36,800	41,050	42,500
ROW DWELLINGS	17,650	21,150	23,600	28,300	33,700	37,500	39,350
WALKUP	15,650	19,500	21,800	26,050	30,050	33,150	34,750
ELEVATOR-STRUCTURE	24,350	28,250	35,550	------	------	------	------
LAS VEGAS							
DETACHED AND SEMIDETACHED	19,700	23,750	26,450	31,400	37,900	42,300	44,050
ROW DWELLINGS	18,600	22,200	24,650	29,550	35,250	39,300	41,100
WALKUP	16,000	19,800	22,400	26,600	30,700	33,950	35,650
ELEVATOR-STRUCTURE	25,300	29,350	37,250	------	------	------	------
LOS ALAMOS							
DETACHED AND SEMIDETACHED	20,500	24,600	27,400	32,450	39,300	43,900	45,700
ROW DWELLINGS	19,050	22,700	25,450	30,200	36,200	40,250	42,250
WALKUP	16,450	20,400	23,050	27,350	31,550	34,850	36,500
ELEVATOR-STRUCTURE	25,850	30,200	38,100	------	------	------	------
RATON							
DETACHED AND SEMIDETACHED	19,550	23,500	26,200	31,150	37,550	41,950	43,650
ROW DWELLINGS	18,600	22,200	24,650	29,550	35,250	39,300	41,100
WALKUP	16,000	19,800	22,400	26,600	30,700	33,950	35,650
ELEVATOR-STRUCTURE	25,300	29,350	37,250	------	------	------	------
SANTA FE							
DETACHED AND SEMIDETACHED	19,600	23,500	26,300	31,200	37,600	42,100	43,750
ROW DWELLINGS	18,600	22,200	24,650	29,550	35,250	39,300	41,100
WALKUP	16,000	19,800	22,400	26,600	30,700	33,950	35,650
ELEVATOR-STRUCTURE	25,300	29,350	37,250	------	------	------	------
SILVER CITY							
DETACHED AND SEMIDETACHED	20,250	24,550	27,250	32,300	39,150	43,650	45,350
ROW DWELLINGS	18,800	22,550	25,150	29,950	35,900	39,900	41,950
WALKUP	16,300	20,300	22,950	27,050	31,350	34,600	36,250
ELEVATOR-STRUCTURE	25,750	29,950	37,950	------	------	------	------
TRUTH OR CONSEQUENCES							
DETACHED AND SEMIDETACHED	19,000	22,650	25,500	30,200	36,400	40,600	42,200
ROW DWELLINGS	17,600	20,900	23,500	28,050	33,350	37,250	38,900
WALKUP	15,200	18,850	21,350	25,250	29,300	32,250	33,750
ELEVATOR-STRUCTURE	23,900	27,950	35,300	------	------	------	------
FARMINGTON							
DETACHED AND SEMIDETACHED	20,500	24,600	27,500	32,700	39,400	44,050	45,800
ROW DWELLINGS	19,050	22,700	25,450	30,200	36,150	40,250	42,200
WALKUP	16,350	20,400	23,050	27,400	31,750	34,900	36,500
ELEVATOR-STRUCTURE	25,900	30,350	38,150	------	------	------	------
TERRA AMARILLO							
DETACHED AND SEMIDETACHED	20,500	24,600	27,400	32,450	39,300	43,900	45,700
ROW DWELLINGS	19,050	22,700	25,450	30,200	36,200	40,250	42,250
WALKUP	16,450	20,400	23,050	27,350	31,550	34,850	36,500
ELEVATOR-STRUCTURE	25,850	30,200	38,100	------	------	------	------
TAOS							
DETACHED AND SEMIDETACHED	23,200	27,700	30,950	36,750	44,500	49,550	51,500
ROW DWELLINGS	21,500	25,850	28,750	34,100	41,050	45,550	47,800
WALKUP	18,300	22,550	25,700	30,250	35,100	38,600	40,600
ELEVATOR-STRUCTURE	25,700	30,050	37,900	------	------	------	------
SOCORRO							
DETACHED AND SEMIDETACHED	19,000	22,650	25,500	30,200	36,400	40,600	42,200
ROW DWELLINGS	17,600	20,900	23,500	28,050	33,350	37,250	38,900
WALKUP	15,200	18,850	21,350	25,250	29,300	32,250	33,750
ELEVATOR-STRUCTURE	23,900	27,950	35,300	------	------	------	------
RUIDOSO							
DETACHED AND SEMIDETACHED	20,500	24,600	27,400	32,450	39,300	43,900	45,700
ROW DWELLINGS	19,050	22,700	25,450	30,200	36,200	40,250	42,250
WALKUP	16,450	20,400	23,050	27,350	31,550	34,850	36,500
ELEVATOR-STRUCTURE	25,850	30,200	38,100	------	------	------	------
OKLAHOMA							
OKLAHOMA CITY							
DETACHED AND SEMIDETACHED	18,700	22,550	28,000	33,350	40,050	44,700	46,650
ROW DWELLINGS	16,400	19,800	24,300	29,050	34,850	38,950	40,550
WALKUP	14,750	18,350	23,300	27,550	32,100	35,200	37,000
ELEVATOR-STRUCTURE	26,500	30,800	39,050	------	------	------	------
ADA							
DETACHED AND SEMIDETACHED	19,050	22,760	28,300	33,650	40,500	45,250	47,050
ROW DWELLINGS	17,100	20,650	25,500	30,450	36,350	40,550	42,450
WALKUP	15,400	19,350	24,350	28,900	33,650	36,900	38,750
ELEVATOR-STRUCTURE	26,850	31,050	39,250	------	------	------	------
ARDMORE							
DETACHED AND SEMIDETACHED	18,950	22,700	28,300	33,650	40,500	45,150	47,100
ROW DWELLINGS	17,650	21,200	26,100	31,100	37,350	41,650	43,450
WALKUP	16,300	20,200	25,500	30,250	35,150	38,750	40,500
ELEVATOR-STRUCTURE	27,250	31,600	39,950	------	------	------	------
ENID							
DETACHED AND SEMIDETACHED	19,500	23,300	28,950	34,650	41,650	46,400	48,300
ROW DWELLINGS	17,400	21,000	25,750	30,850	37,000	41,200	43,050
WALKUP	14,900	18,650	23,350	27,950	32,450	35,700	37,350
ELEVATOR-STRUCTURE	27,700	31,850	40,500	------	------	------	------
GUYMON							
DETACHED AND SEMIDETACHED	19,850	23,800	29,800	35,300	42,450	47,500	49,450
ROW DWELLINGS	17,800	21,300	26,200	31,250	37,600	41,900	43,700
WALKUP	16,050	19,700	25,100	29,700	34,450	38,150	39,950
ELEVATOR-STRUCTURE	28,100	32,700	41,250	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VI--CONTINUED							
OKLAHOMA--CONTINUED							
LAWTON :							
DETACHED AND SEMIDETACHED	18,850	22,850	28,200	33,650	40,550	45,150	47,050
ROW DWELLINGS	16,750	20,150	24,700	29,550	35,500	39,550	41,400
WALKUP	14,900	18,800	23,700	28,000	32,550	35,800	37,700
ELEVATOR-STRUCTURE	26,800	31,100	39,350	------	------	------	------
SHAWNEE :							
DETACHED AND SEMIDETACHED	19,300	22,950	28,550	34,000	40,900	45,700	47,600
ROW DWELLINGS	17,100	20,650	25,500	30,450	36,350	40,550	42,450
WALKUP	15,400	19,350	24,350	28,900	33,650	36,900	38,750
ELEVATOR-STRUCTURE	27,100	31,400	39,600	------	------	------	------
STILLWATER :							
DETACHED AND SEMIDETACHED	19,300	22,950	28,550	34,000	40,900	45,700	47,600
ROW DWELLINGS	17,100	20,650	25,500	30,450	36,350	40,550	42,450
WALKUP	15,400	19,350	24,350	28,900	33,650	36,900	38,750
ELEVATOR-STRUCTURE	27,100	31,400	39,600	------	------	------	------
WOODWARD :							
DETACHED AND SEMIDETACHED	19,650	23,500	29,250	35,000	42,100	46,850	48,750
ROW DWELLINGS	17,400	21,000	25,750	30,850	37,000	41,200	43,050
WALKUP	15,650	19,550	24,650	29,250	34,050	37,400	39,300
ELEVATOR-STRUCTURE	27,950	32,100	40,800	------	------	------	------
TULSA :							
DETACHED AND SEMIDETACHED	18,550	22,500	27,950	33,100	39,950	44,350	46,300
ROW DWELLINGS	16,350	19,950	24,450	29,050	34,900	38,900	40,750
WALKUP	15,450	19,300	24,350	28,800	33,500	36,950	38,750
ELEVATOR-STRUCTURE	26,900	31,050	39,300	------	------	------	------
BARTLESVILLE :							
DETACHED AND SEMIDETACHED	19,350	23,350	28,900	34,450	41,300	46,050	48,100
ROW DWELLINGS	17,200	20,900	25,600	30,900	36,600	40,800	42,750
WALKUP	15,550	19,500	24,400	29,050	33,850	37,200	38,950
ELEVATOR-STRUCTURE	28,000	32,250	40,900	------	------	------	------
MCALESTER :							
DETACHED AND SEMIDETACHED	19,300	23,050	28,600	34,100	40,850	45,600	47,500
ROW DWELLINGS	17,200	20,700	25,600	30,550	36,600	40,800	42,700
WALKUP	15,150	18,950	23,850	28,200	32,750	35,900	37,750
ELEVATOR-STRUCTURE	27,600	32,150	40,700	------	------	------	------
MUSKOGEE :							
DETACHED AND SEMIDETACHED	19,250	23,150	28,800	34,100	41,050	45,750	47,750
ROW DWELLINGS	17,750	21,500	26,700	31,700	37,950	42,500	44,300
WALKUP	15,450	19,300	24,250	28,700	33,400	36,750	38,650
ELEVATOR-STRUCTURE	27,650	32,100	40,700	------	------	------	------
SHERMAN :							
DETACHED AND SEMIDETACHED	17,650	21,250	26,250	31,300	37,650	41,750	43,800
ROW DWELLINGS	15,250	18,350	22,850	27,100	32,650	36,450	38,150
WALKUP	13,750	17,150	21,600	25,600	29,800	32,550	34,200
ELEVATOR-STRUCTURE	27,100	31,650	39,900	------	------	------	------
TYLER :							
DETACHED AND SEMIDETACHED	16,700	20,300	25,000	29,950	36,000	39,900	41,650
ROW DWELLINGS	15,100	18,100	22,450	26,650	32,150	35,750	37,350
WALKUP	12,950	16,100	20,450	24,100	27,900	30,600	32,450
ELEVATOR-STRUCTURE	27,650	32,250	40,850	------	------	------	------
WACO :							
DETACHED AND SEMIDETACHED	16,650	20,150	24,950	29,750	35,800	39,750	41,600
ROW DWELLINGS	14,950	17,950	22,250	26,600	31,950	35,550	37,200
WALKUP	12,950	16,200	20,450	24,100	28,200	30,600	32,350
ELEVATOR-STRUCTURE	27,700	31,400	39,700	------	------	------	------
FORT WORTH - DALLAS :							
DETACHED AND SEMIDETACHED	17,250	20,600	25,700	30,650	36,700	41,000	42,800
ROW DWELLINGS	15,250	18,250	22,650	27,050	32,400	36,200	37,900
WALKUP	13,650	16,950	21,450	25,400	29,450	32,500	33,850
ELEVATOR-STRUCTURE	29,250	33,900	43,050	------	------	------	------
ABILENE :							
DETACHED AND SEMIDETACHED	17,950	21,450	26,650	31,700	38,200	42,700	44,250
ROW DWELLINGS	15,750	18,800	23,400	27,900	33,550	37,550	39,000
WALKUP	12,850	16,100	20,300	23,900	27,700	30,600	32,000
ELEVATOR-STRUCTURE	30,350	35,100	44,500	------	------	------	------
SAN ANGELO :							
DETACHED AND SEMIDETACHED	17,650	21,250	26,450	31,550	37,800	42,350	44,250
ROW DWELLINGS	15,900	18,950	23,550	28,000	33,850	37,750	39,450
WALKUP	13,400	16,600	20,950	24,950	29,000	31,800	33,300
ELEVATOR-STRUCTURE	30,550	35,500	44,800	------	------	------	------
WICHITA FALLS :							
DETACHED AND SEMIDETACHED	17,950	21,350	26,750	31,700	38,150	42,700	44,450
ROW DWELLINGS	15,900	18,950	23,550	28,000	33,850	37,750	39,450
WALKUP	14,200	17,800	22,450	26,600	31,000	34,050	35,600
ELEVATOR-STRUCTURE	29,500	34,300	43,300	------	------	------	------
HOUSTON :							
DETACHED AND SEMIDETACHED	18,150	21,950	26,950	32,100	38,650	43,200	45,000
ROW DWELLINGS	15,950	19,250	23,850	28,300	34,050	37,800	39,600
WALKUP	12,900	16,200	20,400	24,250	27,950	30,950	32,450
ELEVATOR-STRUCTURE	27,950	32,700	41,150	------	------	------	------
BEAUMONT :							
DETACHED AND SEMIDETACHED	18,600	22,450	27,800	32,900	39,800	44,350	46,250
ROW DWELLINGS	16,250	19,750	24,350	29,050	34,850	38,800	40,600
WALKUP	13,150	16,550	20,800	24,700	28,500	31,500	32,950
ELEVATOR-STRUCTURE	28,750	33,500	42,300	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

		NUMBER OF BEDROOMS						
		0	1	2	3	4	5	6
	REGION VI--CONTINUED							
TEXAS	--CONTINUED							
	BRYAN							
	DETACHED AND SEMIDETACHED	21,450	25,950	32,050	38,100	45,950	51,300	53,200
	ROW DWELLINGS	17,150	20,800	25,700	30,550	36,600	40,750	42,600
	WALKUP	11,950	14,900	18,800	22,300	25,850	28,500	29,900
	ELEVATOR-STRUCTURE	27,550	32,200	40,550	------	------	------	------
	EL CAMPO							
	DETACHED AND SEMIDETACHED	19,950	23,900	29,400	34,950	42,300	47,050	49,200
	ROW DWELLINGS	15,750	19,200	23,650	28,050	33,850	37,550	39,350
	WALKUP	13,450	16,700	21,100	24,950	28,900	31,850	33,550
	ELEVATOR-STRUCTURE	27,800	32,350	40,850	------	------	------	------
	LUFKIN							
	DETACHED AND SEMIDETACHED	19,550	23,600	29,100	34,650	41,700	46,550	48,800
	ROW DWELLINGS	17,150	20,800	26,050	30,600	36,700	40,800	42,700
	WALKUP	12,900	16,200	20,450	24,350	28,150	31,050	32,550
	ELEVATOR-STRUCTURE	27,950	32,700	41,150	------	------	------	------
	TEXAS CITY							
	DETACHED AND SEMIDETACHED	18,150	21,950	26,950	32,100	38,650	43,200	45,000
	ROW DWELLINGS	15,950	19,250	23,850	28,300	34,050	37,800	39,600
	WALKUP	13,550	16,900	21,350	25,300	29,300	32,400	33,950
	ELEVATOR-STRUCTURE	27,950	32,700	41,150	------	------	------	------
	LUBBOCK							
	DETACHED AND SEMIDETACHED	17,650	21,100	26,250	31,300	37,650	41,900	43,650
	ROW DWELLINGS	15,150	18,150	22,750	26,950	32,300	36,100	37,800
	WALKUP	13,800	17,350	21,800	25,800	29,900	32,750	34,400
	ELEVATOR-STRUCTURE	24,750	28,750	36,450	------	------	------	------
	AMARILLO							
	DETACHED AND SEMIDETACHED	17,600	21,150	26,400	31,450	37,950	42,200	43,900
	ROW DWELLINGS	16,200	19,400	24,100	28,650	34,450	38,450	40,050
	WALKUP	14,550	18,150	22,950	27,100	31,550	34,700	36,400
	ELEVATOR-STRUCTURE	25,300	29,400	37,200	------	------	------	------
	EL PASO							
	DETACHED AND SEMIDETACHED	17,650	21,000	26,150	31,050	37,450	41,750	43,600
	ROW DWELLINGS	16,900	20,000	25,050	29,750	35,800	40,150	41,650
	WALKUP	14,950	18,500	23,400	27,650	32,050	35,250	36,900
	ELEVATOR-STRUCTURE	24,100	28,150	35,650	------	------	------	------
	MIDLAND							
	DETACHED AND SEMIDETACHED	16,700	20,250	25,050	30,100	36,050	40,150	41,900
	ROW DWELLINGS	14,800	17,900	22,050	26,450	31,600	35,400	37,000
	WALKUP	13,700	17,250	21,750	25,650	29,850	32,700	34,350
	ELEVATOR-STRUCTURE	23,650	27,350	34,750	------	------	------	------
	ODESSA							
	DETACHED AND SEMIDETACHED	16,750	20,300	25,050	30,150	36,050	40,200	41,950
	ROW DWELLINGS	14,900	17,850	22,100	26,350	31,600	35,350	36,900
	WALKUP	13,800	17,100	21,750	25,750	29,800	32,700	34,400
	ELEVATOR-STRUCTURE	23,650	27,350	34,750	------	------	------	------
	SAN ANTONIO							
	DETACHED AND SEMIDETACHED	15,650	18,750	23,250	27,800	33,450	37,200	38,800
	ROW DWELLINGS	17,550	17,100	20,850	25,000	30,000	33,500	34,700
	WALKUP	13,150	16,500	20,800	24,550	28,650	31,450	32,900
	ELEVATOR-STRUCTURE	23,800	27,700	35,150	------	------	------	------
	AUSTIN							
	DETACHED AND SEMIDETACHED	16,250	19,500	24,100	28,750	34,650	38,550	40,150
	ROW DWELLINGS	14,550	17,600	21,650	25,800	31,000	34,600	36,050
	WALKUP	12,900	16,350	20,400	24,400	28,300	30,950	32,650
	ELEVATOR-STRUCTURE	20,850	24,150	30,650	------	------	------	------
	CORPUS CHRISTI							
	DETACHED AND SEMIDETACHED	16,950	20,350	25,450	30,200	36,250	40,450	42,000
	ROW DWELLINGS	15,300	18,600	23,050	27,350	32,850	36,650	38,100
	WALKUP	14,200	17,600	22,350	26,250	30,400	33,500	35,250
	ELEVATOR-STRUCTURE	19,400	22,500	28,750	------	------	------	------
	DEL RIO							
	DETACHED AND SEMIDETACHED	15,350	18,400	22,800	27,350	32,750	36,550	37,900
	ROW DWELLINGS	14,000	16,850	20,850	24,800	29,750	33,150	34,550
	WALKUP	13,150	16,450	20,800	24,550	28,650	31,450	33,000
	ELEVATOR-STRUCTURE	21,850	25,350	32,300	------	------	------	------
	EAGLE PASS							
	DETACHED AND SEMIDETACHED	18,000	21,550	26,700	31,900	38,400	42,700	44,350
	ROW DWELLINGS	14,450	17,550	21,600	25,750	30,950	34,500	35,850
	WALKUP	13,500	17,150	21,450	25,600	29,650	32,650	34,200
	ELEVATOR-STRUCTURE	22,300	26,050	32,950	------	------	------	------
	HARLINGEN							
	DETACHED AND SEMIDETACHED	16,950	20,350	25,200	30,200	36,200	40,400	42,000
	ROW DWELLINGS	14,550	17,550	21,650	25,950	30,950	34,600	36,050
	WALKUP	13,500	17,150	21,550	25,600	29,700	32,700	34,350
	ELEVATOR-STRUCTURE	20,800	23,950	30,450	------	------	------	------
	JUNCTION							
	DETACHED AND SEMIDETACHED	16,850	20,300	25,100	29,800	35,950	40,000	41,550
	ROW DWELLINGS	14,550	17,700	21,850	26,050	31,400	34,950	36,400
	WALKUP	13,750	17,250	21,700	25,950	30,000	33,000	34,650
	ELEVATOR-STRUCTURE	22,700	26,450	33,400	------	------	------	------
	LAREDO							
	DETACHED AND SEMIDETACHED	16,850	20,150	25,050	29,800	35,750	39,900	41,450
	ROW DWELLINGS	14,900	18,150	22,400	26,750	32,000	35,750	37,150
	WALKUP	13,000	16,350	20,550	24,350	28,400	31,100	32,750
	ELEVATOR-STRUCTURE	21,850	25,350	32,300	------	------	------	------
	VICTORIA							
	DETACHED AND SEMIDETACHED	15,800	19,150	23,600	28,200	33,800	37,650	39,200
	ROW DWELLINGS	14,850	18,050	22,300	26,450	31,950	35,650	37,100
	WALKUP	14,000	17,600	22,100	26,250	30,550	33,500	35,250
	ELEVATOR-STRUCTURE	22,550	26,300	33,300	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VII							
IOWA							
DES MOINES :							
DETACHED AND SEMIDETACHED	18,900	22,950	28,250	33,700	40,600	44,950	47,150
ROW DWELLINGS	18,100	21,800	26,750	31,900	38,400	42,700	44,600
WALKUP	16,050	20,100	25,500	30,200	34,950	38,300	40,350
ELEVATOR-STRUCTURE	26,350	30,450	38,700	------	------	------	------
BETTENDORF :							
DETACHED AND SEMIDETACHED	19,750	23,850	29,400	35,150	42,300	47,050	49,200
ROW DWELLINGS	18,800	22,600	27,850	33,100	40,000	44,550	46,450
WALKUP	16,850	20,900	26,600	31,300	36,350	39,950	42,050
ELEVATOR-STRUCTURE	27,200	31,500	39,850	------	------	------	------
CEDAR RAPIDS :							
DETACHED AND SEMIDETACHED	19,650	23,650	29,300	34,700	41,800	46,550	48,600
ROW DWELLINGS	18,700	22,550	27,600	32,900	39,650	44,200	46,150
WALKUP	16,100	20,000	25,450	31,200	36,050	38,200	40,100
ELEVATOR-STRUCTURE	27,000	31,300	39,700	------	------	------	------
COUNCIL BLUFFS :							
DETACHED AND SEMIDETACHED	19,000	22,950	28,250	33,700	40,700	45,000	47,150
ROW DWELLINGS	18,050	21,750	26,750	32,150	38,450	43,000	44,800
WALKUP	16,000	20,000	25,500	30,100	34,850	38,350	40,250
ELEVATOR-STRUCTURE	26,400	30,700	38,700	------	------	------	------
DAVENPORT :							
DETACHED AND SEMIDETACHED	19,650	23,650	29,300	34,700	41,800	46,550	48,600
ROW DWELLINGS	18,650	22,550	27,650	32,950	39,600	44,200	46,100
WALKUP	16,750	20,800	26,400	32,400	37,550	39,800	41,750
ELEVATOR-STRUCTURE	27,200	31,500	39,850	------	------	------	------
DUBUQUE :							
DETACHED AND SEMIDETACHED	19,650	23,650	29,300	34,700	41,800	46,550	48,600
ROW DWELLINGS	18,650	22,550	27,650	32,950	39,600	44,200	46,100
WALKUP	16,750	20,800	26,400	32,400	37,550	39,800	41,750
ELEVATOR-STRUCTURE	26,650	31,100	39,350	------	------	------	------
MASON CITY :							
DETACHED AND SEMIDETACHED	19,650	23,650	29,300	34,700	41,800	46,550	48,600
ROW DWELLINGS	18,650	22,550	27,650	32,950	39,600	44,200	46,100
WALKUP	16,650	20,750	26,400	32,550	37,600	39,800	41,850
ELEVATOR-STRUCTURE	26,650	31,100	39,350	------	------	------	------
SIOUX CITY :							
DETACHED AND SEMIDETACHED	19,650	23,650	29,300	34,700	41,800	46,550	48,600
ROW DWELLINGS	18,550	22,250	27,450	32,750	39,400	43,950	45,850
WALKUP	16,650	20,600	26,200	32,350	37,350	39,550	41,550
ELEVATOR-STRUCTURE	26,650	31,100	39,350	------	------	------	------
WATERLOO :							
DETACHED AND SEMIDETACHED	19,650	23,650	29,300	34,700	41,800	46,550	48,600
ROW DWELLINGS	18,650	22,550	27,650	32,950	39,600	44,200	46,100
WALKUP	16,750	20,800	26,400	32,400	37,550	39,800	41,750
ELEVATOR-STRUCTURE	26,650	31,100	39,350	------	------	------	------
KANSAS							
KANSAS CITY :							
DETACHED AND SEMIDETACHED	20,200	24,550	30,200	35,900	43,250	48,050	50,350
ROW DWELLINGS	18,150	21,750	26,850	32,000	38,500	42,750	44,700
WALKUP	17,500	21,650	27,650	32,600	37,750	41,650	43,800
ELEVATOR-STRUCTURE	27,900	32,300	40,900	------	------	------	------
TOPEKA :							
DETACHED AND SEMIDETACHED	19,200	23,100	28,650	34,050	41,050	45,700	47,750
ROW DWELLINGS	18,550	22,100	27,400	32,550	39,200	43,800	45,800
WALKUP	16,800	21,150	26,900	31,600	36,600	40,600	42,350
ELEVATOR-STRUCTURE	25,500	29,450	37,300	------	------	------	------
GARDEN CITY :							
DETACHED AND SEMIDETACHED	17,750	21,400	26,500	31,550	38,050	42,200	44,250
ROW DWELLINGS	17,100	20,550	25,350	30,200	36,350	40,700	42,250
WALKUP	15,500	19,200	24,300	28,850	33,450	36,800	38,600
ELEVATOR-STRUCTURE	23,900	27,600	34,850	------	------	------	------
PITTSBURG :							
DETACHED AND SEMIDETACHED	17,450	21,100	26,050	31,050	37,350	41,500	43,450
ROW DWELLINGS	16,850	20,200	24,950	29,550	35,750	39,900	41,600
WALKUP	15,100	18,900	23,900	28,150	32,800	36,200	37,900
ELEVATOR-STRUCTURE	23,300	27,050	34,200	------	------	------	------
SALINA :							
DETACHED AND SEMIDETACHED	17,450	21,100	26,050	31,200	37,550	41,550	43,650
ROW DWELLINGS	16,900	20,250	25,150	29,750	35,800	40,000	41,800
WALKUP	15,200	18,900	24,150	28,300	32,950	36,200	37,950
ELEVATOR-STRUCTURE	23,500	27,150	34,250	------	------	------	------
WICHITA :							
DETACHED AND SEMIDETACHED	18,350	22,100	27,550	32,600	39,250	43,700	45,850
ROW DWELLINGS	17,550	21,150	26,250	31,050	37,600	41,850	43,650
WALKUP	15,800	19,850	25,200	29,700	34,400	37,950	39,800
ELEVATOR-STRUCTURE	23,300	27,050	34,200	------	------	------	------
MISSOURI							
KANSAS CITY :							
DETACHED AND SEMIDETACHED	22,450	27,250	33,550	39,850	48,050	53,350	55,850
ROW DWELLINGS	20,150	24,150	29,900	35,500	42,700	47,600	49,700
WALKUP	18,800	23,300	29,600	34,950	40,450	44,650	47,050
ELEVATOR-STRUCTURE	28,450	32,950	41,700	------	------	------	------
JOPLIN :							
DETACHED AND SEMIDETACHED	20,800	25,150	31,250	37,050	44,600	49,750	52,000
ROW DWELLINGS	18,800	22,400	27,800	33,250	39,900	44,400	46,300
WALKUP	17,550	21,650	27,700	32,550	37,800	41,550	43,750
ELEVATOR-STRUCTURE	26,500	30,750	38,900	------	------	------	------
ST. JOSEPH :							
DETACHED AND SEMIDETACHED	21,650	25,950	32,000	38,150	46,000	51,300	53,700
ROW DWELLINGS	19,450	23,150	28,650	34,000	41,050	45,750	47,650
WALKUP	18,050	22,500	28,500	33,650	39,150	43,050	45,250
ELEVATOR-STRUCTURE	27,250	31,600	40,050	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VII--CONTINUED							
MISSOURI --CONTINUED							
SEDALIA :							
DETACHED AND SEMIDETACHED	21,650	25,950	32,000	38,150	46,000	51,300	53,700
ROW DWELLINGS	19,450	23,150	28,650	34,000	41,050	45,750	47,650
WALKUP	18,050	22,500	28,500	33,650	39,150	43,050	45,250
ELEVATOR-STRUCTURE	27,250	31,600	40,050	------	------	------	------
SPRINGFIELD :							
DETACHED AND SEMIDETACHED	21,800	26,100	32,300	38,500	46,450	51,600	53,950
ROW DWELLINGS	19,500	23,250	28,850	34,350	41,450	46,050	48,000
WALKUP	17,200	21,400	26,950	31,850	37,050	40,850	42,700
ELEVATOR-STRUCTURE	27,000	31,400	39,750	------	------	------	------
ST LOUIS :							
DETACHED AND SEMIDETACHED	22,450	27,100	33,350	39,800	47,950	53,300	55,750
ROW DWELLINGS	21,200	25,200	31,400	37,350	45,000	50,300	52,300
WALKUP	18,900	23,650	29,800	35,300	41,000	45,000	47,150
ELEVATOR-STRUCTURE	28,600	33,150	41,850	------	------	------	------
CAPE GIRARDEAU :							
DETACHED AND SEMIDETACHED	21,150	25,650	31,800	37,850	45,650	50,950	53,250
ROW DWELLINGS	20,350	24,200	29,900	35,700	42,650	47,600	49,800
WALKUP	18,050	22,450	28,200	33,600	39,100	42,750	45,000
ELEVATOR-STRUCTURE	27,400	31,700	40,000	------	------	------	------
COLUMBIA :							
DETACHED AND SEMIDETACHED	22,050	26,550	32,900	39,300	47,300	52,500	55,000
ROW DWELLINGS	20,750	24,900	30,750	36,750	44,050	49,200	51,350
WALKUP	18,750	23,300	29,350	34,900	40,550	44,300	46,400
ELEVATOR-STRUCTURE	27,400	31,700	40,150	------	------	------	------
KIRKSVILLE :							
DETACHED AND SEMIDETACHED	22,050	26,550	32,900	39,300	47,300	52,500	55,000
ROW DWELLINGS	20,750	24,900	30,750	36,750	44,050	49,200	51,350
WALKUP	18,850	23,350	29,600	35,050	40,700	44,750	46,900
ELEVATOR-STRUCTURE	27,400	31,700	40,150	------	------	------	------
ROLLA :							
DETACHED AND SEMIDETACHED	20,050	24,200	30,050	35,650	42,850	47,600	49,850
ROW DWELLINGS	18,950	22,700	28,150	33,350	40,350	45,000	47,000
WALKUP	17,000	21,050	26,700	31,550	36,700	40,300	42,250
ELEVATOR-STRUCTURE	25,150	29,100	36,750	------	------	------	------
NEBRASKA							
OMAHA :							
DETACHED AND SEMIDETACHED	20,600	24,800	30,500	36,500	43,900	48,750	51,000
ROW DWELLINGS	18,550	22,250	27,500	32,800	39,650	43,900	45,850
WALKUP	17,050	21,300	26,950	31,850	36,900	40,650	42,650
ELEVATOR-STRUCTURE	26,750	31,100	39,350	------	------	------	------
GRAND ISLAND :							
DETACHED AND SEMIDETACHED	21,600	25,850	31,800	37,850	45,800	50,800	53,300
ROW DWELLINGS	19,600	23,600	29,250	34,800	42,000	46,550	48,650
WALKUP	17,700	22,250	28,200	33,200	38,600	42,350	44,500
ELEVATOR-STRUCTURE	27,650	32,200	40,450	------	------	------	------
LINCOLN :							
DETACHED AND SEMIDETACHED	20,450	24,750	30,300	36,300	43,550	48,400	50,800
ROW DWELLINGS	18,700	22,550	27,600	33,000	39,800	44,100	46,100
WALKUP	16,250	20,200	25,550	30,350	35,050	38,750	40,600
ELEVATOR-STRUCTURE	26,500	30,650	38,500	------	------	------	------
MACY :							
DETACHED AND SEMIDETACHED	24,600	29,550	36,550	43,600	52,550	58,800	61,350
ROW DWELLINGS	22,150	26,800	33,050	39,500	47,300	52,750	54,900
WALKUP	20,000	24,850	31,500	37,350	43,300	48,000	48,800
ELEVATOR-STRUCTURE	31,750	36,700	46,400	------	------	------	------
NORFOLK :							
DETACHED AND SEMIDETACHED	20,850	25,150	31,850	37,000	44,600	49,800	52,000
ROW DWELLINGS	18,850	22,700	28,000	33,400	40,100	44,700	46,550
WALKUP	16,850	20,850	26,450	31,250	36,400	40,250	42,100
ELEVATOR-STRUCTURE	28,050	32,350	41,150	------	------	------	------
NORTH PLATTE :							
DETACHED AND SEMIDETACHED	18,900	22,750	28,000	33,550	40,350	45,000	47,100
ROW DWELLINGS	17,600	21,150	26,100	31,200	37,300	41,650	43,500
WALKUP	16,550	20,500	26,200	31,000	35,750	39,650	41,600
ELEVATOR-STRUCTURE	27,050	31,300	39,750	------	------	------	------
SCOTTSBLUFF :							
DETACHED AND SEMIDETACHED	21,300	25,650	31,400	37,500	45,150	50,250	52,450
ROW DWELLINGS	19,050	22,850	28,250	33,750	40,450	45,050	46,950
WALKUP	17,350	21,400	27,300	32,450	37,350	41,300	43,450
ELEVATOR-STRUCTURE	27,250	31,600	37,750	------	------	------	------
REGION VIII							
COLORADO							
DENVER :							
DETACHED AND SEMIDETACHED	21,300	25,650	31,400	37,400	45,100	50,300	52,650
ROW DWELLINGS	19,050	22,800	28,300	33,550	40,400	44,950	47,100
WALKUP	16,750	20,900	26,450	31,250	36,000	39,800	41,700
ELEVATOR-STRUCTURE	30,400	35,450	44,700	------	------	------	------
GRAND JUNCTION :							
DETACHED AND SEMIDETACHED	21,100	25,450	31,350	37,400	45,000	50,050	52,250
ROW DWELLINGS	19,350	23,100	28,450	34,100	41,150	45,500	47,800
WALKUP	17,000	21,100	26,650	31,600	36,500	40,250	42,250
ELEVATOR-STRUCTURE	30,750	35,700	45,000	------	------	------	------
ASPEN-VAIL :							
DETACHED AND SEMIDETACHED	22,200	26,850	33,100	39,350	47,450	52,850	55,300
ROW DWELLINGS	20,500	24,600	30,300	36,200	43,650	48,550	50,900
WALKUP	18,050	22,500	28,500	33,550	39,000	42,900	45,100
ELEVATOR-STRUCTURE	32,550	37,850	48,050	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VIII--CONTINUED							
MONTANA							
HELENA							
DETACHED AND SEMIDETACHED	22,750	27,400	33,850	40,300	48,700	54,250	56,600
ROW DWELLINGS	19,600	23,300	29,200	34,650	41,750	46,350	48,650
WALKUP	18,200	22,900	29,100	34,250	39,600	43,750	45,650
ELEVATOR-STRUCTURE	28,100	32,650	41,450	------	------	------	------
BILLINGS							
DETACHED AND SEMIDETACHED	21,550	26,050	32,050	38,250	45,950	51,050	53,500
ROW DWELLINGS	18,750	22,200	27,650	32,800	39,550	44,050	46,050
WALKUP	17,100	21,650	27,500	32,400	37,300	41,400	43,300
ELEVATOR-STRUCTURE	26,650	30,750	39,250	------	------	------	------
GREAT FALLS							
DETACHED AND SEMIDETACHED	22,750	27,350	33,850	40,350	48,300	53,950	56,400
ROW DWELLINGS	19,900	23,600	29,200	35,100	42,200	46,800	49,400
WALKUP	18,350	23,050	29,100	34,200	39,650	43,950	45,800
ELEVATOR-STRUCTURE	28,150	32,500	41,450	------	------	------	------
MISSOULA							
DETACHED AND SEMIDETACHED	21,100	25,500	31,300	37,400	44,950	49,900	52,300
ROW DWELLINGS	18,350	21,650	27,050	32,050	38,650	43,100	45,050
WALKUP	16,750	21,200	27,000	31,700	36,600	40,600	42,400
ELEVATOR-STRUCTURE	26,100	30,150	38,400	------	------	------	------
NORTH DAKOTA							
FARGO							
DETACHED AND SEMIDETACHED	23,500	28,100	34,800	41,850	50,300	55,600	58,450
ROW DWELLINGS	19,100	23,150	28,500	33,850	40,950	45,300	47,450
WALKUP	17,600	22,150	27,550	32,650	38,200	42,000	44,200
ELEVATOR-STRUCTURE	27,500	32,050	40,400	------	------	------	------
BISMARCK							
DETACHED AND SEMIDETACHED	25,300	30,450	37,300	44,800	54,000	59,750	62,700
ROW DWELLINGS	20,600	24,900	30,600	36,500	44,200	48,900	51,200
WALKUP	19,150	23,950	29,500	35,200	41,400	45,350	47,750
ELEVATOR-STRUCTURE	29,450	34,250	43,300	------	------	------	------
DICKINSON							
DETACHED AND SEMIDETACHED	24,500	29,500	36,450	43,750	52,500	58,300	61,200
ROW DWELLINGS	19,950	24,300	30,000	35,550	42,900	47,500	49,650
WALKUP	18,550	23,300	28,900	34,150	40,300	44,350	46,400
ELEVATOR-STRUCTURE	28,900	33,650	42,450	------	------	------	------
SOUTH DAKOTA							
SIOUX FALLS							
DETACHED AND SEMIDETACHED	24,100	28,950	35,750	42,650	51,200	57,100	59,650
ROW DWELLINGS	22,000	26,600	33,000	39,250	47,400	52,150	55,050
WALKUP	19,050	23,700	30,050	35,650	41,300	45,600	47,850
ELEVATOR-STRUCTURE	27,500	32,000	40,350	------	------	------	------
PIERRE							
DETACHED AND SEMIDETACHED	25,400	30,850	37,800	45,000	54,500	60,550	63,050
ROW DWELLINGS	23,000	27,850	34,300	40,800	49,350	54,650	57,250
WALKUP	19,200	24,050	30,200	35,900	41,600	45,750	48,200
ELEVATOR-STRUCTURE	28,000	32,450	41,150	------	------	------	------
RAPID CITY							
DETACHED AND SEMIDETACHED	24,300	29,500	36,350	43,050	51,750	57,850	60,350
ROW DWELLINGS	22,250	27,200	33,350	40,100	47,950	52,900	55,850
WALKUP	19,950	25,050	31,600	37,250	43,100	47,650	50,200
ELEVATOR-STRUCTURE	27,850	32,400	40,950	------	------	------	------
UTAH							
SALT LAKE CITY							
DETACHED AND SEMIDETACHED	20,250	24,450	30,150	36,100	43,450	48,150	50,600
ROW DWELLINGS	18,200	21,850	27,050	32,450	38,700	43,000	45,050
WALKUP	16,250	20,350	25,950	30,650	35,500	39,150	41,150
ELEVATOR-STRUCTURE	24,750	28,900	36,550	------	------	------	------
CEDAR CITY							
DETACHED AND SEMIDETACHED	22,350	26,950	33,200	39,500	47,600	53,100	55,600
ROW DWELLINGS	18,050	21,850	26,850	32,200	38,500	43,000	44,750
WALKUP	16,700	21,000	26,600	31,200	36,350	39,950	42,050
ELEVATOR-STRUCTURE	27,250	31,750	40,250	------	------	------	------
VERNAL							
DETACHED AND SEMIDETACHED	21,450	25,900	31,900	38,100	45,900	51,000	53,500
ROW DWELLINGS	17,500	21,100	26,000	31,050	37,350	41,550	43,650
WALKUP	16,100	20,150	25,550	30,000	35,000	38,450	40,500
ELEVATOR-STRUCTURE	26,200	30,600	38,700	------	------	------	------
WYOMING							
CASPER							
DETACHED AND SEMIDETACHED	24,400	29,500	36,350	43,250	52,050	58,000	60,800
ROW DWELLINGS	20,900	25,050	31,150	37,050	44,500	49,600	51,850
WALKUP	19,000	23,850	30,250	35,500	41,350	45,450	47,750
ELEVATOR-STRUCTURE	27,850	32,450	41,250	------	------	------	------
CHEYENNE							
DETACHED AND SEMIDETACHED	23,350	28,350	34,850	41,550	50,050	55,700	58,450
ROW DWELLINGS	19,800	24,050	29,850	37,000	42,650	47,300	49,400
WALKUP	18,200	22,900	29,000	34,150	39,550	43,700	45,600
ELEVATOR-STRUCTURE	26,850	31,200	39,500	------	------	------	------
CODY							
DETACHED AND SEMIDETACHED	24,900	30,400	37,400	44,900	53,900	59,900	62,800
ROW DWELLINGS	21,650	25,800	32,150	38,200	45,800	50,900	53,500
WALKUP	19,550	24,550	31,150	36,650	42,250	46,800	48,800
ELEVATOR-STRUCTURE	28,800	33,550	42,450	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IX							
ARIZONA							
PHOENIX							
DETACHED AND SEMIDETACHED	18,900	22,700	28,000	33,350	40,200	44,750	46,900
ROW DWELLINGS	16,950	20,500	25,300	30,250	36,150	40,500	42,200
WALKUP	15,500	19,250	24,450	29,000	33,400	36,850	38,750
ELEVATOR-STRUCTURE	27,500	31,900	40,400	------	------	------	------
CASA GRANDE							
DETACHED AND SEMIDETACHED	19,700	23,800	29,250	34,900	42,050	46,650	49,000
ROW DWELLINGS	17,700	20,550	26,300	31,350	37,700	42,100	43,900
WALKUP	16,100	20,150	25,600	30,300	34,950	38,550	40,400
ELEVATOR-STRUCTURE	28,600	33,300	42,150	------	------	------	------
DOUGLAS							
DETACHED AND SEMIDETACHED	19,350	23,250	28,800	34,150	41,050	45,850	48,050
ROW DWELLINGS	17,500	21,100	26,050	31,000	37,300	41,650	43,500
WALKUP	15,950	19,850	25,200	29,750	34,200	37,750	39,700
ELEVATOR-STRUCTURE	28,300	32,800	41,550	------	------	------	------
FLAGSTAFF							
DETACHED AND SEMIDETACHED	19,200	23,150	28,800	34,050	40,050	45,700	47,950
ROW DWELLINGS	17,500	21,100	26,050	31,000	37,300	41,650	43,500
WALKUP	15,900	19,750	25,200	29,650	34,200	37,800	39,600
ELEVATOR-STRUCTURE	29,300	33,850	42,750	------	------	------	------
KINGMAN							
DETACHED AND SEMIDETACHED	19,950	24,050	29,550	35,350	42,550	47,200	49,600
ROW DWELLINGS	18,200	21,100	27,050	32,250	38,700	43,250	45,150
WALKUP	16,500	20,650	26,150	30,950	35,650	39,400	41,300
ELEVATOR-STRUCTURE	28,600	33,300	42,200	------	------	------	------
SAFFORD							
DETACHED AND SEMIDETACHED	20,250	24,200	29,950	35,650	42,800	47,800	50,150
ROW DWELLINGS	18,350	22,300	27,600	32,800	39,350	44,000	45,900
WALKUP	16,650	20,800	26,500	31,350	36,200	39,900	41,900
ELEVATOR-STRUCTURE	29,100	33,900	42,800	------	------	------	------
TUCSON							
DETACHED AND SEMIDETACHED	19,350	23,300	28,750	34,050	41,100	45,850	48,000
ROW DWELLINGS	18,050	21,800	26,950	32,100	38,550	43,150	45,100
WALKUP	16,100	20,100	25,400	30,000	34,650	38,300	40,050
ELEVATOR-STRUCTURE	32,700	37,950	47,900	------	------	------	------
YUMA							
DETACHED AND SEMIDETACHED	19,050	22,950	28,350	33,700	40,600	45,200	47,500
ROW DWELLINGS	17,200	20,800	25,750	30,550	36,850	41,050	42,700
WALKUP	15,950	19,650	25,050	29,750	34,250	37,750	39,550
ELEVATOR-STRUCTURE	27,450	32,050	40,450	------	------	------	------
NOGALES							
DETACHED AND SEMIDETACHED	24,900	29,900	36,900	43,800	52,800	58,950	61,750
ROW DWELLINGS	22,500	27,300	33,600	40,200	48,350	53,850	56,050
WALKUP	20,800	25,750	32,600	38,700	44,750	49,200	51,850
ELEVATOR-STRUCTURE	33,850	39,400	50,000	------	------	------	------
CALIFORNIA							
LOS ANGELES							
DETACHED AND SEMIDETACHED	26,750	31,750	39,550	47,250	56,750	63,450	66,300
ROW DWELLINGS	24,750	30,000	36,900	43,900	52,950	58,900	61,450
WALKUP	22,900	28,750	36,000	42,750	49,200	54,350	57,100
ELEVATOR-STRUCTURE	40,400	47,050	59,350	------	------	------	------
BAKERSFIELD							
DETACHED AND SEMIDETACHED	26,300	31,400	39,100	46,650	56,000	62,550	65,500
ROW DWELLINGS	24,400	29,600	36,400	43,250	52,200	58,100	60,700
WALKUP	22,550	28,450	35,400	42,100	48,450	53,550	56,300
ELEVATOR-STRUCTURE	40,250	46,800	59,100	------	------	------	------
INYOKERN							
DETACHED AND SEMIDETACHED	27,600	32,850	40,900	48,600	58,650	65,650	68,650
ROW DWELLINGS	25,750	31,200	38,150	45,600	54,900	61,050	63,800
WALKUP	23,600	29,650	37,200	44,050	50,800	55,900	58,750
ELEVATOR-STRUCTURE	41,700	48,700	61,400	------	------	------	------
LANCASTER							
DETACHED AND SEMIDETACHED	26,800	32,250	39,800	47,450	57,150	63,900	67,000
ROW DWELLINGS	24,800	30,100	37,150	44,300	53,150	58,950	61,800
WALKUP	23,050	28,950	36,150	42,850	49,700	54,650	57,400
ELEVATOR-STRUCTURE	40,500	47,250	59,750	------	------	------	------
MOJAVE							
DETACHED AND SEMIDETACHED	27,450	32,650	40,600	48,300	58,250	65,050	67,850
ROW DWELLINGS	25,500	30,800	37,900	45,400	54,550	60,700	63,350
WALKUP	23,500	29,400	36,900	43,550	50,200	55,550	58,250
ELEVATOR-STRUCTURE	41,400	48,300	60,950	------	------	------	------
OJAI							
DETACHED AND SEMIDETACHED	24,850	29,750	37,150	44,100	53,100	59,300	61,900
ROW DWELLINGS	23,150	28,100	34,650	41,250	49,550	55,250	57,750
WALKUP	21,350	26,850	33,750	40,100	46,350	50,800	53,600
ELEVATOR-STRUCTURE	38,350	44,650	56,250	------	------	------	------
OXNARD							
DETACHED AND SEMIDETACHED	26,250	31,400	39,100	46,450	55,900	62,400	65,550
ROW DWELLINGS	24,350	29,550	36,400	43,250	52,100	58,050	60,500
WALKUP	22,500	28,200	35,400	41,950	48,400	53,700	56,200
ELEVATOR-STRUCTURE	40,250	46,800	59,100	------	------	------	------
PASO ROBLES							
DETACHED AND SEMIDETACHED	26,150	31,300	38,750	46,150	55,400	62,000	65,100
ROW DWELLINGS	24,300	29,550	36,150	43,350	51,750	57,900	60,350
WALKUP	22,450	28,050	35,250	41,550	47,900	53,050	55,550
ELEVATOR-STRUCTURE	41,350	48,200	60,900	------	------	------	------
PIRU							
DETACHED AND SEMIDETACHED	24,850	29,750	37,150	44,100	53,100	59,300	61,900
ROW DWELLINGS	23,150	28,100	34,650	41,250	49,550	55,250	57,750
WALKUP	21,350	26,850	33,750	40,100	46,350	50,800	53,600
ELEVATOR-STRUCTURE	38,350	44,650	56,250	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IX--CONTINUED							
CALIFORNIA --CONTINUED							
RIDGECREST :							
DETACHED AND SEMIDETACHED	25,650	30,550	38,050	45,150	54,700	60,850	63,750
ROW DWELLINGS	23,750	28,800	35,400	42,100	50,650	56,400	58,800
WALKUP	21,850	27,450	34,500	40,850	47,150	51,900	54,500
ELEVATOR-STRUCTURE	41,500	48,500	61,050	------	------	------	------
SAN BERNARDINO :							
DETACHED AND SEMIDETACHED	26,250	31,400	39,100	46,450	55,900	62,400	65,550
ROW DWELLINGS	24,350	29,550	36,400	43,250	52,100	58,050	60,500
WALKUP	22,550	28,450	35,400	42,100	48,450	53,550	56,300
ELEVATOR-STRUCTURE	40,250	46,800	59,100	------	------	------	------
VICTORVILLE :							
DETACHED AND SEMIDETACHED	26,900	32,150	39,800	47,550	57,100	63,700	66,600
ROW DWELLINGS	25,050	29,900	37,150	44,350	53,200	59,350	62,050
WALKUP	24,350	29,200	36,150	43,300	51,900	57,900	60,500
ELEVATOR-STRUCTURE	40,550	47,100	59,750	------	------	------	------
SANTA BARBARA :							
DETACHED AND SEMIDETACHED	26,750	32,200	39,800	47,300	57,100	63,700	66,700
ROW DWELLINGS	24,650	30,200	37,150	44,100	53,150	59,200	61,550
WALKUP	22,950	28,750	36,150	42,600	49,600	54,500	57,300
ELEVATOR-STRUCTURE	40,500	47,250	59,750	------	------	------	------
ARROWHEAD :							
DETACHED AND SEMIDETACHED	27,300	32,800	40,600	48,400	58,350	65,050	67,900
ROW DWELLINGS	25,500	30,600	37,900	45,150	54,450	60,600	63,350
WALKUP	24,750	29,800	36,900	44,000	53,050	59,000	61,600
ELEVATOR-STRUCTURE	40,800	48,050	60,950	------	------	------	------
SANTA MARIA :							
DETACHED AND SEMIDETACHED	26,900	32,200	39,800	47,400	56,900	63,750	66,850
ROW DWELLINGS	24,850	30,300	37,150	44,550	53,150	59,550	61,950
WALKUP	23,000	28,850	36,150	42,750	49,200	54,500	57,150
ELEVATOR-STRUCTURE	41,350	48,200	60,900	------	------	------	------
BARSTOW :							
DETACHED AND SEMIDETACHED	27,000	32,300	40,000	47,900	57,450	64,100	66,950
ROW DWELLINGS	25,150	30,050	37,450	44,650	53,550	59,700	62,450
WALKUP	24,550	29,400	36,450	43,600	52,300	58,300	60,900
ELEVATOR-STRUCTURE	40,800	47,500	60,150	------	------	------	------
TEHACHAPI :							
DETACHED AND SEMIDETACHED	26,900	32,200	39,800	47,400	56,900	63,750	66,850
ROW DWELLINGS	24,850	30,300	37,150	44,550	53,150	59,550	61,950
WALKUP	23,000	28,850	36,150	42,750	49,200	54,500	57,150
ELEVATOR-STRUCTURE	41,350	48,200	60,900	------	------	------	------
BIG BEAR :							
DETACHED AND SEMIDETACHED	27,300	32,800	40,600	48,400	58,350	65,050	67,900
ROW DWELLINGS	25,500	30,600	37,900	45,150	54,450	60,600	63,350
WALKUP	24,750	29,800	36,900	44,050	53,050	59,050	61,650
ELEVATOR-STRUCTURE	41,250	48,050	60,950	------	------	------	------
VENTURA :							
DETACHED AND SEMIDETACHED	26,250	31,400	39,100	46,450	55,900	62,400	65,550
ROW DWELLINGS	24,350	29,550	36,400	43,250	52,100	58,050	60,500
WALKUP	22,550	28,450	35,400	42,100	48,450	53,550	56,300
ELEVATOR-STRUCTURE	40,250	46,800	59,100	------	------	------	------
SANTA ANA :							
DETACHED AND SEMIDETACHED	26,800	31,950	39,550	47,200	56,900	63,150	66,400
ROW DWELLINGS	24,850	30,050	36,900	44,100	53,050	59,100	61,550
WALKUP	22,950	28,500	36,000	42,400	49,200	54,150	56,700
ELEVATOR-STRUCTURE	40,550	46,900	59,350	------	------	------	------
DESERT CENTER :							
DETACHED AND SEMIDETACHED	29,650	35,600	44,050	52,700	63,400	70,600	74,050
ROW DWELLINGS	27,650	33,100	41,150	49,100	59,000	65,850	69,000
WALKUP	27,000	32,400	40,050	47,850	57,500	64,100	67,250
ELEVATOR-STRUCTURE	44,750	52,350	66,100	------	------	------	------
NEEDLES :							
DETACHED AND SEMIDETACHED	30,050	36,000	44,750	53,000	63,850	71,100	74,500
ROW DWELLINGS	26,900	32,200	40,050	47,500	57,150	63,650	66,750
WALKUP	24,100	28,900	35,850	42,450	51,100	57,050	59,700
ELEVATOR-STRUCTURE	36,500	42,650	54,000	------	------	------	------
SACRAMENTO :							
DETACHED AND SEMIDETACHED	20,650	24,750	30,650	36,350	43,850	48,800	51,100
ROW DWELLINGS	20,100	24,250	29,900	35,650	42,850	47,800	49,800
WALKUP	17,100	21,400	27,200	31,900	37,050	40,850	42,800
ELEVATOR-STRUCTURE	35,650	41,500	52,350	------	------	------	------
PLACERVILLE :							
DETACHED AND SEMIDETACHED	20,800	24,900	31,000	36,800	44,350	49,350	51,600
ROW DWELLINGS	20,250	24,450	30,250	36,150	43,300	48,350	50,400
WALKUP	17,700	22,000	28,050	33,000	38,250	42,100	44,100
ELEVATOR-STRUCTURE	36,000	42,050	53,000	------	------	------	------
REDDING :							
DETACHED AND SEMIDETACHED	20,600	24,800	30,650	36,600	44,000	48,850	51,100
ROW DWELLINGS	20,050	24,250	29,900	35,600	42,700	47,650	49,800
WALKUP	17,450	21,700	27,700	32,550	37,700	41,500	43,450
ELEVATOR-STRUCTURE	35,500	41,500	52,350	------	------	------	------
YREKA :							
DETACHED AND SEMIDETACHED	20,750	25,000	30,900	36,700	44,200	49,250	51,400
ROW DWELLINGS	20,150	24,350	30,050	35,800	43,150	47,900	50,150
WALKUP	17,600	21,850	27,850	32,750	37,950	41,800	43,850
ELEVATOR-STRUCTURE	35,750	41,650	52,600	------	------	------	------
SOUTH LAKE TAHOE :							
DETACHED AND SEMIDETACHED	21,300	25,600	31,700	37,550	45,300	50,550	52,800
ROW DWELLINGS	20,650	24,900	30,900	36,750	44,250	49,250	51,450
WALKUP	18,000	22,550	28,600	33,550	39,000	42,900	45,000
ELEVATOR-STRUCTURE	38,000	44,100	55,550	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IX--CONTINUED							
CALIFORNIA --CONTINUED							
SAN FRANCISCO :							
DETACHED AND SEMIDETACHED	27,650	33,350	41,250	49,100	59,150	65,800	68,700
ROW DWELLINGS	27,200	32,750	40,350	48,150	57,700	64,250	67,200
WALKUP	23,950	30,000	37,800	44,750	51,850	57,100	59,800
ELEVATOR-STRUCTURE	48,700	56,600	71,450	------	------	------	------
EUREKA :							
DETACHED AND SEMIDETACHED	27,800	33,350	41,200	49,100	59,200	65,950	68,950
ROW DWELLINGS	21,050	25,500	31,250	37,400	44,800	50,050	52,150
WALKUP	19,300	23,900	30,300	35,750	41,500	45,650	47,800
ELEVATOR-STRUCTURE	36,250	41,950	53,000	------	------	------	------
SANTA ROSA :							
DETACHED AND SEMIDETACHED	25,700	30,800	38,100	45,350	54,650	60,950	63,700
ROW DWELLINGS	20,700	25,050	30,750	36,700	43,950	49,150	51,300
WALKUP	19,000	23,500	29,800	35,150	40,800	44,900	47,050
ELEVATOR-STRUCTURE	35,600	41,250	52,000	------	------	------	------
FRESNO :							
DETACHED AND SEMIDETACHED	21,200	25,200	31,350	37,300	45,000	49,950	52,400
ROW DWELLINGS	19,750	23,900	29,500	35,150	42,200	47,000	49,150
WALKUP	18,100	22,500	28,500	33,550	38,950	42,800	44,950
ELEVATOR-STRUCTURE	38,200	44,500	56,250	------	------	------	------
MODESTO :							
DETACHED AND SEMIDETACHED	21,700	26,200	32,250	38,300	46,200	51,350	53,800
ROW DWELLINGS	21,150	25,550	31,500	37,600	45,100	50,200	52,750
WALKUP	18,300	22,750	28,800	33,850	39,200	43,450	45,150
ELEVATOR-STRUCTURE	34,800	40,300	50,800	------	------	------	------
OAKLAND-MARIN :							
DETACHED AND SEMIDETACHED	24,100	29,000	35,700	42,500	51,150	56,950	59,600
ROW DWELLINGS	22,800	27,300	33,700	40,250	48,350	53,850	56,350
WALKUP	20,650	25,450	32,250	38,050	44,300	48,500	51,050
ELEVATOR-STRUCTURE	39,700	46,200	58,200	------	------	------	------
SAN JOSE :							
DETACHED AND SEMIDETACHED	23,350	28,050	34,750	41,400	49,850	55,600	58,050
ROW DWELLINGS	22,500	27,300	33,500	40,000	47,900	53,500	55,800
WALKUP	20,500	25,400	32,150	37,950	44,050	48,450	50,750
ELEVATOR-STRUCTURE	37,500	43,500	54,900	------	------	------	------
SANTA CRUZ :							
DETACHED AND SEMIDETACHED	28,250	33,850	41,900	49,950	60,200	67,000	70,050
ROW DWELLINGS	21,300	25,900	31,750	38,000	45,550	50,900	53,050
WALKUP	19,650	24,400	30,850	36,400	42,300	46,550	48,700
ELEVATOR-STRUCTURE	37,300	43,200	54,650	------	------	------	------
SAN DIEGO :							
DETACHED AND SEMIDETACHED	24,750	29,700	36,800	43,750	52,650	58,700	61,250
ROW DWELLINGS	22,500	27,100	33,500	39,700	47,750	53,350	55,850
WALKUP	19,700	24,650	31,350	36,850	42,650	47,000	49,300
ELEVATOR-STRUCTURE	37,750	43,950	55,650	------	------	------	------
EL CAJON :							
DETACHED AND SEMIDETACHED	24,750	29,700	36,800	43,750	52,650	58,700	61,250
ROW DWELLINGS	22,500	27,100	33,500	39,700	47,750	53,350	55,850
WALKUP	20,150	25,300	32,150	37,900	43,950	48,250	50,650
ELEVATOR-STRUCTURE	37,750	43,950	55,650	------	------	------	------
HAWAII							
HONOLULU :							
DETACHED AND SEMIDETACHED	32,950	40,100	49,500	58,850	76,400	78,950	82,600
ROW DWELLINGS	31,550	37,800	46,850	55,550	67,100	74,700	78,050
WALKUP	29,050	36,200	45,900	54,350	62,800	69,300	72,650
ELEVATOR-STRUCTURE	53,100	61,850	78,350	------	------	------	------
HILO :							
DETACHED AND SEMIDETACHED	36,650	44,100	54,450	64,800	78,050	86,650	91,050
ROW DWELLINGS	34,350	41,700	51,450	61,050	73,650	82,100	85,750
WALKUP	32,100	39,800	50,550	59,850	69,300	76,150	80,000
ELEVATOR-STRUCTURE	58,550	67,150	86,000	------	------	------	------
KAUAI :							
DETACHED AND SEMIDETACHED	38,150	46,600	56,950	68,000	82,150	91,100	95,400
ROW DWELLINGS	36,200	43,650	54,150	64,000	77,300	86,400	90,150
WALKUP	32,800	40,650	51,600	61,000	70,750	77,900	81,700
ELEVATOR-STRUCTURE	59,950	69,450	87,900	------	------	------	------
KONO :							
DETACHED AND SEMIDETACHED	37,150	45,150	55,500	66,200	79,700	88,650	92,600
ROW DWELLINGS	35,250	42,500	52,600	62,300	75,300	84,050	87,550
WALKUP	32,800	40,650	51,600	61,000	70,750	77,900	81,700
ELEVATOR-STRUCTURE	59,950	69,450	87,900	------	------	------	------
MAUI :							
DETACHED AND SEMIDETACHED	36,150	43,850	53,800	64,350	77,450	86,100	90,250
ROW DWELLINGS	34,300	41,450	51,250	60,700	73,250	81,700	85,400
WALKUP	31,900	39,600	50,350	59,200	68,700	75,750	79,400
ELEVATOR-STRUCTURE	58,200	67,600	85,550	------	------	------	------
GUAM :							
DETACHED AND SEMIDETACHED	30,450	36,700	45,300	53,800	65,050	72,300	75,750
ROW DWELLINGS	28,800	34,550	42,850	50,850	61,700	68,250	71,450
WALKUP	26,700	33,050	41,900	49,550	57,550	63,050	66,350
ELEVATOR-STRUCTURE	48,550	56,700	71,800	------	------	------	------
NEVADA							
RENO :							
DETACHED AND SEMIDETACHED	22,300	26,600	33,050	39,300	47,400	52,600	55,200
ROW DWELLINGS	20,600	25,050	30,950	36,700	44,300	49,600	51,550
WALKUP	18,800	23,200	29,600	35,000	40,500	44,800	46,700
ELEVATOR-STRUCTURE	40,700	47,450	60,000	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IX--CONTINUED							
NEVADA --CONTINUED							
LAS VEGAS :							
DETACHED AND SEMIDETACHED	23,050	27,550	34,450	40,900	49,000	54,750	57,350
ROW DWELLINGS	21,800	26,300	32,300	38,350	46,500	51,900	54,200
WALKUP	19,650	24,300	30,900	36,400	42,350	46,650	48,750
ELEVATOR-STRUCTURE	42,050	48,850	61,550	------	------	------	------
REGION X							
ALASKA							
ANCHORAGE :							
DETACHED AND SEMIDETACHED	31,750	38,500	47,450	56,650	67,900	75,600	79,200
ROW DWELLINGS	31,300	37,900	46,600	55,450	67,050	74,500	77,800
WALKUP	27,650	34,450	43,500	51,600	59,750	65,700	69,200
ELEVATOR-STRUCTURE	55,300	64,400	81,450	------	------	------	------
FAIRBANKS :							
DETACHED AND SEMIDETACHED	33,950	40,950	50,400	60,350	72,550	80,500	84,450
ROW DWELLINGS	33,400	40,400	49,700	58,950	71,450	79,350	83,000
WALKUP	29,350	36,650	46,350	54,850	63,600	70,100	73,750
ELEVATOR-STRUCTURE	58,450	67,950	85,900	------	------	------	------
JUNEAU :							
DETACHED AND SEMIDETACHED	30,750	37,200	45,700	54,800	65,650	73,200	76,600
ROW DWELLINGS	30,300	36,650	45,300	53,950	65,150	72,300	75,600
WALKUP	27,650	34,450	43,750	51,600	59,750	65,900	69,200
ELEVATOR-STRUCTURE	53,350	62,200	78,400	------	------	------	------
KETCHIKAN :							
DETACHED AND SEMIDETACHED	30,600	37,050	45,600	54,550	65,250	72,900	76,250
ROW DWELLINGS	30,000	36,400	44,900	53,250	64,400	71,450	74,850
WALKUP	27,700	34,500	43,800	51,800	59,850	66,050	69,500
ELEVATOR-STRUCTURE	54,000	62,800	79,400	------	------	------	------
SITKA :							
DETACHED AND SEMIDETACHED	30,750	37,150	45,750	54,800	65,650	73,200	76,550
ROW DWELLINGS	30,300	36,550	45,050	53,450	64,650	71,850	75,200
WALKUP	28,050	35,050	44,300	52,550	60,750	66,800	70,100
ELEVATOR-STRUCTURE	55,700	64,750	81,950	------	------	------	------
KENAI :							
DETACHED AND SEMIDETACHED	34,750	42,100	52,000	61,850	74,150	83,050	86,550
ROW DWELLINGS	------	------	------	------	------	------	------
WALKUP	------	------	------	------	------	------	------
ELEVATOR-STRUCTURE	------	------	------	------	------	------	------
IDAHO							
BOISE :							
DETACHED AND SEMIDETACHED	22,200	26,750	32,800	39,350	47,250	52,500	55,100
ROW DWELLINGS	20,200	24,350	29,950	35,850	43,200	48,000	50,350
WALKUP	18,800	23,400	29,750	35,150	40,450	44,800	46,850
ELEVATOR-STRUCTURE	29,850	34,800	43,950	------	------	------	------
IDAHO FALLS :							
DETACHED AND SEMIDETACHED	22,800	27,900	34,100	40,800	49,050	54,450	57,050
ROW DWELLINGS	20,850	25,400	31,150	37,200	44,850	49,900	53,250
WALKUP	19,650	24,300	30,800	36,500	42,000	46,600	48,800
ELEVATOR-STRUCTURE	31,100	35,950	45,650	------	------	------	------
MCCALL :							
DETACHED AND SEMIDETACHED	23,150	28,050	34,300	41,200	49,400	54,950	57,650
ROW DWELLINGS	21,300	25,550	31,300	37,550	45,200	50,350	52,750
WALKUP	19,850	24,600	31,050	36,650	42,450	47,000	49,150
ELEVATOR-STRUCTURE	31,250	36,200	46,050	------	------	------	------
POCATELLO :							
DETACHED AND SEMIDETACHED	24,250	29,600	36,300	43,400	52,250	57,950	60,800
ROW DWELLINGS	22,350	27,100	33,150	39,600	47,600	53,100	55,600
WALKUP	20,600	25,950	32,700	38,900	44,800	49,650	52,000
ELEVATOR-STRUCTURE	33,050	38,350	48,500	------	------	------	------
TWIN FALLS :							
DETACHED AND SEMIDETACHED	24,150	29,200	35,950	43,050	51,900	57,650	60,450
ROW DWELLINGS	22,050	26,850	32,900	35,850	47,200	52,700	55,250
WALKUP	20,550	25,600	32,550	38,500	44,400	49,150	51,550
ELEVATOR-STRUCTURE	32,800	38,200	48,150	------	------	------	------
LEWISTON :							
DETACHED AND SEMIDETACHED	23,600	28,650	35,450	41,950	50,800	56,550	59,150
ROW DWELLINGS	21,700	26,200	32,500	38,450	46,300	51,650	54,050
WALKUP	18,700	23,100	29,500	34,650	40,100	44,250	46,600
ELEVATOR-STRUCTURE	30,700	35,900	45,150	------	------	------	------
COEUR D'ALENE :							
DETACHED AND SEMIDETACHED	25,000	30,200	37,350	44,400	53,600	59,600	62,300
ROW DWELLINGS	23,400	28,450	35,000	41,500	50,350	55,750	58,500
WALKUP	20,550	25,450	32,600	38,300	44,200	48,850	51,250
ELEVATOR-STRUCTURE	32,800	38,350	48,350	------	------	------	------
OREGON							
PORTLAND :							
DETACHED AND SEMIDETACHED	24,000	28,850	35,650	42,650	51,250	56,900	59,650
ROW DWELLINGS	21,950	26,700	33,000	39,000	47,150	52,350	54,650
WALKUP	20,100	25,200	31,900	37,600	43,750	48,100	50,550
ELEVATOR-STRUCTURE	30,500	35,100	44,500	------	------	------	------
PENDLETON :							
DETACHED AND SEMIDETACHED	26,050	31,300	38,650	46,400	55,650	61,750	64,850
ROW DWELLINGS	24,650	30,050	37,050	43,750	53,050	58,850	61,450
WALKUP	21,400	26,900	34,000	40,050	46,700	51,300	53,900
ELEVATOR-STRUCTURE	33,250	38,450	48,750	------	------	------	------
ONTARIO :							
DETACHED AND SEMIDETACHED	25,450	30,800	37,750	45,450	54,450	60,650	63,600
ROW DWELLINGS	23,750	28,500	35,050	41,700	50,450	56,250	58,950
WALKUP	21,650	26,950	33,950	40,350	46,400	51,400	53,850
ELEVATOR-STRUCTURE	31,850	37,000	47,100	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION X--CONTINUED							
OREGON--CONTINUED							
BEND							
DETACHED AND SEMIDETACHED	23,350	28,150	34,650	41,600	49,850	55,350	58,100
ROW DWELLINGS	21,300	25,950	32,150	37,900	45,800	51,000	53,150
WALKUP	19,350	23,950	30,400	35,950	41,850	45,800	48,200
ELEVATOR-STRUCTURE	30,500	35,100	44,500	------	------	------	------
COOS BAY							
DETACHED AND SEMIDETACHED	23,400	28,400	34,850	42,050	50,250	55,900	58,500
ROW DWELLINGS	22,400	27,150	33,700	39,700	48,100	53,600	55,700
WALKUP	20,750	25,850	32,700	38,700	45,150	49,550	52,050
ELEVATOR-STRUCTURE	31,200	36,150	45,500	------	------	------	------
EUGENE							
DETACHED AND SEMIDETACHED	22,400	27,050	33,350	40,050	47,900	53,100	55,800
ROW DWELLINGS	20,450	24,950	30,850	36,500	44,050	48,950	51,100
WALKUP	18,550	22,000	29,500	34,700	40,500	44,500	46,850
ELEVATOR-STRUCTURE	29,850	34,500	43,750	------	------	------	------
MEDFORD							
DETACHED AND SEMIDETACHED	22,800	27,300	33,650	40,450	45,900	54,000	56,400
ROW DWELLINGS	21,600	26,050	32,250	38,200	46,200	51,350	53,450
WALKUP	19,800	24,500	31,200	36,600	42,650	47,050	49,600
ELEVATOR-STRUCTURE	30,050	34,750	44,150	------	------	------	------
WEST SALEM							
DETACHED AND SEMIDETACHED	22,950	27,900	34,150	41,150	49,350	54,750	57,400
ROW DWELLINGS	21,100	25,700	31,800	37,450	45,400	50,400	52,650
WALKUP	19,350	23,950	30,300	35,800	41,750	45,800	48,200
ELEVATOR-STRUCTURE	30,550	35,650	44,850	------	------	------	------
WASHINGTON							
SEATTLE							
DETACHED AND SEMIDETACHED	22,950	27,750	34,100	40,700	48,850	54,250	56,950
ROW DWELLINGS	20,600	25,050	30,750	36,650	44,050	48,900	51,300
WALKUP	20,050	24,300	29,950	35,700	42,850	47,600	49,950
ELEVATOR-STRUCTURE	32,050	37,250	46,950	------	------	------	------
PORT ANGELES							
DETACHED AND SEMIDETACHED	22,950	27,750	34,100	40,700	48,850	54,250	56,950
ROW DWELLINGS	20,600	25,050	30,750	36,650	44,050	48,900	51,300
WALKUP	20,050	24,300	29,950	35,700	42,850	47,600	49,950
ELEVATOR-STRUCTURE	32,800	38,150	48,300	------	------	------	------
LONGVIEW							
DETACHED AND SEMIDETACHED	22,700	27,550	33,850	40,450	48,550	53,900	56,600
ROW DWELLINGS	20,450	24,750	30,500	36,450	43,750	48,550	50,950
WALKUP	19,750	23,400	29,400	35,050	42,200	46,750	49,100
ELEVATOR-STRUCTURE	32,950	38,550	48,650	------	------	------	------
ABERDEEN							
DETACHED AND SEMIDETACHED	22,700	27,550	33,850	40,450	48,550	53,900	56,600
ROW DWELLINGS	20,450	24,750	30,500	36,450	43,750	48,550	50,950
WALKUP	19,750	23,400	29,400	35,050	42,200	46,750	49,100
ELEVATOR-STRUCTURE	32,300	37,400	47,450	------	------	------	------
BELLINGHAM							
DETACHED AND SEMIDETACHED	22,950	27,750	34,100	40,700	48,850	54,250	56,950
ROW DWELLINGS	20,600	25,050	30,750	36,650	44,050	48,900	51,300
WALKUP	19,850	24,050	29,650	35,300	42,450	47,100	49,450
ELEVATOR-STRUCTURE	32,300	37,400	47,450	------	------	------	------
OLYMPIA							
DETACHED AND SEMIDETACHED	22,950	27,750	34,100	40,700	48,850	54,250	56,950
ROW DWELLINGS	20,600	25,050	30,750	36,650	44,050	48,900	51,300
WALKUP	19,850	24,050	29,650	35,300	42,450	47,100	49,450
ELEVATOR-STRUCTURE	32,300	37,400	47,450	------	------	------	------
YAKIMA							
DETACHED AND SEMIDETACHED	23,800	28,800	35,400	42,300	50,850	56,500	59,350
ROW DWELLINGS	21,450	25,950	31,850	38,100	45,750	50,850	53,450
WALKUP	20,650	25,000	30,750	36,650	44,100	49,050	51,500
ELEVATOR-STRUCTURE	33,600	39,100	49,550	------	------	------	------
SPOKANE							
DETACHED AND SEMIDETACHED	21,900	26,600	32,600	38,950	46,800	52,000	54,550
ROW DWELLINGS	18,700	22,750	27,900	33,350	40,000	44,450	46,650
WALKUP	17,950	21,800	26,750	32,050	38,400	42,600	44,800
ELEVATOR-STRUCTURE	30,550	35,500	45,050	------	------	------	------
CHENEY							
DETACHED AND SEMIDETACHED	22,300	26,600	33,200	39,650	47,600	52,850	55,500
ROW DWELLINGS	19,050	22,750	28,400	33,850	40,700	45,150	47,450
WALKUP	18,300	21,800	27,250	32,550	39,000	43,350	45,500
ELEVATOR-STRUCTURE	30,950	36,150	45,750	------	------	------	------
KENNEWICK							
DETACHED AND SEMIDETACHED	24,600	27,000	36,600	43,700	52,400	58,200	61,100
ROW DWELLINGS	21,000	23,100	31,350	37,350	44,850	49,800	52,250
WALKUP	20,200	22,200	30,050	35,850	43,000	47,750	50,150
ELEVATOR-STRUCTURE	32,050	35,250	44,750	------	------	------	------
PULLMAN							
DETACHED AND SEMIDETACHED	22,850	27,700	34,000	40,600	48,750	54,150	56,850
ROW DWELLINGS	19,550	23,700	29,050	34,700	41,700	46,250	48,600
WALKUP	18,750	22,750	27,850	33,400	40,050	44,500	46,700
ELEVATOR-STRUCTURE	33,650	39,250	49,650	------	------	------	------

[FR Doc. 84-31837 Filed 12-5-84; 8:45 am]
BILLING CODE 4210-33-C

federal register

Thursday
December 6, 1984

Part V

Department of Energy

Office of Civilian Radioactive Waste Management

Intent To Issue Draft Environmental Assessments for Potential Nuclear Waste Repository Sites; Notice

Part V

Department of Energy

DEPARTMENT OF ENERGY

Office of Civilian Radioactive Waste Management

Intent To Issue Draft Environmental Assessments for Potential Nuclear Waste Repository Sites

AGENCY: Department of Energy DOE.

ACTION: Notice of intent to issue draft environmental assessments.

SUMMARY: DOE intends to publish for 90 days of public comment draft environmental assessments (EAs) for nine (9) potentially acceptable sites at the following locations for a repository for permanent disposal of spent nuclear fuel and high-level radioactive waste:

Louisiana

Vacherie Dome, Webster Parish and Bienville Parish

Mississippi

Cypress Creek Dome, Camp Shelby Military Reservation, Perry County
Richton Dome, Perry County

Nevada

Yucca Mountain, Nye County

Texas

Deaf Smith County
Swisher County

Utah

Davis Canyon, San Juan County
Lavender Canyon, San Juan County

Washington

Hanford, Denton County and Franklin County

After consideration of comments received during the comment period, DOE will publish final EAs. The Secretary of Energy will then formally nominate at least five (5) of the nine (9) sites as suitable for detailed site characterization and recommend not less than three (3) of the nominated sites to the President of the United States for approval to begin site characterization activities

DATES: The draft EAs are expected to be published for public comment on or about December 20, 1984.

ADDRESSES: Advance requests for the draft EAs are now being accepted at the address given below. Requests should include identification of the draft EA of interest from the above list of locations, and requestor's name, address, and ZIP code. A day-time telephone number and area code should also be included, if available, to enable DOE to clarify requests.

Send written requests to: EA, U.S. Department of Energy, ATTN: EA, 1000 Independence Avenue, SW., Washington, D.C. 20585.

DOE will make all nine draft EAs available for review in reading room at DOE headquarters and field offices, at a central location in the capital of each of the six host States listed above, at tribal headquarters of officially designated "affected Indian tribes", and in various public libraries and DOE information offices in the above six states. The **Federal Register** notice published on or about December 20, 1984, announcing the availability of the draft EAs will give the locations where draft EAs may be reviewed.

SUPPLEMENTARY INFORMATION: By the end of this century, the United States plans to begin operation of a geologic repository for the permanent disposal of commercial spent nuclear fuel and high-level radioactive waste. Pub. L. 97–425, the Nuclear Waste Policy Act of 1982 (the Act), specifies the process for selecting a repository site and assigns to DOE the responsibility for locating, constructing, operating, and decommissioning the repository.

The Act requires that DOE nominate at least five (5) sites that it determines are suitable for site characterization. DOE must then recommend not less than three (3) of those sites for characterization as candidate sites for the first repository. The Act also requires that DOE prepare site characterization plans for review by the Nuclear Regulatory Commission. As part of the site characterization program, DOE will sink one or more exploratory shafts at each of the recommended sites to the depth of the proposed repository and will then conduct tests at the depth to determine whether subsurface conditions will allow construction of a repository that will safely isolate radioactive wastes. After site characterization is completed, DOE will recommend one of the characterized sites for construction of a repository.

The Act also requires that DOE prepare EAs to serve as the basis for site nominations. The draft EAs will contain the following kinds of information and evaluations to meet the requirements of the Act:

- A description of the decision process by which the site is being considered for nomination;
- A description of the site and its surroundings;
- An evaluation of the effects of site characterization on the public health and safety and the environment;
- An assessment of the regional and local impacts of locating the proposed repository at the site;
- An evaluation as to whether the site is suitable for site characterization;
- An evaluation as to whether the site is suitable for development as a respository; and
- A reasonable comparative evaluation of the site with other sites and locations that have been considered.

A **Federal Register** notice will be issued on or about December 20, 1984, announcing the availability of the draft EAs, describing the briefing and public hearing process for the draft EAs, and how interested parties may participate in the public review process. DOE will consider public comments on the draft EAs before making any final nomination and recommendation decisions.

Issued at Washington, D.C. on December 3, 1984.

Robert H. Bauer,

Associate Director for Resource Management, Office of Civilian Radioactive Waste Management.

[FR Doc. 84–31870 Filed 12–5–84; 8:45 am]

BILLING CODE 6450–01–M

federal register

Thursday
December 6, 1984

Part VI

Office of Management and Budget

Budget Decisions and Deferrals; Notice

OFFICE OF MANAGMENT AND BUDGET

Budget Decisions and Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report 14 new deferrals of budget authority for 1985 totaling $5,266,251,741 and three revised deferrals now totaling $6,114,100,232. The deferrals affect International Security Assistance, the Departments of Defense, Energy, Interior and Labor, the General Services Administration, and the Panama Canal Commission.

The details of these deferrals are contained in the attached report.

Ronald Reagan.

The White House,
November 29, 1984.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

DEFERRAL #	ITEM	BUDGET AUTHORITY
	Funds Appropriated to the President	
	International Security Assistance	
D85-24	Foreign military sales credit	4,939,500
D85-2A	Economic support fund	4,106,500
D85-3A	Military assistance	801,270
D85-25	International military education and training	55,521
	Department of Defense - Military	
	Military Construction	
D85-6A	Military construction, defense	1,206,330
	Family Housing	
D85-26	Family housing, defense	230,790
	Department of Energy	
	Energy Programs	
D85-27	Fossil energy research and development	4,871
D85-28	Fossil energy construction	2,165
D85-29	Naval petroleum and oil shale reserves	23
D85-30	Energy conservation	3,398
D85-31	Strategic petroleum reserve	401
D85-32	Energy security reserve and alternative fuels production	852
	Department of the Interior	
	Bureau of Indian Affairs	
D85-33	Construction	8,918
	Department of Labor	
	Employment and Training Administration	
D85-34	State unemployment insurance and employment service operations	3,767
	Bureau of Labor Statistics	
D85-35	Salaries and expenses	5,000
	General Services Administration	
	National Archives and Records Service	
D85-36	Operating expenses	4,700
	Other Independent Agencies	
	Panama Canal Commission	
D85-37	Operating expenses	6,346
	Total, deferrals	11,380,352

SUMMARY OF SPECIAL MESSAGES
FOR FY 1985
(in thousands of dollars)

	RESCISSIONS	DEFERRALS
Third special message:		
New items	---	5,266,252
Revisions to previous special messages	---	5,515,092
Effects of second special message	---	10,781,344
Amounts from previous special messages that are changed by this message (changes noted above)	---	599,008
Subtotal, rescissions and deferrals	---	11,380,352
Amounts from previous special messages that are not changed by this message	---	827,436
Total amount proposed to date in all special messages	---	12,207,788

Deferral No: D85-24

D85-2A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Funds Appropriated to the President	New budget authority..... $4,939,500,000 (P.L. 98-473)
Bureau: International Security Assistance	Other budgetary resources 0
Appropriation title and symbol: Foreign Military Sales Credit 1/ 1151082	Total budgetary resources 4,939,500,000
	Amount to be deferred: Part of year 4,939,500,000
	Entire year 0
OMB identification code: 11-1082-0-1-152	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund: [X] Annual	**Type of budget authority:** [X] Appropriation
[ ] Multiple-year (expiration date)	[ ] Contract authority
[ ] No-Year	[ ] Other

Justification: The President is authorized by the Arms Export Control Act to sell or finance by credit or guarantees articles and defense services to friendly countries to facilitate the common defense. Under Section 2 of the Arms Export Control Act, the Secretary of State, under the direction of the President, is responsible for sales made under the Act, including determining whether there shall be a sale to a country and the amount thereof. Executive Order 11958 further requires the Secretary of State to obtain the prior concurrence of the Secretaries of Defense and Treasury, respectively, regarding standards and criteria for credit and guarantee transactions that are based upon national security and financial policies. These funds have been deferred pending approval of specific loans to eligible countries by the Departments of State, Defense and the Treasury. Consultation among these Departments will ensure that each approved program is consistent with the foreign, national security and financial policies of the United States and will not exceed the limits of available funds. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1984 (D84-30).

SUPPLEMENTARY REPORT

Report pursuant to Section 1014(c) of P.L. 93-344

This report updates Deferral No. D85-2 transmitted to the Congress on October 1, 1984.

This revision to a deferral of Funds Appropriated to the President for Economic support increases the amount previously reported as deferred from $280,500,000 to $4,106,500,000. This net increase of $3,826,000,000 is attributable to amounts appropriated in the Foreign Assistance and Related Programs Appropriations Act, 1985.

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Funds Appropriated to the President

Bureau:
International Security Assistance

Appropriation title and symbol:

Economic Support Fund 1/

114/51037
*1151037

OMB identification code:
11-1037-0-1-152

Grant program:
|X| Yes |___| No

Type of account or fund:

|*X| Annual

|X| Multiple-year March 31, 1985 (expiration date)

|___| No-Year

New budget authority.....*$3,826,000,000
(P.L. 98-473)
Other budgetary resources 280,500,000

Total budgetary resources*$4,106,500,000

Amount to be deferred:
Part of year *$4,106,500,000

Entire year 0

Legal authority (in addition to sec. 1013):
|X| Antideficiency Act

|___| Other_____

Type of budget authority:

|X| Appropriation

|___| Contract authority

|___| Other_____

*Coverage

Appropriation	Symbol	Amount Deferred
Economic Support Fund, 1984-85	114/51037	$ 280,500,000
Economic Support Fund, 1985	1151037	3,826,000,000
		$4,106,500,000

Justification: *Pursuant to the Foreign Assistance Act (FAA) of 1961, as amended, the President is authorized to furnish assistance to promote economic or political stability in foreign countries on such terms and conditions as he may determine. Under Part II, Chapter 4, of the Foreign Assistance Act, the Secretary of State is responsible for policy decisions and justifications for such economic support programs, including the countries and amounts to be provided. Executive Order 12163 of September 29, 1979, further delegates the President's responsibilities under Chapter 4, related to policy decisions and justifications for economic support programs, to the Secretary of State. These functions will be exercised in cooperation with the Administrator of the Agency for International Development. These funds are deferred pending approval of specific loans and grants to eligible countries by the Secretary of State. This will insure that each approved program is consistent with the foreign, national security and financial policies of the U.S. and will not exceed the limits of available funds. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

1/ This account was the subject of similar deferrals in 1984 (D84-24A, D84-60, and D84-66).

*Revised from previous report

Estimated Program Effect: None

Outlay Effect: None

D85-3A

SUPPLEMENTARY REPORT

Report pursuant to Section 1014(c) of P.L. 93-344

This report updates Deferral No. D85-3 transmitted to the Congress on October 1, 1984.

This revision to a deferral of Funds Appropriated to the President for Military assistance increases the amount previously reported as deferred from $18,500,000 to $801,270,000. This net increase of $782,770,000 is attributable to amounts appropriated in the Foreign Assistance and Related Programs Appropriations Act, 1985.

Deferral No:*D85-3A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Funds Appropriated to the President	New budget authority..... (P.L.) *$805,100,000
Bureau: International Security Assistance	Other budgetary resources *145,970,000
Appropriation title and symbol: Military Assistance 1/ 114/51080 *1151080	Total budgetary resources *951,070,000
	Amount to be deferred: Part of year *$801,270,000
	Entire year 0
OMB identification code: 11-1080-0-1-152	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [X] Yes [ ] No	[ ] Other
Type of account or fund: [*X] Annual	Type of budget authority: [X] Appropriation
[X] Multiple-year March 31, 1985 (expiration date)	[ ] Contract authority
[ ] No-Year	[ ] Other

*Coverage

Appropriation	Symbol	Amount Deferred
Military Assistance	114/51080	$ 18,500,000
Military Assistance	1151080	782,770,000
		$801,270,000

Justification: *Pursuant to the Foreign Assistance Act (FAA) of 1961, as amended, the President is authorized to furnish grant military assistance to any friendly country or international organization if he finds that it will strengthen the security of the United States or promote world peace. Executive Order No. 12163 of September 29, 1979, as amended, delegates certain Presidential functions under the FAA to the Secretaries of State and Defense. These funds are being deferred pending approval of specific programs by the Departments of State, Treasury, and Defense. Consultation among these Departments will ensure that each approved program is consistent with the foreign, national security and financial policies of the United States and will not exceed the limit of available funds. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of similar deferrals in 1984 (D84-31 and D84-67).

*Revised from previous report

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Funds Appropriated to the President	New budget authority.....$56,221,000 (P.L. 98-473)
Bureau: International Security Assistance	Other budgetary resources 0
Appropriation title and symbol: International Military Education and Training 1151081	Total budgetary resources 56,221,000
	Amount to be deferred: Part of year 55,521,000
	Entire year 0
OMB identification code: 11-1081-0-1-152	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [X] Yes [ ] No	[ ] Other
Type of account or fund:	**Type of budget authority:**
[X] Annual	[X] Appropriation
[ ] Multiple-year (expiration date)	[ ] Contract authority
[ ] No-Year	[ ] Other

Justification: Pursuant to the Foreign Assistance Act (FAA) of 1961, as amended, the President is authorized to furnish grant military training to friendly countries or international organizations. These funds are being deferred pending approval of specific programs by the Departments of State, Treasury, and Defense. Consultation among these Departments will ensure that each approved program is consistent with the foreign, national security and financial policies of the United States and will not exceed the limit of available funds. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

SUPPLEMENTARY REPORT

Report pursuant to Section 1014(c) of P.L. 93-344

This report updates Deferral No. D85-6 transmitted to the Congress on October 1, 1984.

This revision to a deferral of Department of Defense funds for Military construction increases the amount previously reported as deferred from $300,008,232 to $1,206,330,232. This net increase of $906,322,000 results from administrative delays in projects funded by the Military Construction Appropriations Act, 1985.

Deferral No: *D85-6A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Defense - Military

Bureau:
*Military Construction

Appropriation title and symbol:
See Coverage Section below 1/

OMB identification code:
See Coverage Section below 1/

Grant program:
|__| Yes |X| No

Type of account or fund:
|__| Annual — Sept. 30, 1985 / Sept. 30, 1986 / Sept. 30, 1987
|X| Multiple-year — Sept. 30, 1988 (expiration date)
|__| No-Year — *Sept. 30, 1989

New budget authority..... *$5,517,491,000
(P.L. 98-473)
Other budgetary resources *3,522,984,000

Total budgetary resources *9,040,475,000

Amount to be deferred:
Part of year *1,206,330,232
Entire year 0

Legal authority (in addition to sec. 1013):
|X| Antideficiency Act
|__| Other

Type of budget authority:
|X| Appropriation
|__| Contract authority
|__| Other

Coverage: 1/

Appropriation	Symbol	OMB Identification Code	Deferred
*Military construction, Army.....	215/92050	21-2050-0-1-051	$435,510,000*
Military construction, Army.....	214/82050	21-2050-0-1-051	9,000,000
Military construction, Army.....	213/72050	21-2050-0-1-051	---
Military construction, Army.....	212/62050	21-2050-0-1-051	---
Military construction, Army.....	211/52050	21-2050-0-1-051	---
*Military construction, Navy.....	175/91205	17-1205-0-1-051	178,334,000*
Military construction, Navy.....	174/81205	17-1205-0-1-051	---
Military construction, Navy.....	173/71205	17-1205-0-1-051	50,364,352
Military construction, Navy.....	172/61205	17-1205-0-1-051	12,679,980
Military construction, Navy.....	171/51205	17-1205-0-1-051	---
*Military construction, Air Force.	575/93300	57-3300-0-1-051	65,081,000*
Military construction, Air Force.	574/83300	57-3300-0-1-051	---
Military construction, Air Force.	573/73300	57-3300-0-1-051	---
Military construction, Air Force.	572/63300	57-3300-0-1-051	---
Military construction, Air Force.	571/53300	57-3300-0-1-051	---

Appropriation	Symbol	OMB Identification Code	Deferred
*Military construction, Defense Agencies.....	975/90500	97-0500-0-1-051	$53,427,000*
Military construction, Defense Agencies.....	974/80500	97-0500-0-1-051	5,000,000
Military construction, Defense Agencies.....	973/70500	97-0500-0-1-051	5,200,000
Military construction, Defense Agencies.....	972/60500	97-0500-0-1-051	6,864,000
Military construction, Defense Agencies.....	971/50500	97-0500-0-1-051	---
*Military construction, Army National Guard.....	215/92085	21-2085-0-1-051	$41,108,000*
Military construction, Army National Guard.....	214/82085	21-2085-0-1-051	---
Military construction, Army National Guard.....	213/72085	21-2085-0-1-051	---
Military construction, Army National Guard.....	212/62085	21-2085-0-1-051	---
Military construction, Army National Guard.....	211/52085	21-2085-0-1-051	---
*Military construction, Air National Guard.....	575/93830	57-3830-0-1-051	24,300,000*
Military construction, Air National Guard.....	574/83830	57-3830-0-1-051	---
Military construction, Air National Guard.....	573/73830	57-3830-0-1-051	10,900,000
Military construction, Air National Guard.....	572/63830	57-3830-0-1-051	---
Military construction, Air National Guard.....	571/53830	57-3830-0-1-051	---
*Military construction, Army Reserve.....	215/92086	21-2086-0-1-051	7,847,000*
Military construction, Army Reserve.....	214/82086	21-2086-0-1-051	---
Military construction, Army Reserve.....	213/72086	21-2086-0-1-051	---
Military construction, Army Reserve.....	212/62086	21-2086-0-1-051	---
Military construction, Army Reserve.....	211/52086	21-2086-0-1-051	---
*Military construction, Naval Reserve.....	175/91235	17-1235-0-1-051	1,180,000*
Military construction, Naval Reserve.....	174/81235	17-1235-0-1-051	---
Military construction, Naval Reserve.....	173/71235	17-1235-0-1-051	---
Military construction, Naval Reserve.....	172/61235	17-1235-0-1-051	---
Military construction, Naval Reserve.....	171/51235	17-1235-0-1-051	---

Appropriation	Symbol	OMB Identification Code	Deferred
*Military construction, Air Force Reserve	575/93730	57-3730-0-1-051	32,535,000*
Military construction, Air Force Reserve	574/83730	57-3730-0-1-051	---
Military construction, Air Force Reserve	573/73730	57-3730-0-1-051	---
Military construction, Air Force Reserve	572/63730	57-3730-0-1-051	---
Military construction, Air Force Reserve	571/53730	57-3730-0-1-051	---
North Atlantic Treaty Organization Infrastructure	97X0804	97-0804-0-1-051	267,000,000*
Military construction, Reserve Components, Generally	972/50805	21-2086-0-1-051	---
Total			$1,206,330,232*

Justification: These funds are deferred due to administrative delays, such as project designs not being completed and incomplete coordination of projects with other Federal agencies or local government agencies. Funds will be apportioned for individual projects throughout the year upon completion of project design and/or coordination. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None.

Outlay Effect: None.

1/ These accounts were the subject of a similar deferral in 1984 (D84-5A).

* Revised from previous report.

Deferral No: D85-26

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Defense - Military

Bureau:
Family Housing, Defense

Appropriation title and symbol:
See Coverage Section below 1/

OMB identification code:
See Coverage Section below 1/

Grant program:
|___| Yes |X| No

Type of account or fund:
|___| Annual (Sept. 30, 1986 / Sept. 30, 1987)
|X| Multiple-year (Sept. 30, 1988 / Sept. 30, 1989) (expiration date)
|___| No-Year

New budget authority..... $442,072,000
(P.L.)
Other budgetary resources 285,216,939

Total budgetary resources 727,288,939

Amount to be deferred:
Part of year $230,790,000
Entire year 0

Legal authority (in addition to sec. 1013):
|X| Antideficiency Act
|___| Other

Type of budget authority:
|X| Appropriation
|___| Contract authority
|___| Other

Coverage: 1/

Appropriation	Symbol	OMB Identification Code	Deferred
Family housing, Army	215/90702	21-0702-0-1-051	$ 73,770,000
Family housing, Army	214/80702	21-0702-0-1-051	---
Family housing, Army	213/70702	21-0702-0-1-051	---
Family housing, Army	212/67072	21-0702-0-1-051	---
Family housing, Navy and Marine Corps	175/90703	17-0703-0-1-051	16,520,000
Family housing, Navy and Marine Corps	174/80703	17-0703-0-1-051	---
Family housing, Navy and Marine Corps	173/70703	17-0703-0-1-051	---
Family housing, Navy and Marine Corps	172/60703	17-0703-0-1-051	---
Family housing, Air Force	575/90704	57-0704-0-1-051	110,500,000
Family housing, Air Force	574/80704	57-0704-0-1-051	---
Family housing, Air Force	573/70704	57-0704-0-1-051	---
Family housing, Air Force	572/60704	57-0704-0-1-051	---

Appropriation	Symbol	Identification Code	Deferred
Family housing, Defense Agencies..	975/90706	97-0706-0-1-051	---
Family housing, Defense Agencies..	974/80706	97-0706-0-1-051	---
Family housing, Defense Agencies..	973/70706	97-0706-0-1-051	---
Family housing, Defense Agencies..	972/60706	97-0706-0-1-051	---
			$230,790,000

Justification: These funds are deferred due to administrative delays, such as project designs not being completed and incomplete coordination of projects with other Federal agencies or local government agencies. Funds will be apportioned for individual projects throughout the year upon completion of project design and/or coordination. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None.

Outlay Effect: None.

1/ This account was the subject of a similar deferral in 1984 (D84-6A).

Deferral No: D85-27

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Energy

Bureau:
Energy Programs

Appropriation title and symbol:
Fossil Energy Research and Development 1/
89X0213

OMB identification code:
89-0213-0-1-271

Grant program:
| | Yes | X | No

Type of account or fund:
| | Annual
| | Multiple-year _____ (expiration date)
| X | No-Year

New budget authority.....$ P. L. 98-146 15,000,000 / (P.L. 98-473) 274,947,000

Other budgetary resources 77,422,000

Total budgetary resources 367,369,000

Amount to be deferred:
Part of year $_____

Entire year 4,871,187

Legal authority (in addition to sec. 1013):
| X | Antideficiency Act
| | Other _____

Type of budget authority:
| X | Appropriation
| | Contract authority
| | Other _____

Justification: This account funds research and development activities in coal, petroleum, and unconventional natural gas. The deferred funds consist of recoveries of prior year obligations for projects and activities which were completed or terminated during the months of February through July 1984. These funds cannot be effectively used this year and will be used to partially offset the 1986 appropriation request. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1984 (D84-21D).

Deferral No: D85-28

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy
Bureau: Energy Programs
Appropriation title and symbol: Fossil Energy Construction 1/ 89X0214
OMB identification code: 89-0214-0-1-271
Grant program: |__| Yes |X| No
Type of account or fund: |__| Annual |__| Multiple-year _____ (expiration date) |X| No-Year

New budget authority..... $_____ (P.L._____)
Other budgetary resources 7,691,000
Total budgetary resources 7,691,000
Amount to be deferred: Part of year $_____ Entire year 2,164,670
Legal authority (in addition to sec. 1013): |X| Antideficiency Act |__| Other_____
Type of budget authority: |X| Appropriation |__| Contract authority |__| Other_____

Justification: This account funds major construction projects related to Fossil Energy. The deferred funds consist of recoveries of prior year obligations for projects and activities which were completed or terminated during the months of February through July 1984. These funds cannot be effectively used this year and will be used to partially offset the 1986 appropriation request. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1984 (D84-25A).

Deferral No: D85-29

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy
Bureau: Energy Programs
Appropriation title and symbol: Naval Petroleum and Oil Shale Reserves 1/ 89X0219
OMB identification code: 89-0219-0-1-271
Grant program: |__| Yes |X| No
Type of account or fund: |__| Annual |__| Multiple-year _____ (expiration date) |X| No-Year

New budget authority..... $ 156,874,000 (P.L. 98-473)
Other budgetary resources 123,693,000
Total budgetary resources 280,567,000
Amount to be deferred: Part of year $_____ Entire year 22,788
Legal authority (in addition to sec. 1013): |X| Antideficiency Act |__| Other_____
Type of budget authority: |X| Appropriation |__| Contract authority |__| Other_____

Justification: This account primarily funds activities necessary to operate, explore, conserve, develop, and produce the naval petroleum reserves at the maximum efficient rate and to conserve the oil shale reserves. The remainder of this account includes funds from prior years for solar Federal buildings and coal loan guarantee activities. The deferred funds consist of recoveries of prior year obligations for projects and activities which were completed or terminated during the months of February through July 1984. These funds cannot be effectively used this year and will be used to partially offset the 1986 appropriation request. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1984 (D84-40A).

Deferral No: D85-30

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy	New budget authority..... $458,610,000 (P.L. 98-473)
Bureau: Energy Programs	Other budgetary resources 30,338,000
Appropriation title and symbol: Energy Conservation 1/ 89X0215	Total budgetary resources 488,948,000
	Amount to be deferred: Part of year $ ____ Entire year 3,398,271
OMB identification code: 89-0215-0-1-272	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program: [X] Yes [ ] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: This account funds a variety of energy research and development and grant programs providing support for buildings and community systems, industry, transportation, multi-sector research and state and local assistance. The deferred funds consist of recoveries of prior year obligations for projects and activities which were completed or terminated during the months of February through July 1984. These funds cannot be effectively used this year and will be used to partially offset the 1986 appropriation request. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1984 (D84-41).

Deferral No: D85-31

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy	New budget authority..... $ ____ (P.L. ____)
Bureau: Energy Programs	Other budgetary resources 537,572,000
Appropriation title and symbol: Strategic Petroleum Reserve 1/ 89X0218	Total budgetary resources 537,572,000
	Amount to be deferred: Part of year $ ____ Entire year 400,540
OMB identification code: 89-0218-0-1-274	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: Funds appropriated to this account are for the development of the Strategic Petroleum Reserve (SPR), including facilities construction, planning, and program administration. The deferred funds consist of recoveries of prior year obligations for projects and activities which were completed or terminated during the months of February through July 1984. These funds cannot be effectively used this year and will be used to partially offset the 1986 appropriation request. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1984 (D84-26B).

Deferral No: D85-32

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Energy

Bureau:
Energy Programs

Appropriation title and symbol:
Energy Security Reserve and Alternative Fuels Production 1/
89X5180

OMB identification code:
89-5180-0-2-271

Grant program: |___| Yes |X| No

Type of account or fund:
|___| Annual
|___| Multiple-year _____ (expiration date)
|X| No-Year

New budget authority..... $ _____
(P.L. _____)
Other budgetary resources 1,279,000

Total budgetary resources 1,278,000

Amount to be deferred:
Part of year $ _____
Entire year 852,285

Legal authority (in addition to sec. 1013):
|X| Antideficiency Act
|___| Other _____

Type of budget authority:
|X| Appropriation
|___| Contract authority
|___| Other _____

Justification: This program funds feasibility studies and cooperative agreements for the development and production of alternative fuels. The deferred funds consist of recoveries of prior year obligations for projects and activities which were completed or terminated during the months of February through July 1984. These funds cannot be effectively used this year and will be used to partially offset the 1986 appropriation request. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1984 (D84-22A).

Deferral No: D85-33

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of the Interior

Bureau:
Bureau of Indian Affairs

Appropriation title and symbol:
Construction
14X2301

OMB identification code:
14-2301-0-1-452

Grant program: |___| Yes |X| No

Type of account or fund:
|___| Annual
|___| Multiple-year _____ (expiration date)
|X| No-Year

New budget authority..... $ 109,686,000
(P.L. 98-473)
Other budgetary resources 58,306,000

Total budgetary resources 168,492,000

Amount to be deferred:
Part of year $ 8,918,000
Entire year _____

Legal authority (in addition to sec. 1013):
|___| Antideficiency Act
|___| Other _____

Type of budget authority:
|X| Appropriation
|___| Contract authority
|___| Other _____

Justification: This account funds construction and additions to Bureau facilities; construction, extension and rehabilitation of irrigation projects on Indian reservations; and, new and rehabilitated family housing. The Department of the Interior and Related Agencies Appropriations Act, 1985, included $8,918,000 to continue construction of the Navajo Indian Irrigation Project in New Mexico. Funds have not been requested for this project since 1982 because of concerns over the management of the entity farming the project -- Navajo Agricultural Products Industry (NAPI) -- and its continued operating losses, ranging from $3-10 million a year. NAPI is heavily in debt.

Although the Congress provided $8.9 million for construction, the Senate report on the 1985 appropriations bill states: "The Bureau is directed to submit a report to the Committee no later than January 1, 1985, on the Navajo Indian Irrigation Project including, but not necessarily limited to the following: a description of exactly what assistance the Bureau has provided to resolve the financial difficulties of the Navajo Agricultural Product Industries; the outlook for possible default on the $19,000,000 of loans guaranteed by the tribe, and the $18,500,000 of loans guaranteed by BIA; current projections of annual operating losses; the estimated annual subsidy requirements over the next five years and the estimated division of these losses between the BIA and the tribe; the impact of adding additional blocks

Justification: (con.)

on operating expenses and revenue projections; and a clear statement of the position of the Navajo Tribe with respect to the future of the irrigation project and the Navajo Agricultural Product Industries."

Funds for the initiation of construction are deferred until the BIA submits its report to the Congress for review.

Estimated Program Effect: None

Outlay Effect: None

Deferral No: D85-34

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: U. S. Department of Labor	**New budget authority.....** $ 1,637,167,000 (P.L. 98-619)
Bureau: Employment and Training Administration	**Other budgetary resources**
Appropriation title and symbol: State Unemployment Insurance and Employment Service Operations 1650179	**Total budgetary resources** 1,637,167,000
	Amount to be deferred: Part of year $ 3,767,000
	Entire year
OMB identification code: 16-0179-0-1-999	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [X] Yes [ ] No	[ ] Other
Type of account or fund: [X] Annual	**Type of budget authority:** [X] Appropriation
[ ] Multiple-year (expiration date)	[ ] Contract authority
[ ] No-Year	[ ] Other

Justification: The State Unemployment Insurance and Employment Service Operations appropriation provides for State grants for payment of salaries and expenses of State Unemployment Insurance and Employment Service staff and for related operations. The Department of Labor Appropriation Act, 1985, includes $3.8 million for amortization payments to States which had independent retirement plans in their State Employment Service agencies prior to 1980. These amounts are deferred until a study is made as to the exact amount needed by each State involved, at which time a plan can be developed based on the requirements of individual State retirement plans, timing, and such other factors that affect payment. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

Deferral No: D85-35

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Labor	New budget authority..... $ 152,360,000 (P.L. 98-619)
Bureau: Bureau of Labor Statistics	Other budgetary resources 31,028,000
Appropriation title and symbol: Salaries and Expenses 1650200	Total budgetary resources 183,388,000
	Amount to be deferred: Part of year $ 5,000,000
	Entire year
OMB identification code: 16-0200-0-1-505	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [X] Yes [ ] No	[ ] Other
Type of account or fund:	**Type of budget authority:**
[X] Annual	[X] Appropriation
[ ] Multiple-year (expiration date)	[ ] Contract authority
[ ] No-Year	[ ] Other

Justification: This account funds the gathering and publishing of data on employment and unemployment, prices and the cost of living, wages and benefits, productivity and economic growth. The deferred funds would expand to all States a pilot program the Bureau of Labor Statistics started in 1984 in cooperation with some States to gather more statistics on plant closings and permanent layoffs. Because these funds are an addition to the 1985 Budget, the Department of Labor has had inadequate time to plan the expansion of the pilot program into a national program. These funds are deferred under the Antideficiency Act (31 U.S.C. 1512) to provide time to plan for their effective and efficient use and to determine how the funds can be distributed among all the States in a manner that will provide useful information.

Estimated Program Effect: None

Outlay Effect: None

Deferral No: D85-36

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: General Services Administration	New budget authority..... $ 9,200,000 (P.L. 98-473)
Bureau: National Archives and Records Service	Other budgetary resources 3,019,000
Appropriation title and symbol: National Archives and Records Service, Operating Expenses 47X0300	Total budgetary resources 12,219,000
	Amount to be deferred: Part of year $
	Entire year 4,700,000
OMB identification code: 47-0300-0-1-804	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund:	**Type of budget authority:**
[ ] Annual	[X] Appropriation
[ ] Multiple-year (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other

Justification: This appropriation provides for basic operations dealing with management of the Government's archives and records, operation of Presidential libraries, and for the review for declassification of security classified information. The 1985 Continuing Resolution (P.L. 98-473) provided $5.2 million for additional archival space, access facilities, and auditorium meeting space at the John F. Kennedy Library in Boston, Massachusetts. There have been no planning studies or justification materials prepared regarding any new construction at the John F. Kennedy Library. Funds will be made available for obligation as plans are prepared and approved. The Office of the Archivist has noted that no more than $500 thousand can be obligated in 1985. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

Deferral No: D85-37

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Panama Canal Commission
Bureau:

Appropriation title and symbol:
Operating expenses
9555191

OMB identification code:
95-1203-0-1-403

Grant program: [ ] Yes [X] No

Type of account or fund:
[X] Annual
[ ] Multiple-year _____ (expiration date)
[ ] No-Year

New budget authority..... $406,346,000
(P.L. 98-473)
Other budgetary resources 5,019,000

Total budgetary resources 411,365,000

Amount to be deferred:
Part of year $ 6,346,000
Entire year _____

Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: This account funds the operating expenses of the Panama Canal Commission from appropriation of tolls and other revenues. By law, the Panama Canal Commission is required to recover, as nearly as practicable, the total cost of its operation and, if profits are generated, to pay these to the Government of Panama. In 1984, the Commission generated an as-yet undetermined profit. Funds are deferred pending the Commission's determination of the exact amount of the payment due to Panama. Current estimates are that the Commission is able to operate with the funds made available. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

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