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# federal register

Friday
February 8, 1985

## Selected Subjects

**Agricultural Research**
Agricultural Research Service

**Aircraft**
Federal Aviation Administration

**Animal Drugs**
Food and Drug Administration

**Aviation Safety**
Federal Aviation Administration

**Claims**
Commodity Futures Trading Commission

**Consumer Protection**
Commodity Futures Trading Commission

**Government Contracts**
Immigration and Naturalization Service

**Government Property Management**
General Services Administration

**Grants Administration**
Agriculture Department
Environmental Protection Agency

**Loan Programs—Education**
Education Department

**Loan Programs—Energy**
Rural Electrification Administration

CONTINUED INSIDE

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# Selected Subjects

# Contents

Federal Register
Vol. 50, No. 27
Friday, February 8, 1985

## CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

**3 CFR**
Proclamations:
5299 ... 5363

**7 CFR**
Ch. XXXII ... 5498
Ch. XXXIV ... 5498
504 ... 5365
910 ... 5365
1711 ... 5366
Proposed Rules:
1789 ... 5395

**8 CFR**
238 ... 5369
Proposed Rules:
212 ... 5396

**14 CFR**
21 ... 5369
39 (3 documents) ... 5374–5376
71 (5 documents) ... 5377–5379
Proposed Rules:
39 (2 documents) ... 5396, 5397
71 (2 documents) ... 5398, 5399

**17 CFR**
1 ... 5380
143 ... 5383

**18 CFR**
271 ... 5384
Proposed Rules:
271 ... 5400

**21 CFR**
510 ... 5385
520 ... 5385
544 ... 5385

**30 CFR**
Proposed Rules:
104 ... 5470

**34 CFR**
682 ... 5506
Proposed Rules:
682 ... 5539

**40 CFR**
Proposed Rules:
30 ... 5544
761 ... 5401

**41 CFR**
Ch. 101 ... 5386

**46 CFR**
Proposed Rules:
572 ... 5401

**47 CFR**
73 (5 documents) ... 5391–5394
Proposed Rules:
73 (2 documents) ... 5402, 5404

**49 CFR**
Proposed Rules:
531 ... 5405

Federal Register
Vol. 50, No. 27
Friday, February 8, 1985

# Presidential Documents

Title 3—

The President

## Proclamation 5299 of February 6, 1985

## International Youth Year, 1985

By the President of the United States of America

A Proclamation

America rejoices in the energy, the imagination, and the promise of her young people. Whether in voluntary service, athletics, education, music, military service or within the family, young Americans display an enthusiasm, creativity, idealism, and dedication that have accomplished so much for our society and the world. Their patriotism and commitment to peace with freedom ensure a vigorous American democracy and a safer world in the years ahead.

In 1985 the United States joins the celebration of United Nations' International Youth Year. If we are to honor the potential of America's youth, we must remember that the most powerful force for progress comes not from governments or public programs, but from the vital traditions of a free people. Parents, youth organizations, and teachers deserve our support, encouragement, and thanks for the indispensable role they play in fostering and strengthening these traditions.

History makes clear that progress is swiftest when people are free to worship, create, and build—when they can determine their own destiny and benefit from their own initiative. The dream of human progress through freedom is still the most revolutionary idea in the world, and it is still the most successful. It is the priceless heritage America bestows on each new generation, with the hope that succeeding generations the world over will come to better know its fruits.

In the coming months, I urge American youth to reflect on our precious freedoms, to exchange ideas among themselves and with young people around the world, and to join with others in efforts to increase mutual understanding, enhance the observance of human rights, and promote world peace. In short, I urge our youth to be what they have been for many generations: America's proudest ambassadors of goodwill and our national values. One such opportunity is being offered by the people of Jamaica as they host the first-ever International Youth Conference in early April. The Conference will enable young Americans to discuss with their peers in other countries ways in which they can help shape the world of tomorrow.

Let all of us approach this year dedicated to youth by resolving to use our God-given talents and freedom to elevate our ideals, deepen our understanding, and strengthen our determination to make this world a better place for ourselves and for the generations of young people who will follow.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim 1985 as International Youth Year in the United States. I invite the Governors of the several States, the chief officials of local governments, and all Americans to observe this year with appropriate ceremonies and activities.

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

Ronald Reagan

[FR Doc. 85-3409
Filed 2-6-85; 4:16 pm]
Billing code 3195-01-M

# Rules and Regulations

Federal Register
Vol. 50, No. 27
Friday, February 8, 1985



## DEPARTMENT OF AGRICULTURE

### Agricultural Research Service

### 7 CFR Part 504

### User Fees; Deposit and Distribution of Microbial Patent Cultures

**AGENCY:** Agricultural Research Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture amends 7 CFR Chapter V, by adding Part 504—User Fees, to provide for the charge of user fees for the deposit and distribution of microbial cultures. These fees are necessary to offset increasing costs.

**EFFECTIVE DATE:** March 11, 1985.

**FOR FURTHER INFORMATION CONTACT:** A. J. Lyons, Curator, ARS Patent Culture Collection, Northern Regional Research Center, USDA–ARS, 1815 N. University St., Peoria, Illinois 61604; (309) 685–4011.

**SUPPLEMENTARY INFORMATION:** On June 7, 1984, the Agricultural Research Service, USDA, published a notice of proposed rulemaking in the **Federal Register** (49 FR 23651). Interested parties were invited to participate in this rulemaking by submitting written comments on the proposal to the Agency. The proposed rule comment period expired on July 9, 1984. No comments were received. This final rule is the same as that published in the **Federal Register** June 7, 1984.

The Department of Agriculture accepts for deposit microbial cultures that are maintained for patent requirements. The Department also distributes samples of these cultures. OMB Circular No. A–25 provides that a reasonable charge should be made for all Federal activities which convey a special benefit to an identifiable recipient above and beyond those benefits which accrue to the public at large. In accordance with OMB Circular A–25, and to offset increased costs in maintaining the depository, the Department will charge user fees for the deposit and distribution of microbial cultures. Accordingly, this rule amends the regulations to set forth the user fees.

This rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1 and been determined not to be a "major rule." In addition, it will not have a significant impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Terry B. Kinney, Administrator, Agricultural Research Service, made these determinations.

### List of Subjects in 7 CFR Part 504

Agricultural research, Fees.

Accordingly, the Department amends chapter V, Title 7, Code of Federal Regulations, by adding a new Part 504 to read as follows:

## PART 504—USER FEES

Sec.



**Authority:** 31 U.S.C. 9701.

#### § 504.1 General statement.

This part sets forth fees to be charged for the deposit and distribution of microbial patent cultures. The fees set forth in this part are applicable to the Agricultural Research Service (ARS) Patent Culture Collection, Northern Regional Research Center, Peoria, Illinois.

#### § 504.2 Fees for deposit and requisition of microbial cultures.

(a) Depositors of microbial cultures must pay a one-time $500 user fee for each culture deposited on or after November 1, 1983.

(b) For cultures deposited on or after November 1, 1983, requesters must pay a $20 user fee for each culture distributed. Cultures which were deposited on or after November 1, 1983 have an identification number greater than 15,722.

#### § 504.3 Payment of fees.

(a) Payment of user fees must accompany a culture deposit or request.

(b) Payment shall be made by check, draft, or money order payable to USDA, National Finance Center.

#### § 504.4 Exemptions from user fee charges.

(a) USDA laboratories and ARS cooperators designated by the Curator of the ARS Patent Culture Collection are exempt from fee assessments.

(b) The Curator of the ARS Patent Culture Collection is delegated the authority to approve and revoke exemptions from fee assessments.

#### § 504.5 Address.

Deposits of and requests for microbial patent cultures should be directed to the Curator, ARS Patent Culture Collection, Northern Regional Research Center, USDA–ARS, 1815 N. University St., Peoria, Illinois 61604; (309) 685–4011.

Signed at Washington, D.C., on February 4, 1985.

**Terry B. Kinney, Jr.,**
*Administrator, Agricultural Research Service.*

[FR Doc. 85–1836 Filed 2–7–85; 8:45 am]
BILLING CODE 3410–03–M

### Agricultural Marketing Service

### 7 CFR Part 910

**[Lemon Reg. 502]**

### Lemons Grown in California and Arizona; Limitation of Handling

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 240,000 cartons during the period February 10–16, 1985. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

**DATES:** Effective for the period February 10–16, 1985.

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

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

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

This action is consistent with the marketing policy currently in effect. The committee met publicly on February 5, 1985, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that lemon demand is good in mid sizes and easier on the smaller and larger sizes of fruit.

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

**List of Subjects in 7 CFR Part 910**

Marketing agreements and orders, California, Arizona, Lemons.

**PART 910—[AMENDED]**

Section 910.802 is added as follows:

**§ 910.802 Lemon Regulation 502.**

The quantity of lemons grown in California and Arizona which may be handled during the period February 10, 1985, through February 16, 1985, is established at 240,000 cartons.

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

Dated: February 6, 1985.

**Thomas R. Clark,**

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

[FR Doc. 85-3411 Filed 2-7-85; 8:45 am]

**BILLING CODE 3410-02-M**

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## Rural Electrification Administration

## 7 CFR Part 1711

## Electric Loans—Advance of Funds

September 18, 1985.

**AGENCY:** Rural Electrification Administration, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Rural Electrification Administration (REA) hereby amends the Agency's electric loan policies by adding a new part and a new section to 7 CFR Chapter XVII. The new part covers policies, procedures and requirements concerning the advance of insured loan funds to all electric Borrowers. This rule restricts such advances to projects included in an REA-approved Borrower's construction workplan or amendment to such plan and for which insured loan funds have been approved. A change in planning that results in construction of a project which costs $25,000 or less (not major) qualifies for advance of loan funds even though it may not have been specifically included in an REA approved Borrower's construction workplan, amendment to such workplan or approved loan. The funds must be used for purposes permitted by terms of the loan contract between the Borrower and the Government and where such use would not be in conflict with REA policies then in effect.

**EFFECTIVE DATE:** Effective April 9, 1985 for construction work order inventories and special equipment summaries submitted to REA in support of advances of insured loan funds.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles R. Weaver, Director, Electric Borrowers Management Division, Rural Electrification Administration, Room 1246, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number (202) 382-1900. The Final Impact Analysis describing the options considered in developing and implementing the Final Rule is available on request from the above address.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA hereby amends 7 CFR Chapter XVII by adding a new part and a new section concerning advance of insured electric loan funds. This action has been reviewed in accordance with Executive Order 12291, Federal Regulations. The action will not: (1) Have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity, and therefore has been determined to be "not major." This action does not fall within the scope of the Regulatory Flexibility Act. This program is listed in the Catalog of Federal Domestic Assistance as 10.850, Rural Electrification Loans and Loan Guarantees.

**Background**

Some Borrowers have obtained loan funds for major projects not specifically included in an approved construction workplan, approved amendment to such workplan, or approved loan. This action provides a procedure whereby Borrowers certify and REA verifies that loan funds are ultimately provided only for previously approved major projects but allows Borrower flexibility to meet changing circumstances. The action accomplishes this with little burden on Borrowers.

This rule implements provisions of the standard form REA loan contract which provides, in part, that the Borrower shall submit requests for advances (REA Form 595,[1] "Financial Requirement and Expenditure Statement") which shall be accompanied by a copy of REA Form 7 or 12a,[1] "Financial and Statistical Report" or "Operating Report—Financial" (not older than 60 days), respectively, and a completed Form 740a,[1] "Review of General Funds." The rule changes the requirements for advance of funds, set forth in REA Bulletin 26-1,[1] "Budgetary Control and Advance of Electric Loan Funds."

**Options Considered**

Continue present procedures which do not provide a mechanism to document major changes from approved construction workplans. Another option would be to further loosen current

[1] A copy of these forms and publications may be obtained by writing the Rural Electrification Administration, Washington, D.C. 20250.

agency requirements such that funds may be advanced on demand with minimal oversight on their subsequent use other than consistency with RE Act purposes. A third option is to require Borrowers to adhere strictly to the projects included in an REA-approved workplan upon which the loan is based. The fourth, and chosen, option is to balance the need to advance funds for projects approved by REA and the need for flexibility in accommodating some necessary Borrower changes. Such an approach establishes a procedure that requires Borrowers to:

1. Certify, with each request for funds to be approved for advance, that, except for defined projects costing $25,000 or less (not major), such funds are for those included in an REA-approved Borrower's construction workplan, amendments to such plan or an approved loan.

2. Provide with each request for funds to be approved for advance the following (readily available) information for each major project for which funds are requested:

(a) A contract or work order number (where applicable), and

(b) A workplan cross-reference identification to the project constructed; and

3. Immediately return, along with appropriate interest, any funds advanced that exceed 130 precent of the loan amount approved for each major project. The amount over advanced and returned may be subsequently requested by the Borrowers for REA-approved construction projects.

The rule permits advances in an amount not to exceed 130 percent of the cost of each major project set forth on the Borrower's most recent REA Form 740c,[1] "Cost Estimates on Loan Budget for Electric Borrowers," approved by REA or REA approved amendments thereto. The 130 percent factor is reasonable since the constructed costs will frequently vary from the estimated costs due to uncertainties in cost factors and construction conditions. This flexibility in the permissible amount of advance should be adequate for Borrowers' needs. Total advances cannot exceed the total amount of the loan.

In addition to returning amounts over advanced, Borrowers will be required to send to REA an amount representing costs incurred by the Rural Electrification and Telephone Revolving Fund as a result of the over advance. The amount to be sent will be determined by applying to the amount of the over advance and for the period it was outstanding, the difference between the REA loan interest rate and the most recent rate at which REA sold Certificates of Beneficial Ownership (CBO's).

**Public Comment**

A notice of proposed rule making was published in the **Federal Register** on December 16, 1983, Volume 48, number 243 pages 55869 and 70. Approximately 140 letters were received with comments and suggestions on the proposal. All the letters registered disapproval of one or more of the three elements contained in the proposed rule. The large majority considered the rule unnecessary. They maintained that present policies and procedures that have been in place for a long time have sufficient safeguards to assure that REA loan funds are put to the uses intended by the loan and in compliance with the purposes set forth in the RE Act.

Many respondents were concerned that, as proposed, the rule could cause substantial recordkeeping, extra paperwork and cause an increased burden on Borrowers' employees as well as REA personnel assigned to monitor the rules. Some of the letters stated that engineering costs could be substantially increased by a need to estimate more accurately costs of various components and facilities planned to be build two to four years hence. Many Borrowers cited examples of engineering planning and subsequent actual construction activities where significant cost variations occurred. They listed changing plans of developers, terrain, routing of lines, easements, weather and assorted other unforeseen variables which substantially altered the original cost estimates.

It was also stated in several letters that building facilities according to an REA-approved plan covering a defined time period rather than what was actually needed was not in the best interests of consumers, Borrowers or the Federal government. Many letters expressed concern that the rule as proposed would have effects contrary to the intended purposes.

Below is a summary of the major comments mentioned in the letters received. The summary is divided into the three principal elements of the proposed rule as stated in the aforementioned **Federal Register** Notice.

(a) "Purpose and Amount. Loan funds will be advanced only for construction items which are included in an approved workplan or approved amendment thereto evidenced by an approved REA Form 740c,[1] 'Cost Estimates and Loan Budget for Electric Borrowers,' or an approved amendment thereto. Loan fund advances may be requested in an amount representing actual costs incurred by not to exceed 110 percent of the item estimate shown on the approved form 740c, as amended, provided that total advances requested shall not exceed the total loan amount."

The letter received were almost unanimous in opposition to one provision in the above. Virtually all respondents felt that limiting loan fund advances to 110 percent of the item estimate shown on the REA Form 740c approved at the time of the loan was not workable. Representative letters concluded that the assumption that costs of all projects to be built two or more years hence can be estimated to an accuracy of 10% is unrealistic. Other comments focused on the need to get amendments approved for the many changes that generally occur during the course of the actual construction, sometimes years after the construction workplan was initiated.

(b) "Certification. Pursuant to the applicable provisions of the REA loan contract, Borrowers shall certify with each request for funds to be approved for advance that such funds are for facilities in compliance with this section and shall also provide for each item a contract or work order number (where applicable) and a workplan cross-reference identification."

Although many Borrowers indicated displeasure with the recordkeeping required to cross-reference the construction workplan with contracts or work orders, most felt it was workable and consistent with their own internal controls. Certification as to purpose and facilities for which loan funds are requested was acceptable to most Borrowers.

(c) "Noncompliance. Where loan funds are found to have been advanced in noncompliance with this rule, Borrowers will be required to return the appropriate amount of the advance together with any accrued and unpaid interest to REA. The Administrator will require Borrowers, in order to remedy such noncompliance, to pay an additional amount equal to the interest on the funds advanced for the period such funds were outstanding, calculated at a rate equal to the differential between the REA loan interest rate and the most recent rate at which REA sold Certificates of Beneficial Ownership (CBO's). While REA will generally permit the amount of advance returned to be requested subsequently by the Borrower for REA-approved construction items, nothing herein contained shall be construed to preclude REA from exercising any rights or remedies which REA may have pursuant to the loan contract."

Most respondents did not address the above compliance provisions requiring the return of improperly advanced funds along with an additional amount for the interest differential as stated above. The few that commented suggested that this was unnecessary after nearly 50 years of operating without such devices.

Many of the Borrowers and statewide associations along with the National Rural Electric Cooperative Association (NRECA), offered alternative suggestions to reduce the possible paperwork and cost burdens that most respondents felt would occur if the rule as proposed was implemented. The Management Advisory Committee of NRECA made the following comments and observations:

It is recognized that the two-year workplan provides a best estimate of facilities required to provide dependable service on an area coverage basis at standard voltages, at loadings (on circuit by circuit basis) estimated to be probable at the end of the 2-year workplan period. However, preparation of the workplan commences typically 3 to 4 years in advance of that date. It is reasonable therefore that differences between the planned facilities and the actually constructed facilities may exist. These differences do not necessarily constitute a deviation from the original purposes of the workplan.

The Committee recommends that only those workplan changes which result in a change to the long-range engineering plan or a change in the basic budget purpose, be considered as changes sufficient to warrant submission of a workplan amendment for approval prior to construction.

The Committee supports the requirement for cerification as to purpose and facilities so long as amendment requirements are in line with the Committee's recommendation.

The NRECA Committee had the following observations regarding the proposed 110% rule.

A. The planning of facilities and the establishment of cost estimates in a 2-year workplan may typically precede construction by 3 to 4 years.

B. Facility planning at the two-year workplan level is general in nature and reasonably may not take into account such specific cost variable items as: (a) weather during construction; (b) specific routing problems; (c) precise right of way clearing costs; (d) extending licensing and permit procedures; (e) rock holes; (f) escalation of material costs.

C. If engineering at the workplan level is required to be specific to a 10% cost tolerance, and if engineering at the workplan development stage is required to be responsive to all variables which may be encountered during construction, the cost of that engineering will escalate considerably.

D. If, in final engineering, a project is found to exceed the 110% level of workplan cost estimate, and if at that time the cooperative must seek approval of an amended cost estimate, the cooperative's ability to render timely service to a consumer or the ability to complete a project in a timely and efficient manner may be impaired.

E. The imposition of the 110% rule will probably provide motivation for overestimation of project costs to avoid the "penalty" for underestimation of those costs.

The Committee raised no objection to providing a work order number and a cross-reference to the workplan where the cost of a defined project exceeds $25,000.

REA has reviewed and considered the many comments and suggestions offered in response to the proposed rule. The final rule as set forth below has been developed to accommodate the major objections raised by the proposed rule while responding to the need to improve fiscal accountability. It should be noted that workplans receive approval by field personnel who also have authority to approve most required amendments; delays in approval can be expected to be minimal.

**List of Subjects in 7 CFR Part 1711**

Administrative practice and procedure, Electric Utilities, Loan programs—energy.

In view of the above, REA hereby amends 7 CFR Chapter XVII by adding Part 1711 and § 1711.1 to read as follows:

## PART 1711—ELECTRIC LOANS—ADVANCE OF FUNDS

### § 1711.1 Advances.

(a) *Purpose and Amount.* With the exception of minor construction, insured loan funds will be advanced only for projects which are included in an REA approved Borrower's construction workplan or approved amendment and in an approved loan, as amended. Loan fund advances can be requested in an amount representing actual costs incurred but not to exceed 130 percent of the project cost estimate on the approved REA Form 740c, "Costs Estimates and Loan Budget for Electric Borrowers," [1] as amended. Minor construction is defined as a project costing $25,000 or less. Such projects qualify for advance of loan funds even though they may not have been included in an REA-approved Borrower's construction workplan, amendment to such workplan or approved loan. Total advances requested shall not exceed the total loan amount. All projects for which loan fund advances are requested must be constructed to achieve purposes permitted by terms of the loan contract between the Borrower and REA.

(b) *Certification.* Pursuant to the applicable provisions of the REA loan contract, Borrowers shall certify with each request for funds to be approved for advance that such funds are for projects in compliance with this section and shall also provide for those that cost in excess of $25,000 a contract or work order number as applicable and a workplan cross-reference identification.

For a minor project not included in an REA approved Borrower's construction workplan, the Borrower shall describe the project and do one of the following to satisfy REA's environmental requirements (see 7 CFR Part 1794).

(1) If applicable, state that the project is a categorical exclusion of a type described in 7 CFR 1794.31(b) which normally does not require preparation of a Borrower's Environmental Report (BER); or

(2) If applicable, state that the project is a categorical exclusion of a type that normally requires a BER and then:

(i) Submit the BER with the request for funds to be approved for advance, or

(ii) If applicable, certify that it has analyzed the minor project with respect to a comprehensive service area environmental map and data base collected and used in preparing the BER for its REA-approved Borrower's construction workplan, and that on the basis of that information the minor project will not be located in an environmentally sensitive area or location.

(c) *Noncompliance.* Where insured loan funds are found to have been advanced in noncompliance with this rule, Borrowers will be required to return the appropriate amount of the over advance together with any accrued and unpaid interest to REA. The Administrator will require Borrowers, in order to remedy such noncompliance, to pay an additional amount equal to the interest on the funds over advanced for the period such funds were outstanding, calculated at a rate equal to the difference between the REA loan interest rate and the most recent rate at which REA sold Certificates of Beneficial Ownership (CBO's). While

[1] A copy of these forms and publications may be obtained by writing the Rural Electrification Administration, Washington, D.C. 20250.

REA will generally permit the amount of over advance returned to be requested subsequently by the Borrower for REA approved projects, nothing herein contained shall be construed to preclude REA from exercising any rights or remedies which REA may have pursuant to the loan contract.

(7 U.S.C. 901 et seq.)

Dated: December 12, 1984.

**Harold V. Hunter,**

*Administrator.*

[FR Doc. 85-3079 Filed 2-7-85; 8:45 am]

BILLING CODE 3410-15-M

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

### 8 CFR Part 238

### Contracts With Transportation Lines; Addition of Martinair Holland, N.V., Deletion of Martin's Air Charter Co., Ltd.

**AGENCY:** Immigration and Naturalization Service, Justice..

**ACTION:** Final rule.

**SUMMARY:** This rule adds Martinair Holland, N.V. to the list of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries. Martin's Air Charter Co., Ltd. is removed from the list of carriers because its name was changed to Martinair Holland, N.V..

**EFFECTIVE DATE:** January 16, 1985.

**FOR FURTHER INFORMATION CONTACT:** Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536, Telephone: (202) 633-3048.

**SUPPLEMENTARY INFORMATION:** The Commissioner of Immigration and Naturalization entered into an agreement with Martinair Holland, N.V. on January 16, 1985 to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries. Martinair Holland, N.V. was formerly Martin's Air Charter Co., Ltd., which was similarly under agreement with the Service.

The agreement provides for the waiver of certain documentary requirements and facilitates the air travel of passengers on international flights while passing through the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely makes an editorial change to the listing of transportation lines.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule does not have a significant impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

**List of Subjects in 8 CFR Part 238**

Airlines, Aliens, Government contracts, Travel, Travel restriction.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

### PART 238—CONTRACTS WITH TRANSPORTATION LINES

**§ 238.3 [Amended]**

In § 238.3 Aliens in immediate and continuous transit, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by: Adding in alphabetical sequence, "Martinair Holland, N.V." and removing "Martin's Air Charter Co., Ltd."

* * * * *

(Secs. 103 and 238 of the Immigration and Nationality Act, as amended; (8 U.S.C. 1103 and 1228)).

Dated: February 1, 1985.

**Andrew J. Carmichael, Jr.,**

*Associate Commissioner, Examinations Immigration and Naturalization Service.*

[FR Doc. 85-3210 Filed 2-7-85; 8:45 am]

BILLING CODE 4410-10-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 21

**[Docket No. 23682; Special Condition No. 23-ACE-6]**

### Special Conditions; Fairchild Model SA227 Series Airplanes to Type Certificate No. A8SW

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

**ACTION:** Final Special Conditions; Amendment to Special Conditions No. 23-ACE-6.

**SUMMARY:** This special conditions amendment is issued to become part of the type certification basis for new Fairchild Aircraft Corporation (FAC) Model SA227-PC airplanes to be added to Type Certificate No. A8SW. These airplanes will have novel or unusual design features associated with turbopropeller engine installations incorporating Automatic Power Reserve (APR) Systems for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards. This amendment contains the additional safety standards which the Administrator finds necessary to establish a level of safety equivalent to that established in the regulation applicable to the SA227-PC airplane. A Notice of Proposed Special Conditions, Notice No. 23-ACE-6, was published in the **Federal Register** on September 6, 1984 (49 FR 35123) and one commenter, (FAC), responded to that notice.

A similar set of special conditions were published as Notice of Proposed Special Conditions, Notice No. 23-ACE-9 (49 FR 35121, September 6, 1984) for the British Aerospace Jetstream Model 3101 airplane. No comments were received in response to that notice. These special conditions were subsequently adopted as final special conditions and published in the **Federal Register** (50 FR 7, January 2, 1985), effective February 1, 1985.

**EFFECTIVE DATE:** March 11, 1985.

**FOR FURTHER INFORMATION CONTACT:** Oscar E. Ball, Aerospace Engineer, Regulations & Policy Office, Room 1656, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106, telephone (816) 374-5688.

**SUPPLEMENTARY INFORMATION:**

**Type Certification Basis**

The type certification basis for the Fairchild Aircraft Corporation (FAC) Model SA227 series airplanes on Type Certificate No. A8SW is as follows: Part 23 of the Federal Aviation Regulations, effective February 1, 1965, as amended by Amendments 23-1 through 23-6; Special Federal Aviation Regulations (SFAR) No. 23; § 23.175(d) of Amendment 23-14 of the FAR, effective December 20, 1973; Amendment C of Special Federal Aviation Regulations (SFAR) No. 41, including paragraph 4(c)FAR and the compartment interior requirements of § 25.853 (a), (b), (b-1), (b-2), and (b-3) of the FAR in effect on September 26, 1978; Part 36 of the FAR, Appendix F, as amended by Amendments 36-1 through 36-6; SFAR No. 27, effective February 1, 1974, as amended by Amendments 27-1 through 27-4; Special Conditions SC No. 23-ACE-6; and the special conditions amendment adopted by this rulemaking action.

**Background**

On October 31, 1980, Fairchild Aircraft Corporation (FAC), Post Office Box 32486, San Antonio, Texas 78284, submitted an application to amend Type Certificate No. A8SW to includes model of the SA227 series with a different make and model of turbopropeller engines incorporating an APR system. The affected FAC Model SA227–PC is a derivative of the FAC Model SA227–AC airplanes and differs from the Model SA227–AC only in the make and model of turbopropeller engines installed.

The FAC Model SA227–AC is a pressurized, low wing, twin turbopropeller-powered airplane type certificated in the normal category and limited to 12,500 pounds maximum certificated takeoff weight and a maximum seating capacity of 22 occupants. The FAC Model SA227–AC airplane also has an authorized increase in maximum takeoff weight to 14,500 pounds (with an option to 16,000 pounds) when compliance with SFAR No. 41, as amended, is shown.

The FAC Model SA227–AC airplane included novel or unusual design features for an airplane type certificated to the airworthiness standards of Part 23 of the FAR. The airworthiness standards of Part 23, which are the type certification basis for the FAC Model SA227–AC airplane, did not contain adequate or appropriate safety standards for a turbopropeller-powered, normal category airplane. Subsequently, special conditions applicable to previous models were applied to the Model SA227–AC to assure a level of safety for the Fairchild Model SA227–AC airplane equivalent to that provided by the airworthiness standards of Part 23 of the FAR. The special conditions were added as a part of the type certification basis for the FAC Model SA227–AC airplane. Subsequently, the FAA issued Special Conditions SC No. 23–ACE–6 (48 FR 43166; September 22, 1983) to become a part of the type certification basis for derivative models of the FAC Model SA227–AC airplanes to be added to Type Certificate No. A8SW.

The turbopropeller engines on the affected Model SA227–PC airplanes include an integral APR system built into the fuel control of each engine. The APR system is designed to increase the power automatically on the operating engine in the event of an engine power loss during takeoff.

The FFA has determined that engine systems which automatically affect the power output of other engines; i.e., APR systems, are novel or unusual design features and that special conditions are required to provide the type certification basis for the APR system.

**Discussion of Comments**

There was one set of comments received by the FFA in response to Notice No. 23–ACE–6 published in the **Federal Register** on September 6, 1984. The closing date for comments to the notice was October 8, 1984. The only commenter was Fairchild Aircraft Corporation (FAC).

The commenter states that the proposed special conditions would derogate safety. They contend that the intent of takeoff performance rules is to provide protection against engine failure but that the proposed special conditions attempt to address the consequences of engine failure. The FAA agrees that the proposed special conditions do address the consequences of engine failure because the safe takeoff operation of an airplane at reduced power with an APR system is dependent on the proper operation of the ARP system to automatically increase the power on the operating engine when one engine fails and to complete the takeoff with one engine operating. For purposes of this rulemaking, engine failure during takeoff is expected and the provided rules are formulated to avoid catastrophic consequences as a result of that engine failure; e.g., the requirement for a reliable APR system and for airplane performance on one engine.

The commenter states that APR provides a means of operating the engines at powers significantly below their rated level while providing adequate protection against the remote possibility of an engine failure. The proposed 90 percent lower limit on power setting for takeoff is alleged to be arbitrary and not in the interest of safety because it will force operation of engines at powers higher than necessary. The FAA realizes that operators have used reduced power takeoff techniques to increase engine life for some time; therefore, in the interest of safety and standardization, it was necessary for FAA to establish a limit on the amount of engine power reduction that should be permitted. Accordingly, the FAA has established policy and produced guidance for turbopropeller powered airplanes which limits the reduction to 90 percent of the certificated takeoff power for the existing ambient conditions. While the 90 percent limit may appear arbitrary, it has been generally accepted in the aviation community and will stand at 90 percent until such time that convincing justification is presented to the FAA to lower the limit. The FAA is aware, from earlier discussions of the proposed special conditions, that the commenter had previously requested a power reduction to 85 percent at the start of the takeoff. In response to this request, while staying within the established guidance, the proposal was revised from 90 percent at start of takeoff to a power reduction to not less than that power which results in 90 percent power at $V_1$ speed. The FAA understands this to be equivalent of approximately 87 percent at the start of the takeoff; very nearly the power reduction earlier requested by the applicant.

The commenter further contends that if a limitation on power is deemed necessary, it should be expressed as a minimum climb gradient since full power can quickly be obtained by advancing the power levers and that it is only necessary to assure that the airplane does not lose altitude during the few seconds required to get maximum power. The FAA agrees that maximum power can be obtained by advancing the power levers; however, flight crews do not always react promptly to a developing emergency situation, especially when an airplane is equipped with systems designed to automatically take the needed action. It has been shown through testing of experienced airline flight crews that worst case reaction time for an engine power loss can exceed one minute. While this time period seems excessive, it prevents the FAA from accepting the contention that if the APR fails to operate, the flight crew will get full power, manually, within a few seconds. Further, the FAA expects the flight crews for the SA227–PC airplanes to be trained in conducting reduced power takeoffs and to depend upon the APR system working properly. When an engine fails, the flight crew may hesitate in taking action because they are depending on the APR to increase power on the operating engine.

The preamble to the National Transportation Safety Board's Safety Recommendations A–84–123 and –124 (November 16, 1984) lists a number of reports which show that pilots do not always react prompty to the failure of automatic systems and the resulting deteriorating flight situation. It is evident that automatic systems lead to reduced vigilance on the part of the flight crew; therefore, an increased time span will be required for the identification of a failure and the proper corrective action. Distractions and inattentiveness, combined with loss of proficiency due to reliance on automatic systems, can lead to catastrophe when such systems fail.

During the Part 23 Airworthiness Review held by the FAA in St. Louis, Missouri, in October 1984, the Air Line Pilots Association representative, in his remarks on the APR proposal, concluded, ". . . the bottom line is . . . don't design a system that you rely on the crew to push this throttle forward . . . because statistics show that they won't."

Further, for purposes of determining takeoff performance for certification, the flight crew is not allowed to manually adjust the power levers until an altitude of 400 feet is reached.

The commenter states that the Pratt and Whitney PT6A–45R engine cannot comply with Special Condition 45A using the proposed wording. Because of the engine design, if an attempt were made to comply, the APR advance would case the rated takeoff power to be exceeded. The FAA agrees that, if incorrectly used in certain circumstances, the APR could cause such a problem; however, in airplane operations, the flight crew determines how the takeoff is to be made; e.g., what the power setting for each engine is, whether the runway length is adequate, etc. In the case of the SA227–PC, the flight crew will make similar determinations, including whether reduced power and/or APR is to be used. The proper use of the operating handbook takeoff charts will prevent the use of the APR system when APR actuation could cause the engine to exceed established limits. It should be pointed out that Engine Type Certificate Data Sheet No. E4EA–13, for the PT6A–45R engine, shows the engine is certificated for an alternative takeoff rating of 1173-shaft horsepower and a takeoff rating of 1198-shaft horsepower; the difference between the two ratings is the provision for an automatic power increase from alternate takeoff power to takeoff power. However, the commenter plans to certificate the SA227–PC airplane with installed power derated to 1100-horsepower.

The commenter claims that the proposed special conditions for their Part 23/SFAR 41 airplane are more stringent than the Part 25 Notice of Proposed Rulemaking (NPRM) for the Automatic Takeoff Thrust Control System (ATTCS), Notice No. 84–4, Docket No. 24046, published in the **Federal Register** on April 27, 1984. The proposed requirement that the "Engine and APR failure flight path" must be at least 0.5 percent at 400 feet is not required in the Part 25 proposal. The FAA agrees that the flight path line slope is not defined in the Part 25 proposal; however, other rules in Part 25 which are not included in Part 23 or SFAR 41 define the climb gradient so that the slope for Part 25 ATTCS ariplanes is established at approximately 1.0 percent at 400 feet. The 0.5 percent positive climb gradient in the APR proposal is the minimum allowed to assure there is no loss of altitude due to turbulence, etc. The commenter also states that the Part 25 proposal contains no requirement concerning possible APR failures which increase power or do not affect power. It must be remembered that special conditions are in addition to other applicable requirements. The other applicable requirements in § 25.1309 adequately address failures of critical systems, such as APR, where § 23.1309 does not adequately address such systems.

The commenter provides additional comments comparing the Part 25 NPRM with the proposed special conditions, and then summarizes the comparison with the comment that it is generally accepted that the standard set for Part 23 airplanes should be equal to or less stringent than those for Part 25. The FAA is not obligated to always assure that Part 23 is less stringent than Part 25. When considering the requirments for certification of novel and unusual design features, the FAA is obligated to assure that they will provide a level of safety consistent with the certification basis of the airplane, in this case, Part 23 and SFAR 41. The special conditions are to assure the APR functions reliably and assures adequate airplane performance without requiring pilot action.

It should be pointed out that engine systems which automatically affect the power output of other engines were not considered when the regulations were promulgated. In fact, engine isolation is provided by FAR § 23.903(c).

When such systems are incorporated into the airplane designs, they allow operation of the airplane under certain conditions which would not otherwise be permitted if the systems were not installed. When the airplane is operated under such conditions, where that operation is dependent upon the continued function of a system, that system then becomes critical to the safe operation of the airplane. That is, if the system fails to perform its intended function, an unsafe condition would exist. Accordingly, under the existing small airplane requirements, which did not envision the use of such a critical system, the FAA would have *no* provisions for the approval of the system and denial of certification would be required.

To deny the approval of newly designed systems that have grown from modern technology is not in the interest of manufacturers or the aviation community when such systems maintain or increase the level of safety intended by the applicable requirements. Accordingly, when such a system is presented for approval, all possible procedures are examined to determine how an approval may be granted and still retain the level of safety which has been established by the regulations in effect. Such a procedure has been developed and successfully used in the certification of critical systems on transport category airplanes for almost fifteen years. This procedure, found in the transport category airplane reliability requirements, is based on the theory that if the airplane manufacturer can show that the function of his system is so reliable that a failure of it is never expected to occur, the unsafe circumstance that would result from the systems failure does not need to be considered.

Under the reliability requirements for the transport category airplanes, extremely low level of failures have been identified as failures which are extremely improbable. When the transport category airplane manufacturer has found it necessary, the FAA has accepted numerical analysis procedures as a means of showing that these critical failures will not occur.

The commenter states that the proposed special conditions, if adopted, would largely nullify the advantages of APR, would eliminate an important safety feature, would cause an adverse economic impact on their company and on the United States of America, and would create an undesirable environmental impact. The commenter states that these influences are not in the interest of the U.S. public.

The commenter presents no justification for these allegations other than a statement that "the same level of airplane payload performance can be obtained without APR by using full rated power for every takeoff" along with a list of adverse effects such operation may entail. Adoption of APR special conditions does not require the APR system to be used. Special conditions provide a certification basis for approval of the APR system on the airplane and provide reasonable assurance that the system will operate reliably and safely. Accordingly, such a requirement that provides for inclusion of modern technology, while preserving the level of safety provided by the other applicable requirements, is surely in the public interest.

There is an FAA established policy that there is no requirement for a pilot to use full rated power for every takeoff if the airplane is approved for reduced power takeoffs. To obtain approval, an applicant must substantiate and demonstrate the use of reduced power takeoffs, whether APR is to be used or not. But, in the case of this airplane, performance may be marginal under certain environmental conditions and, if specific failures occur, safety can be adversely affected. Where safety must be assured, the FAA contends that requirement is surely in the public interest. The proposed special conditions will assure that the level of safety with the APR installed and operating is at least equal to the level of safety without the APR installed.

With respect to the possible failures that must be shown to be improbable or extremely improbable, the commenter states that while numerical analysis is a useful tool to show reliability, for their system the reliability numbers do not exist. Instead of numerical analysis, the commenter proposes that, in event of APR failure, a simple movement of the power lever will advance the power. The commenter states that FAC has designed a simple system with a minimum number of failure possibilities, that each APR component is cockpit checkable, and that a preflight check should be accepted as adequate proof of reliability. In response, it should be pointed out that the terms "improbable" and "extremely improbable" do not mandate a numerical analysis. The FAA allows numerical analysis as a means of showing compliance with the reliability required of the subject systems. With respect to the power lever actuation, the FAA does agree that a simple movement of the power lever will advance the power; however, as discussed above in this preamble, the FAA does not agree that such action will always be taken promptly by the pilot.

If power on the operating engine is not advanced immediately after the failure of the other engine, safety of the airplane may be compromised. Because it cannot be established that pilots will respond immediately and take the proper action to compensate for a failure condition, it is necessary to establish that the system designed to perform this immediate corrective action has the degree of reliability needed to assure that it will function properly when a failure occurs. The requirements of these special conditions are needed to assure that the proper procedures are used to establish that reliability.

While the APR components may be cockpit checkable, the FAA has found that the cockpit check provided by the applicant is quite complex. Experience has shown that cockpit checks that are complex will probably not be accomplished prior to each and every flight and, therefore, cannot be credited toward establishing reliability of a critical system. Until the applicant can provide a simple pretakeoff cockpit check of the total APR system, credit toward proof of reliability should not be allowed.

The commenter states that the preamble to the NPRM creates many false impressions; e.g., that the SA227–AC is the first model in the series; that FAC elected to add APR to the SA227–PC after adoption of SC No. 23–ACE–6; and that no regulations exist to permit approval of APR. The FAA agrees that the intent to install an APR system was a part of FAC applications received before Special Conditions No. 23–ACE–6 were published and made applicable to the Model SA227–PC. FAC made several applications during the 1980 to 1981 period but did not pursue each of them with an equal level of activity. However, during this period, the FAA responded to FAC's various applications with efforts appropriate to the various levels of data submittals for each application. Subsequent to FAC's October 31, 1980, application, to which this action responds, on May 21, 1981, FAC submitted an application to amend Type Certificate No. A8SW to add a new model airplane, Model SA227–PC. As a result of this latter application and FAC's stated intent to make available additional models of airplanes similar to the SA227–PC, the FAA published the previously unpublished special conditions applicable to the SA227–AC, to extend the applicability of these special conditions to the additional SA227 series models. Additional novel or unusual design features of these additional models were not considered in that resulting NPRM or final issuance of special conditions SC No. 23–ACE–6. However, the FAA was aware that additional special conditions might be needed and stated in the Notice of Proposed Special Conditions, Notice No. SC–83–4–CE, "This action does not preclude the amending of the special conditions proposed, as necessary."

Later (in 1984), when the FAA Small Airplane Certification Directorate became aware of the novel and unusual design features of the October 31, 1980, application, action was initiated to assure appropriate special conditions were issued. The FAA, through extensive internal coordination and with FAC, formulated the proposed amendment to special conditions No. 23–ACE–6. This action was taken because the FAA has determined that Part 23 contains no rules which would permit approval of the APR and that special conditions are indeed required in the absence of such rules.

The commenter cites, as an example of previous certification of a similar system without the application of special conditions, the SA226–TC Emergency Alcohol-Water Injection (AWI) system that automatically increases power on the operating engine when the opposite engine fails during takeoff. The FAA agrees that there are similarities between the AWI and the APR systems and that the different ways of certificating the systems allow the commenter the opportunity to raise the question about the requirement for special conditions on the APR system. However, the FAA does not agree that the procedures used for the certification of one system establishes the basis for the handling of the certification of similar systems, and that special conditions should not be required for the APR system. The operation of the APR system and the need for the special conditions has been discussed in the response to other comments and need not be repeated here. It should be noted that AWI systems approved on other manufacturer's airplanes have been certificated through the adoption of special conditions. New applications for AWI approval will probably require the adoption of special conditions.

The commenter states that the proposed special conditions have adopted portions of the Part 25 ATTCS proposal that seems to be imperfect, such as the concept of a "critical time interval." The commenter states that the pictured situation is not appropriate because the proposed special conditions require the capability for manual power increase to maximum takeoff power through use of the power levers; therefore, the truly critical interval is much shorter than that depicted. The commenter further contends that the critical interval is only the time between $V_1$ and the point at which the takeoff, gear up configuration is attained because, at $V_1$, the airplane is assured of the capability of flying for the very short time required to manually apply power. The FAA established the "critical time interval" as the exposure time increment within which an engine failure combined with an APR failure will have significant effects on the flight path of the airplane and result in an unsafe condition. Once the critical time interval is established for the particular airplane, the applicant must show that this combination of failures will not occur during that time

interval or that such failures are extremely improbable. For these performance requirements, and for reasons stated previously concerning flight crew human factors, credit for manual power lever actuation is not allowed.

The commenter states that in proposed Special Condition No. 44, first sentence, the phrase ". . . without requiring any action by the crew to increase power . . ." should be deleted. There should be no inference that maximum power may be neglected in some design and certification cases. The FAA does not agree that the phrase should be deleted. The phrase requires the "automatic" system to operate automatically; i.e., without any flight crew actions required. This requirement does not in any way eliminate requirements necessitated by other design features of the airplane.

The commenter states that FAC believes the foregoing arguments show that APR special conditions are unnecessary. However, realizing that the FAA considers special conditions to be necessary, the commenter proposes a set of special conditions FAC believes will adequately address FAA's concerns without imposing unacceptable burdens on FAC and the public. The FAC proposal follows the same format as the FAA proposal with most of the same requirements; however, a number of important requirements were substantially revised or deleted entirely. Among the deletions are the 90 percent power reduction limit at $V_1$; the critical time interval concept; the 0.5 percent positive climb gradient at 400 feet after engine and APR failure; and the reliability term "extremely improbable." The FAA has reviewed the commenter's proposal and has already spoken to the proposed changes in detail in this preamble. The FAA has determined that the commenter has not adequately justified the proposed changes or his position that the special conditions as proposed would impose an unacceptable burden on FAC and the public. The special conditions as originally proposed will maintain the level of aviation safety established in the original certification basis of the airplane and are adopted without change.

## Regulatory Evaluation

As mentioned in the summary section, APR special conditions were issued to one other applicant to amend their type certificate to permit certification with an APR installed. Because the proposed special conditions apply only to the applicant seeking certification of a design incorporating an APR, and because such systems are optional and not otherwise required for certification, there is no new requirement established by this rulemaking action, and no economic impact results from it; therefore, no additional burden is being imposed.

## List of Subjects in 14 CFR Part 21

Air transportation, Aircraft, Aviation safety, Safety.

## The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, this amendment to special conditions No. 23–ACE–6 is adopted for the Fairchild Aircraft Corporation Model SA227 series airplanes equipped with an Automatic Power Reserve System, as follows:

AUTOMATIC POWER RESERVE (APR) SYSTEM ITEMS:

Item No.:

42. *General*

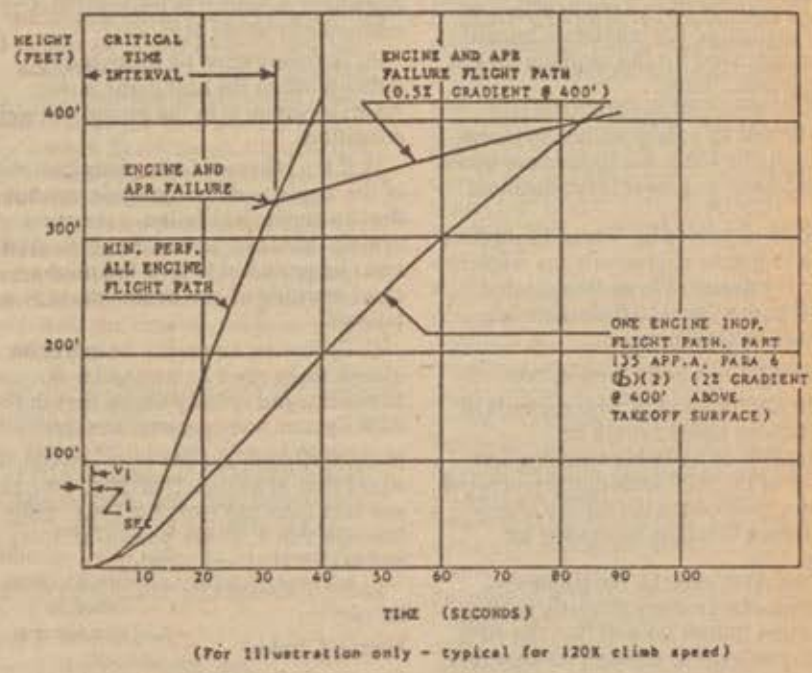
All references in these special conditions relative to APR to specific sections of Parts 23 and 135 and to SFAR 41 are those in effect as defined in the certification basis for FAC Model SA227–PC (Type Certificate Data Sheet No. A8SW).

43. *Definitions*

A. *Automatic Power Reserve System.* An APR system is defined as the entire automatic system used only during takeoff, including all devices both mechanical and electrical that sense engine failure, transmit signals, actuate fuel controls or power levers on operating engines, including power sources, to achieve the scheduled power increase and furnish cockpit information on system operation.

B. *Selected Takeoff Power.* Notwithstanding the definitions of "Takeoff Power" in Part 1 of the Federal Aviation Regulations, "Selected Takeoff Power" means each power obtained from each initial power setting approved for takeoff under these special conditions.

C. *Critical Time Interval.* The critical time interval is that period starting at $V_1$ minus one second and ending at the intersection of the "engine and APR failure flight path" line with the "minimum performance all engine flight path" line. The "engine and APR failure flight path" line intersects the "one-engine-inoperative flight path" line at 400 feet above the takeoff surface. The "engine and APR failure flight path" is based on the airplane's performance and must have a positive gradient of at least 0.5 percent at 400 feet above the takeoff surface. The critical time interval is illustrated in the following figure:




(For illustration only - typical for 120K climb speed)

44. *Reliability and Performance Requirements*

With the APR system and associated systems functioning normally, all applicable requirements of the certification basis previously established, except as provided in these special conditions, must be met without requiring any action by the crew to increase power. In addition:

A. It must be shown that, during the critical time interval, an APR failure which increass or does not affect power on either engine will not create a hazard to the airplane, or it must be shown that such failures are improbable.

B. It must be shown that, during the critical time interval, there are no failure modes of the APR system that would result in a failure that will decrease the power on either engine; or it must be shown that such failures are extremely improbable.

C. It must be shown that, during the critical time interval, there will be no failure of the APR system, in combination with an engine failure; or it must be shown that such failures are extremely improbable.

D. All applicable performance requirements of SFAR 41 must be met with an engine failure occurring at the most critical point during takeoff with the APR system functioning normally.

45. *Power Setting*

The selected takeoff power set on each engine at the beginning of the takeoff roll may not be less than—

A. The power necessary to attain, at $V_1$, 90 percent of the maximum takeoff power approved for the airplane for the existing conditions;

B. That required to permit normal operation of all safety-related systems and equipment that are dependent upon engine power or power lever position; and

C. That shown to be free of hazardous engine response characteristics when power is advanced from the selected takeoff power level to the maximum approved takeoff power.

46. *Powerplant Controls—General*

A. In addition to the requirements of § 23.1141, no single failure or malfunction or probable combination thereof, of the APR including associated systems, may cause the failure of any powerplant function necessary for safety.

B. The APR must be designed to—

(1) Provide a means to verify to the flight crew before takeoff that the APR is in a condition to perform its intended function;

(2) Apply power on the operating engine following an engine failure during takeoff to achieve the maximum attainable takeoff power without exceeding engine operating limits;

(3) Provide that, following an engine failure with the APR operating normally, manual adjustments of the power levers by the crew must not deactivate the APR;

(4) Provide a means for the flight crew to deactivate the automatic function. This means must be designed to prevent inadvertent deactivation; and

(5) Allow normal manual decrease or increase in power up to the maximum takeoff approved for the airplane under the existing conditions through the use of power levers, as stated in § 23.1141(c), except as provided under paragraph 46C.

C. For airplanes equipped with limiters which automatically prevent engine operating limits from being exceeded, other means may be used to increase the maximum level of power controlled by the power levers in the event of an APR failure. In this case, the means must be located on or forward of the power levers, it must be easily identified and operated under all operating conditions by a single action of either pilot with the hand that is normally used to actuate the power levers, and must meet the requirements of § 23.777 (a), (b), and (c).

47. *Powerplant Instruments*

In addition to the requirements of § 23.1305 and paragraph 58 of Part 135, Appendix A, which is incorporated by reference in SFAR 41:

A. A means must be provided to indicate when the automatic power reserve system is in the armed or ready condition.

B. If the inherent flight characteristics of the airplane do not provide warning that an engine has failed, a warning system that is independent of the APR must be provided to give the pilot a clear warning of any engine during takeoff.

C. Following an engine failure at $V_1$ or above, there must be means for the crew to readily and quickly verify that the APR System has operated satisfactorily.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1421, and 1423, 1430, and 1502 of 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.28 and 11.29(b))

Issued in Kansas City, Missouri on January 30, 1985.

**Murray E. Smith,**

*Director, Central Region.*

[FR Doc. 85-3203 Filed 2-7-85; 8:45 am]

BILLING CODE 4910-13-M

**14 CFR Part 39**

**[Docket No. 84-ANE-19, Amdt. 39-4987]**

## Airworthiness Directives; Rolls-Royce Limited Dart Engine Series 506, 510, 511, 514, 525, 526, 527, 528, 529, 530, 531, 532, 535, 542, and All Variants of These Series

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) which requires a one time inspection of certain low pressure impellers on Rolls-Royce Limited Dart engine series 506, 510, 511, 514, 525, 526, 527, 528, 529, 530, 531, 532, 535, 542, and all variants of these series. The AD is needed to prevent possible failure of the low pressure impeller which could result in an uncontained engine failure.

**DATES:** Effective—February 11, 1985. Compliance schedule—As prescribed in body of AD. Incorporation by Reference—Approved by the Director of the **Federal Register** on February 11, 1985.

**ADDRESSES:** The applicable service bulletins (SBs) may be obtained from Rolls-Royce Limited, Manager—Dart Service, East Kilbride, Glasgow G74 4PY, Scotland.

Copies of the SBs are contained in Rules Docket No. 84-ANE-19 in the Office of the Regional Counsel, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

**FOR FURTHER INFORMATION CONTACT:** Kenneth W. Steeves, General Aviation Engine Branch, ANE-142, Engine Certification Office, Aircraft Certification Division, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7097.

**SUPPLEMENTARY INFORMATION:** The FAA has determined that certain low pressure impellers installed in Rolls-Royce Dart engines may contain material defects which could result in unconfained failure of the impeller. Since this condition is likely to exist or develop on other engines of the same type design, an AD is being issued which requires a one time eddy current type inspection of the low pressure impeller on Rolls-Royce Limited Dart

engine series 506, 510, 511, 514, 525, 526, 527, 528, 529, 530, 531, 532, 535, 542, and all variants of these series.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

### Conclusion

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an envaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT".**

### List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by Reference.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

**Rolls-Royce Limited:** Applies to Rolls-Royce Dart engines series 506, 510, 511, 514, 525, 526, 527, 528, 529, 530, 531, 532, 535, 542, and all variants of these series.

Compliance is required as indicated unless already accomplished. To prevent possible uncontained failure of the low pressure impeller, accomplish the following:

Inspect certain low pressure impellers in accordance with mandatory Rolls-Royce Alert Service Bulletin (SB) Da72–A488, Revision 1, dated October 18, 1984, and Rolls-Royce SB Da72–480, Revision 4, dated December 1984, or FAA approved equivalent. Remove from service all impellers not meeting the inspection criteria per Rolls-Royce SB Da72–480.

(a) Inspect low pressure impellers with serial numbers listed in Appendix 1 of Rolls-Royce SB Da72–A488, Revision 1, which have accumulated less than 2,000 flights since new, within the next 200 flights, but not later than March 31, 1985.

(b) Inspect low pressure impellers with serial numbers listed in Appendix 2 of Rolls-Royce SB Da72–A488, Revision 1, which have accumulated less than 2,000 flights since new, within the next 600 flights or next shop visit, whichever comes first, but not later than September 30, 1985.

**Note.**—Shop Visit (as defined in the World Airlines Technical Operations Glossary) is defined as the input of an engine to a repair shop where the subsequent engine maintenance entails:

(a) Separation of a major engine flange (lettered or numbered) other than flanges mating with major sections of the nacelle or reverser. Note: Separation of flanges purely for purposes of shipment, without subsequent internal maintenance, is not a "Shop Visit".

(b) Removal of a disk or hub or spool.

(c) Removal of the main or angle gearbox.

(d) Removal of the fuel nozzles.

For purpose of this AD the term "repair shop" refers to a maintenance station where low compressor overhaul facilities exist.

Aircraft may be ferried in accordance with the provisions of Federal Aviation Regulations (FARs) 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Office, Aircraft Certification Division, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Manager—Dart Service, Rolls-Royce Limited, East Kilbride, Glasgow G74 4PY, Scotland. These documents also may be examined at the Office of the Regional Counsel, FAA, New England Region, Attention: Rules Docket No. 84–ANE–19, 12 New England Executive Park, Burlington, Massachusetts 01803, weekdays, except Federal holidays, between the hours of 8:00 a.m. and 4:30 p.m.

This amendment becomes effective on February 11, 1985.

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

Issued in Burlington, Massachusetts, on January 15, 1985.

**Robert E. Whittington,**

*Director, New England Region.*

[FR Doc. 85–3192 Filed 2–7–85; 8:45 am]

BILLING CODE 4910–13–M

## 14 CFR Part 39

**[Docket No. 84–CE–32–AD; Amendment 39–4995]**

## Airworthiness Directives; Cessna 205, 206, P206, U206, TP206, TU206, 207, T207, 210 and T210 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new Airworthiness Directive (AD), applicable to Cessna 205, 206, P206, U206, TP206, TU206, 207, T207, 210 and T210 Series airplanes, which would require inspection and modification or replacement of the engine controls installation. Loss of engine control and engine fuel starvation has resulted from failure of early production engine throttle and mixture controls. This action will preclude instantaneous failure of the throttle and/or mixture controls.

**DATES:** Effective March 15, 1985. Compliance: As prescribed in the body of the AD.

**ADDRESSES:** Cessna Single Engine Customer Care Service Information Letter SE69–16, dated July 22, 1969, applicable to this AD may be obtained from Cessna Aircraft Company, Piston Aircraft Marketing Division, P.O. Box 1521, Wichita, Kansas 67201.

A copy of this information is also contained in the Rules Docket FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 84–CE–32–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

**FOR FURTHER INFORMATION CONTACT:** Paul O. Pendleton, FAA, Aerospace Engineer, ACE–140W, Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946–4427.

**SUPPLEMENTARY INFORMATION:** A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring inspection and modification or replacement of the engine throttle and mixture controls in certain Cessna 200 Series airplanes was published in the **Federal Register** on October 24, 1984 (49 FR 42742 & 42743). This proposal resulted from incidents of excessive wear and enlargement of a hole in the throttle or mixture control shaft at the location of a drive screw which secures a sleeve and bushing to this shaft on certain Cessna model airplanes of the 200 Series. Cessna Single-Engine Service Letter SE69–16, dated July 22, 1969, contains instructions for the

identification, inspection, and modification of these controls, as necessary, to assure the continued integrity of the engine power controls installation. At the time this Service Letter was published, insufficient justification existed for the FAA to make compliance with this bulletin mandatory by AD action. However, an accident recently occurred due to loss of engine power on a Cessna Model 210E airplane. Findings during a National Transportation Safety Board (NTSB) investigation disclosed that the loss of engine power was caused by the failure of the throttle shaft at the drive screw location and the NTSB has recommended that the FAA make compliance with Cessna Single-Engine Service Letter SE69–16 mandatory by AD action. The FAA has reviewed the findings of the accident investigation and agrees with the NTSB recommendation.

Since the condition described herein is likely to exist or develop in other airplanes of the same type design, the proposed AD would require compliance with the aforementioned Service Letter on certain Cessna 205, 206, P206, U206, TP206, TU206, 207, T207, 210 and T210 series airplanes.

Interested persons have been afforded an opportunity to comment on the proposal. One commenter responded. The commenter urged early issuance of the AD in its proposed form. Accordingly, the proposal is adopted without changes.

Initially there were approximately 3,800 airplanes which would be affected by the proposed AD. The cost of inspecting each airplane is estimated to be $15. Since over 15 years has elapsed since Cessna Aircraft Company issued Single-Engine Service Letter SE69–16, it is assumed that over half of the affected airplanes have had the controls replaced or modified in accordance with SE69–16. Thus replacement of the mixture and throttle controls should be necessary on only the remaining half of the fleet. The replacement cost will be approximately $200 plus $50 labor per control for a cost of $500 an airplane or a total replacement cost of $950,000. In addition, the cost of inspecting all affected airplanes would be $57,000. Therefore, the total cost of compliance with this AD is $1,007,000 to the private sector. The cost of compliance with the AD is so small that it would be necessary that a small entity own five or more of the affected airplanes for there to be significant financial impact on these entities. Few if any small entities will own this many of the affected airplanes. Therefore, I certify that this action: (1) Is not a major rule under the provisions of Executive Order 12291, (2) is not a significiant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final regulatory evaluation has been prepared and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

**List of Subjects in 14 CFR Part 39**

Air transportation, Aviation safety, Aircraft, Safety.

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

**Cessna:** Applies to Models 205, (S/Ns 205–0001 thru 205–0479); 206, U206, U206A, U206B, U206C, U206D, TU206A, TU206B, TU206C, and TU206D (S/Ns 206–0001 thru U206–1444); P206, P206A, P206B, P206C, P206D, TP206A, TP206B, TP206C, and TP206D (S/Ns P206–0001 thru P206–0603); 207 and T207 (S/Ns 20700001 thru 20700148); 210B, 210C, 210D, 210E, 210F, 210G, 210H, and 210J (S/Ns 21057841 thru 21059199); T210F, T210G, T210H, and T210J (S/Ns T210–0001 thru T210–0454) airplanes certificated in any category.

*Compliance:* Required within 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To reduce the possibility of engine controls failure and loss of engine power control accomplish the following:

(a) Visually inspect the ends of the engine throttle and mixture control cables to determine if the sleeve and bushing are secured by a drive screw. If so, inspect, modify, and/or replace engine throttle and mixture controls in accordance with Cessna Single-Engine Service Letter SE69–16 dated July 22, 1969.

(b) The airplane may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished provided reduced mixture selection during flight is not performed and the throttle and mixture controls are determined to be functioning properly during preflight inspection of the airplane.

(c) An equivalent means of compliance with this AD may be used if approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946–4400.

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

This amendment becomes effective on March 15, 1985.

Issued in Kansas City, Missouri, on January 29, 1985.

John E. Shaw,

*Acting Director, Central Region.*

[FR Doc. 85–3190 Filed 2–7–85; 8:45 am]

BILLING CODE 4910–13–M

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**14 CFR Part 39**

**[Docket No. 84–ANE–25; Amdt. 39–4996]**

## Airworthiness Directives; Rolladen-Schneider Flugzeugbau GmbH Model LS4 and LS4a Sailplanes All Serial Numbers Up To 4340 Inclusive

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) which requires installation of a positive control stop which will prevent the air brakes on Rolladen-Schneider Model LS4 and LS4a sailplanes from overextending in the open position while airborne and becoming jammed. This AD is needed because the FAA has determined that jammed air brakes threaten flight safety by causing forced landings away from airports.

**DATES:** Effective—February 25, 1985. Compliance schedule—As prescribed in body of AD.

**ADDRESSES:** The applicable technical bulletin (TB) and German AD may be obtained from: Rolladen-Schneider Flugzeugbau GmbH Muhlstrasse 10, D–6073 Egelsbach, Federal Republic of Germany.

A copy of the TB and German AD is contained in the Rules Docket, Office of the Regional Counsel, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

**FOR FURTHER INFORMATION CONTACT:** Chris Christie, Manager, Aircraft Certification Office, AEU–100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium, 09667–1011, telephone 513.38.30; or Terry Fahr, ANE–153, Boston Aircraft Certification Office, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7103.

**SUPPLEMENTARY INFORMATION:** The FAA has determined that air brakes have jammed in the fully open position during flight on Rolladen-Schneider Model LS4 series sailplanes, which the manufacturer attributes to overextension of the air brakes.

Consequently, to prevent this serious safety-of-flight condition, the manufacturer issued TB No. 4020, dated September 1, 1983, followed by Germany's issuance of their AD No. 83-158, dated September 12, 1983. Since this condition is likely to exist or develop on other sailplanes of the same type design and could lead to dangerous emergency landings over treacherous terrain, an AD is being issued which requires inspection for proper clearance and, if necessary, installation of a control stop limiting the travel of the air brakes and preventing them from jamming in the open position.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

**Conclusion**

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT".**

**List of Subjects in 14 CFR Part 39**

Aircraft, Aviation Safety.

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

**Rolladen-Schneider Flugzeugbau GmbH:** Applies to Models LS4 and LS4a sailplanes, serial numbers up to 4340 inclusive, certificated in any category.

Compliance is required prior to further flight, after the effective date of this AD, unless already accomplished.

To prevent possible jamming of lower air brake blade, accomplish the following:

(a) Assemble the sailplane.

(b) With air brakes fully extended, measure overlap between the bottom edge of the lower blade of the air brake and wing skin lip. If the distance is less than five millimeters (0.2 inches), proceed according to subparagraph (c) below. If distance is greater than five millimeters, no further action is required.

(c)(1) Retract air brakes until the overlap distance is at least five millimeters (0.2 inches) at both wing positions.

(2) Measure extended height of the air brake at the inboard edge. If the distance is less than 150 millimeters (5.91 inches) contact the manufacturer and incorporate any necessary modifications.

(3) Install stop fitting P/N 4R6-15, using steel blind rivet (4mm dia. X 10mm lg.) on air brake pushrod in cockpit such that main bulkhead reduces travel to yield minimum overlap specified in paragraph (b).

**Note.**—Rolladen-Schneider TB No. 4020, dated September 1, 1983, applies to this AD.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Aircraft Certification Office, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium 09667-1011; telephone 513.38.30.

Aircraft may be ferried in accordance with the provisions of Federal Aviation Regulations (FARs) 21.197 and 21.199 to a base where the AD can be accomplished.

This amendment becomes effective on February 25, 1985.

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

Issued in Burlington, Massachusetts on January 29, 1985.

**Robert E. Whittington,**

*Director, New England Region.*

[FR Doc. 85-3191 Filed 2-7-85; 8:45 am]

BILLING CODE 4910-13-M

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**14 CFR Part 71**

**[Airspace Docket No. 84-ANM-33]**

## Remove the Nucla, Co; Transition Area

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

**ACTION:** Final rule.

**SUMMARY:** The Nucla, Colorado, transition area was established to ensure segregation of aircraft operating in instrument weather conditions, and other aircraft operating in visual weather conditions. It was established in anticipation of instrument approach procedures to the Hopkins Field Airport using the Nucla NDB. However, the Nucla NDB has failed certification tests despite efforts to correct the deficiencies and approach procedures cannot be authorized. Therefore, the transition area is no longer necessary.

**EFFECTIVE DATE:** 0901 GMT, April 11, 1985.

**FOR FURTHER INFORMATION CONTACT:** Manager, Airspace & Procedures Branch, ANM-530, FAA Northwest Mountain Region, Docket No. 84-ANM-33, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, the telephone number is (206) 431-2530.

**SUPPLEMENTARY INFORMATION:**

**History**

On November 20, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to remove the Nucla, Colorado, transition area and thereby release that airspace below 1200 feet above ground level for other than instrument weather operations (49 FR 45756).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

This amendment to Part 71 of the Federal Regulations will remove the Nucla, Colorado, transition area and thereby release that airspace below 1200 feet above ground level for other than instrument weather operations.

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

**Lists of Subjects in CFR Part 71**

Transition areas, Aviation safety.

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

**Nucla, Colorado (Removed)**

The description of the Nucla, Colorado, transition area is removed.

(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 11.69)

Issued in Seattle, Washington, on January 23, 1985.

**Wayne J. Barlow,**

*Acting Director, Northwest Mountain Region.*

[FR Doc. 85-3200 Filed 2-7-85; 8:45 am]

BILLING CODE 4910-13-M

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## 14 CFR Part 71

**[Airspace Docket No. 84-ANM-13]**

## Establishment of Transition Area, Choteau, MT

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

**ACTION:** Correction to final rule.

**SUMMARY:** This action corrects **Federal Register** Document 85-325 to reflect the correct geographical coordinates of the Choteau Non-Directional Beacon (NDB).

**EFFECTIVE DATE:** February 8, 1985.

**FOR FURTHER INFORMATION CONTACT:** Kathy Paul, Airspace Technical Specialist, ANM-535, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, The telephone number is (206) 431-2530.

**SUPPLEMENTARY INFORMATION:**

### History

**Federal Register** Document 85-325 was published on January 7, 1985 (50 FR 726), that established a 700' transition area at Choteau, Montana, to provide controlled airspace so that aircraft executing a new instrument approach procedure to Choteau Airport would have exclusive use of that airspace when the visibility is less than 3 miles, thereby enhancing the safety of such operations. In publishing this rule, an incorrect geographical coordinate was used in the description of the transition area. It is corrected herein.

Since this action is only corrective in nature and imposes no additional regulatory burden on the public, notice and public procedure hereon are unnecessary, and good cause having been shown, therefor, the amendment may be made effective in less than 30 days.

Further, the FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and navigation, it is certified that this rule will not have a significant impact on a number of small entities under the criteria of the Regulatory Flexibility Act.

### List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

### Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document 85-325, as published in the **Federal Register** on January 7, 1985 (50 FR 726) is revised to read as follows:

**Choteau, Montana, Transition Area (New)**

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Choteau NDB (lat. 47°49'21.1"N/Long. 112°10'12.6"W).

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

Issued in Seattle, Washington, on January 25, 1985.

**Wayne J. Barlow,**

*Acting Director, Northwest Mountain Region.*

[FR Doc. 85-3199 Filed 2-7-85; 8:45 am]

BILLING CODE 4910-13-M

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## 14 CFR Part 71

**[Airspace Docket No. 85-AGL-3]**

## Alteration of Certain Control Zones and Transition Areas in Minnesota, North Dakota, Michigan, Illinois and Ohio; Correction

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

**ACTION:** Correction to final rule.

**SUMMARY:** This action corrects **Federal Register** Document 84-32681, involving Docket 84-AGL-10, which in part revised the control zone and transition area for East St. Louis, Illinois. The final rule published in the **Federal Register** (49 FR 48912) on Monday, December 17, 1984, altered the East St. Louis control zone and transition area by revising the airport name and the city of record. The city of record change from East St. Louis, Illinois, to Cahokia, Illinois, was prematurely listed. The purpose of this amendment is to correct the published final rule by deleting that city of record reference from the final rule. That change will be accommodated individually in future docket action. To avoid confusion, the complete final rule, as corrected, is presented less the reference to the city of record change.

**EFFECTIVE DATE:** February 8, 1985.

**FOR FURTHER INFORMATION CONTACT:** Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, Federal Aviation Administration, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

**SUPPLEMENTARY INFORMATION:** The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) are amended, as follows:

**Willmar, MN—Revised**

By amending § 71.181 in the description of the Willmar, Minnesota, transition area by deleting the words "Willmar Municipal Airport" and substituting the words "Willmar Municipal Airport—John L. Rice Field."

**Hutchison, MN—Revised**

By amending § 71.181 in the description of the Hutchison, Minnesota, transition area by deleting the words "Hutchison Municipal Airport" and substituting the words "Hutchison Municipal Airport—Butler Field."

**Grand Forks, ND—Revised**

By amending § 71.171 in the description of the Grand Forks, North Dakota, control zone by deleting the words "Grand Forks International Airport" and substituting the words "Grand Forks Mark Andrew International Airport."

By amending § 71.181 in the description of the Grand Forks, North Dakota, transition area by deleting the words "Grand Forks International Airport" and substituting the words "Grand Forks Mark Andrew International Airport."

**Wahpeton, ND—Revised**

By amending § 71.181 in the description of the Wahpeton, North Dakota, transition area by deleting the words "Breckenridge-Wahpeton Interstate Airport" and substituting the words "Harry Stern Airport."

**South Haven, MI—Revised**

By amending § 71.181 in the description of the South Haven, Michigan, transition area by deleting the words "South Haven Municipal Airport" and substituting the words "South Haven Regional Airport."

**East St. Louis, IL—Revised**

By amending § 71.171 in the description of the control zone by deleting the words "Bi-State Parks Airport" and substituting the words "St. Louis Downtown—Parks Airport."

By amending § 71.181 in the description of the transition area by deleting the words "Bi-State Parks Airport" and substituting the words "St. Louis Downtown—Parks Airport."

**Dayton Wright Patterson AFB, OH—Revised**

By amending § 71.171 in the description of the Dayton Wright Patterson AFB, Ohio, control zone by deleting the words "Springfield Municipal Airport" and substituting the words "Springfield-Beckley Municipal Airport."

(Secs. 307(a), 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 11.69).

Issued in Des Plaines, Illinois, on January 24, 1985.

**Edwin S. Harris,**

*Acting Director, Great Lakes Region.*

[FR Doc. 85-3206 Filed 2-7-85; 8:45 am]

BILLING CODE 4910-13-M

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## 14 CFR Part 71

**[Airspace Docket No. 84-ASW-49]**

## Designation of Control Zone: Ardmore, OK

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

**ACTION:** Final rule.

**SUMMARY:** This amendment will designate a part-time control zone at Ardmore, OK. The intended effect of the amendment is to provide controlled airspace for aircraft executing a standard instrument approach procedure (SIAP) to Ardmore Municipal Airport. This amendment is necessary since a part-time nonfederal airport traffic control tower (ATCT) has been commissioned, which will provide communications to the surface and weather reports, which will qualify the airport for a control zone during the hours the ATCT is operational.

**EFFECTIVE DATE:** 0901 G.m.t., April 11, 1985.

**FOR FURTHER INFORMATION CONTACT:** David J. Souder, Airspace and Procedures Branch (ASW-534), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 877-2625.

**SUPPLEMENTARY INFORMATION:**

### History

On November 28, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a control zone at Ardmore, OK (49 FR 46748).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is that proposed in the notice. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

### The Rule

This amendment to Part 71 of the Federal Aviation Regulations designates a part-time control zone at Ardmore, OK.

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

### List of Subjects in 14 CFR Part 71

Control zones, Aviation safety.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

**Ardmore, OK [New]**

Within a 5-mile radius of the Ardmore Municipal Airport (latitude 34° 18' 12" N., longitude 97° 01' 01" W.) and within 1.5 miles each side of the Ardmore Vortac 055-degree radial extending from the 5-mile radius area to 8 miles southwest of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

(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 11.69)

Issued in Fort Worth, TX, on January 24, 1985.

**F.E. Whitfield,**

*Acting Director, Southwest Region.*

[FR Doc. 85-3201 Filed 2-7-85; 8:45 am]

BILLING CODE 4910-13-M

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## 14 CFR Part 71

**[Airspace Docket No. 84-ASW-50]**

## Removal of Transition Area: Cleveland, OK

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

**ACTION:** Final rule.

**SUMMARY:** This amendment will remove the transition area at Cleveland, OK. The intended effect of the amendment is to release controlled airspace no longer required for the protection of aircraft executing standard instrument approach procedures (SIAPs) at Cleveland, OK. This amendment is necessary since the proponent of the proposed nonfederal nondirectional radio beacon (NDB) has notified the agency that the NDB will not be installed, thereby canceling the need for a 700-foot transition area.

**EFFECTIVE DATE:** 0901 G.m.t., April 11, 1985.

**FOR FURTHER INFORMATION CONTACT:** David J. Souder, Airspace and Procedures Branch (ASW-534), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 877-2625.

**SUPPLEMENTARY INFORMATION:**

### History

On November 28, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to remove the transition area at Cleveland, OK (49 FR 46746).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is that

proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

**The Rule**

This amendment to Part 71 of the Federal Aviation Regulations removes the transition area at Cleveland, OK.

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

**List of Subjects in 14 CFR Part 71**

Transition Areas, Aviation safety.

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

**Cleveland, OK [Removed]**

(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 11.69)

Issued in Forth Worth, TX, on January 24, 1985.

F.E. Whitfield,

*Acting Director, Southwest Region.*

[FR Doc. 85-3202 Filed 2-7-85; 8:45 am]

BILLING CODE 4910-13-M

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 1

### Protection of Commodity Customers; Risk Disclosure by Futures Commission Merchants and Introducing Brokers to Customers

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission") has amended § 1.55 of its regulations to confirm that compliance with the specific disclosure requirements of that rule (that is, the requirement that a futures commission merchant ("FCM") or introducing broker ("IB") furnish a risk disclosure statement containing the language prescribed in § 1.55(b)) does not relieve an FCM or an IB of any other disclosure obligation it may have under applicable law. Adoption of this amendment is intended to emphasize the existing disclosure obligations of an FCM or IB to its customers and to confirm that the prescribed risk disclosures are not necessarily the exclusive disclosures required from an FCM or IB to such persons.

**EFFECTIVE DATE:** March 11, 1985.

**FOR FURTHER INFORMATION CONTACT:** Kevin M. Foley, Esq., Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street N.W., Washington, D.C. 20581. Telephone: (202) 254-8955.

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

On November 23, 1982, the Commission published in the **Federal Register** a proposal to add a new paragraph (d) to existing rule 1.55, 17 CFR 1.55.[1] As proposed, paragraph (d) would have provided:

(d) This section does not relieve a futures commission merchant from any obligation under the Act or the regulations thereunder, including the obligation to disclose all material information to existing or prospective customers even if the information is not specifically required by this section.

On April 6, 1983, in connection with its proposed rules governing introducing brokers and associated persons of introducing brokers, commodity pool operators and commodity trading advisors, the Commission reproposed the amendment to include introducing brokers. 48 FR 14964. In that release, the Commission indicated that if a customer were to use the services of an introducing broker, the introducing broker generally would be responsible for furnishing the risk disclosure statement prescribed under rule 1.55 to the customer and for obtaining and retaining the required customer acknowledgment, in which case the FCM to which the customer was introduced would not have to furnish the same or an additional disclosure statement. *Id.* at 14953. The Commission also stated that should this amendment be adopted, it "expects to include a reference to introducing brokers [therein] when final rules relating to introducing brokers are adopted," so that "[t]he substance of any such rule would * * * be the same for FCMs and introducing brokers." *Id.* In short, this revision would reflect that an FCM's or IB's disclosure obligations are a function of the responsibilities which it performs on behalf of a particular customer. Although the Commission invited comment on the revised proposal, the Commission also noted that comments filed in response to its initial proposal would be considered as having been filed in this proposed rulemaking.

The Commission received twenty comment letters on its November 23, 1982 proposal, five of which were received after the close of the comment period: eleven from FCMs;[2] three from contract markets; two from law firms; two from a bar association subcommittee;[3] one from a futures industry trade association; and one from a firm apparently engaged in a commodity-related business. No additional comments were received in response to the Commission's April 6, 1983 release.

Although a significant number of commenters recognized that the relationship of an FCM or an IB to its customer is that of a fiduciary under certain circumstances and, consequently, that an FCM's or IB's disclosure obligations may exceed the specific requirements of rule 1.55 in particular cases, there was disagreement as to the necessity for the proposal. Specifically, there was concern that the proposal could be construed to impose a uniform duty of disclosure on all FCMs and IBs regardless of the precise nature of the customer relationship, with the result that the existing obligations of FCMs and IBs could be enlarged. For example, it was argued that the proposal could require an FCM or IB to furnish its customers with lengthy, prospectus-like disclosure or to make extensive verbal disclosures tailored to the particular

[1] Rule 1.55 basically prohibits an FCM or an IB from opening a commodity futures account for any customer unless the FCM or IB first provides the customer with the risk disclosure statement prescribed thereunder and receives a signed acknowledgment from the customer that he received and undestood its contents.

[2] One of the commenters is registered as an FCM and also as a commodity pool operator ("CPO") and as a commodity trading advisor ("CTA") with the Commission. For purposes of this discussion, that firm has been treated as having commented in its capacity as an FCM.

[3] In its initial letter, that commenter requested a ninety day extension of the comment period on the proposal which expired on January 24, 1983. Although the Commission denied this request by letter dated January 20, 1983, the Commission explained that it would endeavor to consider comments received prior to final action on the proposed amendment.

customer's financial and other circumstances. Certain commenters articulated the concern that the proposal could be interpreted to impose a duty of continuing disclosure on all FCMs and IBs subsequent to the initial opening of a customer account. Others argued that the use of the words "material information" rather than "material facts" could require the disclosure of rumors. Still others doubted the relevance of similar provisions found in the Commission's parallel regulations for options and for CPOs and CTAs.[4] Finally, certain commenters requested additional guidance with respect to the meaning of the concept of "materiality" as used in the proposed amendment.[5]

The Commission has considered carefully the issues raised by the commenters and, as further explained in this **Federal Register** release, is not convinced that adoption of the rule as proposed would have the adverse consequences feared or that its terms are ambiguous. In the **Federal Register** release accompanying the proposed amendment, the Commission recognized that the duty of an FCM (or IB) to disclose material information to existing or prospective customers does not require a registrant to disclose all possible information to such customers regardless of the relationship between them. Rather, the Commission noted that the nature and extent of the disclosure which an FCM (or IB) may be required to make to a customer must depend on the facts and circumstances of the particular transactions and also on the precise nature of the FCM's (or IB's) relationship with its customers. Nothing in the proposed amendment was intended to alter this duty.

Nonetheless, the Commission has determined to revise the language of the amendment to reflect more accurately the Commission's original intent. As revised, rule 1.55(d) provides:

> (d) This section does not relieve a futures commission merchant or introducing broker from any other disclosure obligation it may have under applicable law.

The essential purpose of the rule, to confirm the existing obligations of an FCM or IB under the law to disclose material information to its customers, is not affected by this revison. Nor does the revised rule seek to affect in any way the of the law in this area. The disclosure obligations of an FCM or IB to its customers arise under the act, as discussed more fully below, and under state and common law. The extent of these obligations is constantly being defined on a case-by-case basis in reparations proceedings and civil actions, and the Commission does not intend by this rule to interfere with this process.[6] Rule 1.55(d), as revised, merely confirms the Commission's previous statement that "by furnishing the statement required by § 1.55, an FCM will not be relieved of any obligation it may have to make disclosures to customers concerning facts and circumstances of particular transactions." 43 FR at 31888 (July 29, 1976).

## II. Analysis of the Comments

### *A. Statutory Authority*

Before discussing the disclosure obligations of an FCM and IB as codified by the amendment, the Commission wishes to address those comments which questioned its authority to adopt the proposed amendment. Section 4b of the Commodity Exchange Act, as amended (the "Act"), 7 U.S.C. 6b (1982), prohibits any person from engaging in fraud in or in connection with any order to make or the making of any futures contract for or on behalf of any other person. As a "failure to disclose information may operate as a fraud or deceit with respect to commodity transactions in certain circumstances" (40 FR 26505 n.1 (June 24, 1975)), it is evident that that provision recognizes and imposes an affirmative duty to disclose in such cases. Further, section 8a(5), 7 U.S.C. 12a(5) (1982), vests the Commission with broad rulemaking authority "to make and promulgate such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of th[e] Act." The breadth of this rulemaking authority is such that "the validity of a regulation promulgated thereunder will be sustained so long as it is 'reasonably related to the purposes of * * * and is not otherwise inconsistent with * * * the enabling legislation.' "[7] Risk disclosure, of course, is reasonably related to a principal purpose of the Act—customer protection—(*See, e.g.*, S. Rep. No. 384, 97th Cong., 2d Sess. 18 (1982)) and does not conflict with any of its provisions.

In this regard, it is clear that that section 4b creates affirmative disclosure obligations which may vary depending upon the facts and circumstances in a particular case.[8] Whatever proof may be necessary to establish a violation of section 4b for failure to disclose, the standard does not itself alter the nature of the relationship of an FCM or an IB to its customers, the duty to disclose, or the Commission's statutory authority in this connection. Nor is it true, as one commenter suggested, that the separate origin of section 4*o* limits the scope of the Commission's rulemaking authority under section 4b in such a way that the Commission may not adopt a disclosure requirement for FCMs and IBs which is similar to that for CPOs and CTAs.[9] Indeed, the legislative history of section 4b persuasively demonstrates that Congress specifically intended that provision to impose fiduciary obligations upon commodity professionals generally.[10]

### *B. The Nature of the Relationship Between an FCM or an IB and Its Customers*

As many commenters noted, and as the Commission recognized in proposing the additional language for § 1.55, the nature of an FGM's or IB's relationship with respect to particular customers may vary.[11] For example, an FCM may

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[4] Rule 33.7(f), 17 CFR 33.7(f) (1984) and rules 4.21(h) and 4.31(g), 17 CFR 4.21(h), 4.31(g) (1984), respectively.

[5] The Commission also notes that a few of the commenters questioned its statutory authority to adopt the proposal. For the reasons discussed more fully below, the Commission's authority in this regard is clear.

[6] In this connection, the Commission also notes that section 17(p)(3) of the Act requires the National Futures Association ("NFA"), and any other registered futures association registered under section 17 of the Act, to "establish minimum standards governing the sales practices of its members and persons associated therewith for transactions subject to the provisions of this Act." Further, section 17(b)(7) of the Act requires that the rules of NFA be designed "to prevent fraudulent and manipulative acts, to promote just and equitable principles of trade [and], in general, to protect the public interest." The Commission expects that NFA will develop rules that will include sales practice standards which set forth specific types of disclosures FCMs and IBs must make to their customers.

[7] Board of Trade Clearing Corporation v. United States [1977–1980 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶20,534 at 22,297 (D.D.C. 1978), *aff'd mem.*, 593 F.2d 1370 (D.C. Cir. 1979).

[8] The Commission reiterates its view that a breach of the fiduciary duty owed to a customer by a commodity professional suffices to establish a violation of section 4b(A). 47 FR 52724 (November 23, 1982).

[9] Section 4.21(h) and 4.31(g), 17 CFR 4.21(h), 4.31(g) (1984).

[10] *See* Gordon v. Shearson Hayden Stone Inc. [1980–1982 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 21,016 (CFTC 1980), *aff'd sub nom.* Shearson Loeb Rhoades, Inc. v. CFTC, No. 80–7212 (9th Cir., February 12, 1982). Thus, pursuant to section 4b, the Commission has adopted various regulatory requirements which impose fiduciary obligations on Commission registrants. *See, e.g.*, §§ 1.38 and 1.39, and Parts 155 and 166, 17 CFR §§ 1.38, 1.39, Part 155, Part 166 (1984).

[11] *See, e.g.*, 47 FR 52723, 52724 ("the scope of an FCM's disclosure obligations is substantially broader when acting in an advisory capacity for a customer than when simply transmitting a customer's orders to an exchange floor execution.").

do no more than execute orders for one customer, but for another the FCM may have discretionary authority to trade. Current law specifically recognizes that the extent of the required risk disclosure will vary with the precise nature of the customer relationship and with the degree of customer reliance on an FCM's or IB's advice. By proposing to amend rule 1.55, the Commission was seeking neither to extend nor to limit the obligations of FCMs or IBs in any manner.[12] For this reason the Commission stated that it could have adopted the amendment without prior notice and opportunity for public comment consistent with the Administrative Procedure Act.[13]

*C. The Scope of the Required Disclosure*

In its proposal, the Commission pointed out that it has consistently recognized a duty to make adequate risk disclosure.[14] As discussed above, the scope of the risk disclosure required of an FCM or IB to its customer is directly related to the functions and responsibilities which the FCM or IB undertakes to perform on behalf of that customer. As the Commission acknowledged in proposing to amend rule 1.55:

> The nature and extent of the disclosure which an FCM may be required to make to a customer and which gives rise to potential liabilities under section 4b of the Act must by the very nature of the duty depend on the facts and circumstances of particular transactions and also on the precise nature of the FCM's relationship with his customers.
>
> 47 FR at 52724.

Therefore, adoption of the amendment is not intended to impose a uniform duty of disclosure on FCMs and IBs or to require an FCM or IB to furnish a customer with prospectus-like disclosure, to open its research files or to make far-reaching verbal disclosures, including discussion of rumors, to supplement the risk closure statement prescribed by rule 1.55. Rather, required disclosures may differ in every case depending upon the relationship between the FCM and IB and its customer. Thus, the duty of an FCM or IB to disclose information to a discretionary account customer clearly is broader than its duty to disclose in connection with the mere execution of an order pursuant to customer instruction. For example, an FCM or IB which solicits or accepts discretionary trading authority based upon its claims of superior trading ability may be required to furnish a customer with the necessary documentary evidence to support its claim.

*D. Consistency with Prior Policy and Positions*

The amendment is fully consistent with the Commission's policy regarding disclosure of the risks inherent in futures trading. For example, at the time of the adoption of rule 1.55, "the Commission made clear that the prescribed disclosure statement was not meant to be an exhaustive explanation of the mechanics and risks of futures trading or of particular transactions, but rather was designed to highlight some of the inherent risks of futures trading for new customers." 47 FR 52723. At that time, the Commission stressed that *"by furnishing the statement required by § 1.55, and FCM will not be relieved of any obligation it may have to make disclosures to customers concerning facts and circumstances of particular transactions." Id.* quoting 43 FR 31888 (July 24, 1978) (Emphasis added.). Thus, the Commission has always taken the position that providing the prescribed risk disclosure statement does not necessarily afford an FCM a "safe harbor" with respect to its obligation to disclose the risks of futures trading to customers. This amendment is merely intended to codify this view. As such, contrary to the concern expressed by some commenters, the amendment clearly does not require FCMs or IBs uniformly to prepare the type of individualized risk disclosure document rejected by the Commission when rule 1.55 was adopted.[15]

## III. Certification Under Regulatory Flexibility Act

In the proposal, the Chairman certified, pursuant to the Regulatory Flexibility Act, that if the amendment to rule 1.55 were adopted as proposed, it would not have a significant economic impact on a substantial number of small entities. 47 FR 52725. Several

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[12] In this connection, a few commenters argued that if, as the Commission believes, the proposal merely would codify existing law, its adoption would not appear to serve any useful purpose. The Commission disagrees. Regulatory agencies frequently adopt regulations that are merely declarative of existing law or policy for purposes of explicitness and clarity. Moreover, the Commission seeks to eliminate any potential negative implications which may arise from the absence of such an explicit disclosure provision.

[13] *See* 5 U.S.C. 553(b)(A) (1982) (exception to notice and comment procedures for interpretative rules which merely confirm or explain existing law).

[14] *See, e.g.*, Ruddy v. First Commodity Corp. of Boston [1980–1982 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶21,435 (CFTC 1981) (FCM and its associated person ("AP") breached their fiduciary duty to a customer for whom they had discretionary authority by failing either to contact him promptly or to remove the hedges entered for him when the strategy under which they were recommended and placed had failed), *aff'd sub nom.* First Commodity Corp. of Boston v. CFTC, 676 F.2d 1 (1st Cir. 1982); Yameen v. Madda Trading Co., *Id.* at ¶21,125 (CFTC 1980) (FCMs and their APs owe a fiduciary duty to customers to disclose the limitations inherent in the placing of stop-loss orders); Laheney v. Murlas Bros. Commodities Inc., *Id.* at ¶21,045 (AP has a duty to inform a client with a nondiscretionary account of the status of both legs of a straddle position when soliciting the sale of one leg of the straddle); Gordon v. Shearson Hayden Stone Inc., *Id.* at ¶21,016 (CFTC 1980) (AP has a duty to disclose the risks inherent in futures trading, including the risks of a recommended spread trading program), *aff'd sub nom.* Shearson Loeb Rhoades, Inc. v. CFTC, No. 80-7212 (9th Cir., February 12, 1982); Ettingshaus v. Chartered Systems Corp. of New York, Ltd. [1977–1980 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶20,897 (FCM and its agent have the duty to disclose commissions that are charged in an options purchase and also the portion of the commission which is given to the agent); Meyer v. London Futures Ltd., *Id.* at ¶20,846 (failure to disclose the effects of foreign currency fluctuations upon option transactions is fraudulent); Wong v. First London Commodity Options, Ltd., *Id.* at ¶20,834 (absence of a secondary market for London options is a material fact which must be disclosed to prospective option purchasers by FCMs); Hauser v. Rosenthal & Co., *Id.* at ¶20,731 (FCM has duty to disclose the mechanics, costs and risks of option trading), *aff'd as modified sub nom.* Myron v. Hauser, 673 F.2d 994 (8th Cir. 1982); Klatt v. Int'l Trading Group, Ltd., *Id.* at ¶20,636 (CFTC 1978) (FCM has duty to disclosure all material facts to a customer); Morgan v. Crown Colony Commodity Options, Ltd., *Id.* at ¶20,622 (seller of option must provide a customer with a breakdown of the costs of an option transaction); Wilke v. Winchester-Hardin-Oppenheimer Trading Co., *Id.* at ¶20,605 (FCM is required to disclose to its customers the risks inherent in futures trading, including the mechanics of the futures markets); Sokol v. Gregory Commodity Options, Inc., *Id.* at ¶20,582 (failure to disclose the risks and fundamentals of London option trading is fraudulent); Coffman v. Economic Systems Commodities, Inc., *Id.* at ¶20,581 (failure to disclose the risks and mechanics of London option trading, including a reasonable estimate of the price change necessary for the option to become profitable, is fraudulent); Sandberg v. Gregory Commodity Options, Inc., *Id.* at ¶20,547 (option dealers must inform customers as to material facts concerning their investment in options, including the time period involved in the exercise of the option, the mark-up charged by the dealer and the relative experience in options of the customer's account executive); Prochniak v. First Commodity Corp. of Boston, *Id.* at ¶20,501 (vendor of London options has the duty to inform a customer of those facts which are needed to make an informed decision as to the risk of loss and opportunity for profit thereon); CFTC v. J.S. Love & Associates Options, Ltd., 422 F. Supp. 652 (S.D.N.Y. 1976) (failure to disclose material facts concerning option transactions, *e.g.*, commissions and fees, is fraudulent).

[15] In this connection, two commenters suggested that the Commission amend the prescribed risk disclosure statement to make clear its limitations in lieu of adopting the proposal. The Commission rejects this suggestion because it does not recognize that further disclosures may be necessary to fulfill an FCM's or IB's obligations in this area. Similarly, a suggestion for an alternative paragraph (d) which would simply state that rule 1.55 does not relieve an FCM or IB from any obligation under the Act or the regulations thereunder also is unsatisfactory, as it does not specifically refer to an FCM's or IB's disclosure obligations to customers, which may arise under state law or common law, in addition to the Act and Commission regulations.

commenters disagreed. As explained, the amendment will not impose any additional obligations on FCMs or IBs or expose FCMs or IBs to liabilities that do not already exist under the Act or at common law. Further, the Commission previously has determined that a registered FCM not be considered a "small entity" within the meaning of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1165, 1166 (5 U.S.C. 601(3) and (6)). *See* 47 FR 18618, 18619 (April 30, 1982). With respect to introducing brokers, the Commission has decided to evaluate within the context of a particular rule proposal whether all or some introducing brokers should be considered to be small entities and, if so, to analyze the economic impact on IBs of any such rule at that time. 48 FR 35248, 35276 (August 3, 1983). As discussed above, and throughout this release, the Commission has determined that the amendment will not impose any significant regulatory burdens on introducing brokers but merely confirms the existing obligations of an IB to its customers.

For these reasons, pursuant to section 3(a) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1168 (5 U.S.C. 605(b)), the Chairman, on behalf of the Commission, certifies that this rule amendment will not have a significant economic impact on a substantial number of small entities.[16]

**List of Subjects in 17 CFR Part 1**

Consumer protection, Reporting and recordkeeping requirements, Risk disclosure statements.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act, and in particular, sections 2(a)(1), 4b, 4d, 4f and 8a of the Act, as amended, 7 U.S.C. 2, 6b, 6d, 6f and 12a, the Commission hereby revises Chapter 1 of Title 17 of the Code of Federal Regulations by adding a paragraph (d) to § 1.55. In adopting this rule amendment, the Commission has taken into consideration the public interest to be protected by the antitrust laws and has endeavored to take the least anticompetitive means of achieving the regulatory objectives of the Commodity Exchange Act.

[16] Rule 1.55 has previously been issued a control number, pursuant to the Paperwork Reduction Act of 1980 ("PRA"), Pub. L. No. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*). This amendment simply codifies an existing obligation and, as noted in the proposal (47 FR 52725), it does not require the collection or submission of information within the meaning of the PRA. Therefore, the PRA's requirements are not applicable.

**PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT**

Chapter 1 of 17 CFR is revised by adding a new paragraph (d) to rule 1.55 as follows:

1. Section 1.55 is amended by adding a new paragraph (d) to read as follows:

**§ 1.55 Distribution of "Risk Disclosure Statement" by futures commission merchants and introducing brokers.**

* * * * *

(d) This section does not relieve a futures commission merchant or introducing broker from any other disclosure obligation it may have under applicable law.

Issued in Wasington, D.C. on February 5, 1985, by the Commission.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 85-3241 Filed 2-7-85; 8:45 am]

BILLING CODE 6351-01-M

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**17 CFR Part 143**

## Collection of Claims Owed the United States Arising From Activities Under the Commission's Jurisdiction

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rules.

**SUMMARY:** The Commodity Futures Trading Commission is issuing final rules to implement the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982 and interpreted by the Department of Justice and General Accounting Office in the Federal Claims Collection Standards. These rules state the procedures the Commission will follow to collect claims owed the United States arising from activities under the Commission's jurisdiction. Such procedures include the use of administrative offset and compromise. (Absent unusual circumstances, it is unlikely that the Commission would consider a compromise of a claim owed as a result of a settlement agreement entered into with the Commission). The rules also state under what circumstances interest and penalty charges on claims may be assessed or waived by the Commission. These rules are intended to ensure fair and expeditious collection of unpaid claims.

**EFFECTIVE DATE:** March 11, 1985.

**FOR FURTHER INFORMATION CONTACT:** Jeri E. Ruscoll, Esq., Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-9880.

**SUPPLEMENTARY INFORMATION:** On December 10, 1984, the Commission published proposed rules to implement the Federal Claims Collection Act, as amended by the Debt Collection Act, 31 U.S.C. 3701-3719. 49 FR 48060. The Commission allowed 30 days for public comment. *Id.* The Commission received no comments and has decided to adopt its proposed rules as final rules.

The Federal Claims Collection Act and the Debt Collection Act direct all federal agencies to pursue unsatisfied, overdue claims or debts and to afford notice and other protections to the debtor prior to agency use of certain collection procedures. The Department of Justice and General Accounting Office have interpreted these statutes in the Federal Claims Collection Standards, the government-wide debt collection regulations originally authorized by the Federal Claims Collection Act. *See* 4 CFR Parts 101-105, *as amended by* 49 FR 8889 (Mar. 9, 1984). These regulations provide agencies with general guidance on sound debt collection principles and are incorporated by reference in the Commission's rules.

In accordance with the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, The Chairman certifies that these rules will not have a significant economic impact on a substantial number of small entities. Although there may be increased costs to individuals as a result of these rules, such costs would be imposed only if an individual is delinquent in paying his debt to the Commission.

These rules do not call for collection of information from the general public and are therefore not subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

**List of Subjects in 17 CFR Part 143**

Claims, Debts, Penalties, Administrative practice and procedure.

In consideration of the foregoing, and pursuant to the authority contained in sections 6(b), 6(d) and 8a(5) of the Commodity Exchange Act, 7 U.S.C. 9, 9a, and 12a(5), the Federal Claims Collection Act of 1966 and the Debt Collection Act of 1982, 31 U.S.C. 3701-3719, the Commission hereby adds Part 143 to Title 17 of the Code of Federal Regulations:

## PART 143—COLLECTION OF CLAIMS OWED THE UNITED STATES ARISING FROM ACTIVITIES UNDER THE COMMISSION'S JURISDICTION

Sec.
143.1 Purpose.
143.2 Notice of claim.
143.3 Interest, penalty charges, and administrative costs.
143.4 Collection by offset.
143.5 Collection by compromise.
143.6 Referral for litigation.
143.7 Delegation of authority to the Executive Director.

**Authority:** 7 U.S.C. 9, 9a, and 12a(5); 31 U.S.C. 3701–3719.

### § 143.1 Purpose.

This part implements the Federal Claims Collection Act, as amended by the Debt Collection Act, 31 U.S.C. 3701–3719, and interpreted by the Department of Justice and General Accounting Office in the Federal Claims Collection Standards, 4 CFR Parts 101–105. This part provides procedures the Commission will use to collect claims owed the United States arising from activities under the Commission's jurisdiction, including amounts due the United States from fees, fines, civil penalties, damages, interest, and other sources. This part further sets forth procedures for the Commission to determine and collect interest, penalties, and administrative costs on unpaid claims and to refer unpaid claims for litigation.

### § 143.2 Notice of claim.

(a) The Commission will send a written notice to any person who owes payment to the United States under this part, stating the basis for the claim, the interest, penalties, and administrative costs that may be imposed for non-payment, and the date full payment is due.

(b) If the claim is disputed, the debtor shall respond to the notice in writing and state the reasons for non-payment. If the claim is not disputed but full payment is not made by the date indicated in the notice, the debtor shall state the reasons for the failure to make full payment.

(c) If no response or an unsatisfactory response is received by the date indicated in the notice, the Commission may take any further action appropriate under the Commodity Exchange Act or regulations thereunder, or under 4 CFR Parts 101–105 and the Federal Claims Collection Act, as amended, 31 U.S.C. 3701–3719.

### § 143.3 Interest, penalty charges, and administrative costs.

(a) The Commission will assess interest on unpaid claims. The rate of interest assessed shall be the rate of the current value of funds to the United States Treasury (*i.e.*, the Treasury tax and loan account rate) as prescribed and published by the Secretary of the Treasury. The Commission will charge penalty fees of not more than 6 percent per year on any portion of a claim that is delinquent for more than 90 days. The Commission will also impose actual administrative costs to cover the processing and handling of delinquent claims.

(b) Interest on claims will be charged and will run from the date the notice of claim is mailed if the amount of the claim is not paid within 30 days from that date. Interest will be calculated only on the principal of the claim. The rate of interest charged is the rate in effect on the date from which interest begins to run. The rate will remain fixed for the duration of the indebtedness.

(c) The Commission may waive in whole or in part interest, penalty charges or administrative costs if it finds that:

(1) The debtor is unable to pay any significant sum within a reasonable period of time;

(2) Collection of interest or penalty charges jeopardizes collection of the principal of the claim; or

(3) It is in the best interests of the United States.

### § 143.4 Collection by offset.

(a) Whenever feasible, the Commission will collect claims under this part by means of administrative offset against obligations of the United States to the debtor.

(b) The Commission will notify the debtor in writing of its intent to use offset procedures to collect the debt unless the debtor agrees to repayment. The notice to the debtor shall include the type and amount of the claim and an explanation of the debtor's rights for records and review under 31 U.S.C. 3716(a).

(c) The Commission will seek to coordinate administrative offset with other federal agencies in accordance with 4 CFR Part 102.

### § 143.5 Collection by compromise.

The Commission may settle claims not exceeding $20,000 by compromise at less than the principal of the claim if—

(a) The debtor shows an inability to pay the full amount within a reasonable period of time;

(b) The Government would be unable to enforce collection in full through litigation or administrative means within a reasonable period of time;

(c) The cost of collecting the claim in full is not justified by the amount of the claim; or

(d) The Commission's enforcement policy would be served by settlement of the claim for less than the full amount.

### § 143.6 Referral for litigation.

Claims that cannot be collected by the Commission under this part or for which collection action cannot be ended or suspended under 4 CFR Part 104 will be referred to the Department of Justice for litigation.

### § 143.7 Delegation of Authority to the Executive Director.

(a) The Commission hereby delegates, until such time as the Commission orders otherwise, to the Executive Director or to any Commission employee under the Executive Director's supervision as he or she may designate, authority to take action to carry out this part and the requirements of 4 CFR Parts 101–105.

(b) Delegated waivers or compromise under this part shall be with the concurrence of the General Counsel and the Director of the Division of Enforcement or of their respective designees.

Issued in Washington, D.C. on February 4, 1985.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 85-3161 Filed 2-7-85 8:45 am]

BILLING CODE 6351-01-M

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 271

**[Docket No. RM79-76-205; Louisiana-2 Addition II; Order No. 403]**

## High Cost Gas Produced From Tight Formations; Louisiana; Correction

Issued: February 1, 1985.
Issued: October 5, 1984.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Corrrection to final rule.

**SUMMARY:** This document corrects Order No. 403, a final rule designating portions of the Haynesville formation as a tight formation. The final rule appeared in the **Federal Register** on October 9, 1984 (49 FR 39535) and contained an incorrect description of the delineation of the Haynesville Formation, Reservoir B.

**FOR FURTHER INFORMATION CONTACT:** Kevin R. Rees, (202) 357–5420 or Walter W. Lawson (202) 357–8556.

**SUPPLEMENTARY INFORMATION:** The following correction should be made in FR Document 84–26542 appearing on page 39536:

**§ 271.703 [Amended]**

On page 39536, the delineation of the Haynesville formation in § 271.703(d)(ii)(A) should read as follows:

(22) *Haynesville formation in Louisiana* RM79–76–205 (Louisiana–2).

* * * * *

(ii) *Colquitt Field, Claiborne Parish.*

(A) *Delineation of formation.* The Haynesville Formation Reservoir B, in the Colquitt Field, is located in Claiborne Parish, Louisiana, and consists of the S ½ of the S/W ¼ of Section 27, the S ½ and the S ½ of the NW ¼ of Section 29, and the S ½ and the NW ¼ and the S ½ of the NE ¼ of Section 30, and the N ½ of Section 34, Township 23 North, Range 6 West, and the W ½ of Section 24, and the N ½ and the SE ¼ of Section 25, Township 23 North, Range 7 West.

* * * * *

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 85–3124 Filed 2–7–85; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Parts 510 and 520

### Animal Drugs, Feeds, and Related Products; Change of Sponsor

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the change of sponsor of two new animal drug applications (NADA's) from A. E. Staley Manufacturing Co. to Pacific Molasses Co.

**EFFECTIVE DATE:** February 8, 1985.

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

**SUPPLEMENTARY INFORMATION:** Pacific Molasses Co. has informed FDA that it has purchased the Specialty Feeds Division (including NADA's for medicated block approvals) of the A. E. Staley Manufacturing Co. The A. E. Staley Manufacturing Co. has confirmed the change of ownership by letter to FDA. The applications affected are NADA 33–773, poloxalene medicated block, and NADA 109–471, monensin medicated block. This change of sponsor does not involve any changes in manufacturing facilities, equipment, procedures, or production personnel. The regulations providing for use of the blocks are amended to reflect the change of sponsor.

As a result of this action, A. E. Staley Manufacturing Co. is no longer the sponsor of an approved NADA and 21 CFR 510.600 is amended to remove the firm's entries. The section is further amended to add entries for Pacific Molasses Co. to the list of sponsors of approved applications.

**List of Subjects**

*21 CFR Part 510*

Administrative practice and procedure, Animal drugs, Labeling, Reporting requirements.

*21 CFR Part 520*

Animal drugs, oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Parts 510 and 520 are amended as follows:

### PART 510—NEW ANIMAL DRUGS

1. Part 510 is amended in § 510.600 in paragraph (c)(1) by removing the entry for "A. E. Staley Manufacturing Co." and adding a new entry alphabetically; and in paragraph (c)(2) by removing the entry for "012315" and adding a new entry numerically, to read as follows:

**§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.**

* * * * *

(c) * * *

(1) * * *

| Firm name and address | Drug labeler code |
|---|---|
| * * * * * | |
| Pacific Molasses Co., 333 Market St., Suite 1000, San Francisco, CA 94105 | 050112 |
| * * * * * | |

(2) * * *

| Drug labeler code | Firm name and address |
|---|---|
| * * * * * | |
| 050112 | Pacific Molasses Co., 333 Market St., Suite 1000, San Francisco, CA 94105. |
| * * * * * | |

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

2. Part 520 is amended:

**§ 520.1448a [Amended]**

a. In § 520.1448a *Monensin blocks* in paragraph (a)(2) by removing "012315" and inserting in its place "050112".

**§ 520.1840 [Amended]**

b. In § 520.1840 *Poloxalene* in paragraph (c)(3) by removing "012315" and inserting in its place "050112".

*Effective date.* February 8, 1985.

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

Dated: January 31, 1985.

**Marvin A. Norcross,**

*Acting Associate Director for Scientific Evaluation.*

[FR Doc. 85–3164 Filed 2–7–85; 8:45 am]

BILLING CODE 4160–01–M

### 21 CFR Part 544

### Oligosaccharide Certifiable Antibiotic Drugs for Animal Use; Dihydrostreptomycin Sulfate Injection, Sterile

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Pfizer, Inc., providing for use of dihydrostreptomycin sulfate injection to treat leptospirosis in dogs, horses, cattle, and swine. The NADA complies with the FDA's conclusions regarding the efficacy of dihydrostreptomycin injection drugs.

**EFFECTIVE DATE:** February 8, 1985.

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

**SUPPLEMENTARY INFORMATION:** Pfizer, Inc., 235 East 42d St., New York, NY 10017, has filed NADA 65–483 for dihydrostreptomycin sulfate injection for treating leptospirosis in dogs, horses, cattle, and swine. The application is approved and the regulations are amended accordingly. The basis for the

approval, based on the findings of the National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Implementation (DESI) program, is discussed in the freedom of information summary referred to below.

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

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

**List of Subjects in 21 CFR Part 544**

Animal drugs, Antibiotics, oligosaccharide.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512, (i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b (i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Part 544 is amended in § 544.275 by revising paragraph (c)(2) to read as follows:

## PART 544—OLIGOSACCHARIDE CERTIFIABLE ANTIBIOTIC DRUGS FOR ANIMAL USE

**§ 544.275 Dihydrostreptomycin sulfate injection, sterile.**

* * * * *

(c) * * *

(2) *Sponsor.* See Nos. 000069 and 010719 in § 510.600(c) of this chapter for use as in paragraph (c)(4)(i), (ii), and (iii)(*a*) of this section; see No. 010271 for use as in paragraph (c)(4)) (i), (ii), and (iii)(*b*) of this section.

* * * * *

*Effective date.* February 8, 1985.

(Sec. 512 (i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b (i) and (n)))

Dated: January 28, 1985.

**Lester M. Crawford,**

*Director, Center for Veterinary Medicine.*

[FR Doc. 85-3163 Filed 2-7-85; 8:45 am]

BILLING CODE 4160-01-M

## GENERAL SERVICES ADMINISTRATION

**41 CFR Chap. 101**

**[FPMR Temp. Reg. A-27]**

### Civilian Executive Agency Aircraft Information System (AIS)

**AGENCY:** Office of Federal Supply and Services, GSA.

**ACTION:** Temporary regulation.

**SUMMARY:** This regulation establishes procedures for a centralized Aircraft Information System (AIS) that will produce an inventory of aircraft and facilities, including cost and utilization data on all aircraft that are operated by or for Federal civilian agencies.

**DATES:** Effective Date: February 8, 1985. Expiration Date: This regulation expires 2 years from the date of publication in the **Federal Register** (February 8, 1987) unless sooner superseded or canceled.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jeff Thurston, Office of Transportation, (703/557-1273); FTS 557-1273.

**SUPPLEMENTARY INFORMATION:** The General Services Administration (GSA) has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more, a major increase in costs to consumers or others, or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

**List of Subjects in 41 CFR Part 101-40**

Freight, Government property management, Moving of household goods, Office relocations, Transportation.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter A to read as follows:

**Federal Property Management Regulations Temporary Regulation A-27**

January 11, 1985

To: Heads of Federal agencies

Subject: Civilian Excutive Agency Aircraft Information System (AIS)

1. *Purpose.* This temporary regulation establishes procedures for a centralized Aircraft Information System (AIS) that will produce an inventory of aircraft and facilities, and cost and utilization data on all aircraft that are operated by or for Federal civilian agencies.

2. *Effective date.* This regulation is effective upon publication in the **Federal Register** (February 8, 1985).

3. *Expiration date.* This regulation expires 2 years from the date of publication in the **Federal Register** (February 8, 1987) unless sooner superseded or canceled.

4. *Applicability.* This regulation applies to all civilian agencies which utilize Government-owned or leased aircraft or commercially acquired aircraft (on a temporary basis) or aircraft services in support of agency programs (see Attachment A). Aircraft or aircraft services that are acquired from or provided to Department of Defense (DOD) agencies by civilian agencies must also be reported under this regulation. Specifically excluded is aircraft transportation procured from commercial airlines using Government Transportation Requests (GTR), cash, or contractor-issued charge cards. Aircraft charters, however, are included in the AIS.

5. *Background.*

a. Under section 201(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)), as amended, the Administrator of General Services "shall, in respect of executive agencies, and to the extent that he determines that so doing is advantageous to the Government in terms of economy, efficiency, or service, and with due regard to the program activities of the agences concerned . . . prescribe policies and methods of procurement and supply personal property and non-personal services, including . . . transportation and traffic managment . . . for the use of executive agencies in the proper discharge of their responsibilities . . ." Section 206(a) 40 U.S.C. 487(a) authorizes the Administrator of General Services, "after adequate advance notice to the executive agencies . . . to make surveys of Government property and property managment practices and obtain reports thereon from excutive agencies."

b. Historically, there has been no centralized gathering of data regarding Federal civilian aircraft. The significant commitment of funds to acquire, operate, store and maintain aircraft and related facilities warrants that Government-wide data be collected to

expand knowledge and thereby strengthen management in this area.

c. The General Accounting Office (GAO) in their June 24, 1983, report entitled, "Federal civilian agencies can better manage their aircraft and related services" (GAO/PLRD–83–64) stated that there is limited coordination and sharing of aircraft services among agencies, even though missions and requirements often are common and aircraft may be maintained and stored at the same or nearby locations. No central data base exists to inform agencies of the types of services or aircraft that might be shared. Without this data, agencies do not know what aircraft other agencies have or what capabilities are available and, as a result, continue to fulfill their own aircraft requirements independently. This also precludes consolidating aircraft needs with other agencies.

d. GAO states that an informational focal point must be established before extensive sharing and consolidation can be accomplished. This would give agencies a central source from which they can determine which agencies have similar mission needs for aircraft and related services and what resources are available to fill them. Such a system also should foster better coordination and information sharing between agencies' personnel responsible for aircraft programs.

e. GAO recommended that the General Services Administration (GSA) act as the "single coordinating activity" to provide and operate an aircraft information system similar to the one operated by the Department of the Interior's Office of Aircraft Services (OAS).

f. GAO also indicated that GSA should capture aircraft/aircraft service costs in a manner similar to that of OAS. GSA also is expected to gather utilization data for aircraft operated by or for Government agencies. No Government-wide figures are regularly gathered on the cost or use of these Government assets or their commercially procured temporary service equivalents.

6. *Preparation instructions and definitions.* General preparation instructions for the AIS are provided in Attachments B and C. Specific definitions that apply to the report formats for the inventory of Government aircraft and related facilities (Attachments B–1 and B–2) and aircraft cost and utilization (Attachments C–1 and C–2) are included following the applicable format. As used in this regulation, "aircraft" means—a device that is used or intended to be used for flight in the air (see Part 1 of 14 CFR).

7. *System Overview/GSA Responsibilities.* GSA will develop and operate an information system that will gather and maintain data on the inventory of civilian agency aircraft and related facilities, the cost involved in their operation (as well as those aircraft chartered, rented, or contracted for), and the utilization of those aircraft that are operated inhouse or by commercial firms for civilian agencies. (For the purpose of this regulation, except where otherwise indicated, agency means department, bureau or independent office.) This data will be gathered by GSA as reported by participating agencies, at various intervals. GSA will prepare summary reports of inventory data related to aircraft/facilities eligible for intergency sharing on a quarterly basis and shall prepare cost, utilization and total inventory data reports annually. Information regarding inventory available for multiple agency use shall be provided quarterly by GSA to participating agency contact points. (Each agency managing and reporting these assets will determine which aircraft or facilities are available for multiple agency use.) The cost and utilization data shall be segregated by GSA as to whether: (1) Aircraft were owned, leased (for 90 calendar days or longer), on a loan, lease/purchase, bailed, or seized—and operated by a Federal agency; or (2) aircraft or aircraft services were rented on a short-term basis (less than 90 calendar days), contracted or chartered.

8. *Participating agency responsibilites.*

a. Provide GSA with a Department-wide contact point for this AIS reporting system, as well as contacts corresponding to the organizational level(s) at which the Departments report.

b. Provide GSA with inventory lists for aircraft and related facilities and changes as they occur. (Attachments B, B–1 and B–2)

c. Specify aircraft and facilities that are not available for interagency use.

d. Provide GSA with cost and utilization data on all in-house aircraft (see e(1) to e(5) below) or aircraft obtained through contract, rental, or charter for various periods of time. (Attachments C, C–1 and C–2).

e. Reporting responsibility for the various categories of aircraft/aircraft service acquisitions are as follows:

(1) *Owned Aircraft*—The department or independent agency which holds title to the aircraft is responsible for reporting inventory, cost, and utilization for each aircraft.

(2) *Bailed Aircraft*—The department or independent agency which operates Department of Defense (DOD) -owned aircraft is responsible for reporting inventory, cost and utilization for each aircraft.

(3) *Lease or Lease/Purchase Aircraft*—The department or independent office which makes payment to the private sector or other organization (public or private) for the aircraft is responsible for reporting inventory, cost, and utilization for each aircraft.

(4) *Borrowed Aircraft*—If title to the aircraft is held by a Federal civilian agency, the department or independent office holding the title will be responsible for reporting inventory, cost, and utilization for each aircraft. If title is held by any organization that is not a Federal civilian agency or DOD, (e.g., a private organization, university, State or local government), the department or independent office which operates the aircraft is responsible for reporting inventory, cost, and utilization for each aircraft. Aircraft on loan from DOD are bailed aircraft.

(5) *Seized Aircraft*—The department or independent office which operates the aircraft is responsible for reporting inventory, cost, and utilization for each aircraft.

(6) *Contract, Charter, and Rental Aircraft*—The department or independent office which makes payment to the private sector or other organization (public or private) for the aircraft is responsible for reporting cost and utilization by category or type of aircraft.

9. *Special reports for participating agencies.* GSA will attempt to fulfill requests from agencies for special reports or analysis related to the outputs of this system. If requests result in significant report preparation costs to GSA, as determined on a case-by-case basis, a mutually agreeable GSA administrative fee may be required.

10. *Aircraft used for sensitive missions.* Inventory, cost and utilization data for agency aircraft dedicated to national defense, law enforcement or interdiction missions will be safeguarded with extreme care. GSA shall maintain individualized data on aircraft and facilities of this type; however, if specified by the reporting agencies, GSA shall not allow their identification (N-Number, serial number, etc.), location or use-patterns (beyond non-aircraft specific data) to be disclosed unless provisions of the Freedom of Information Act allow for this disclosure. (Agencies will be routinely informed whenever a Freedom of Information request is received by GSA, prior to disclosure of any agency-

specific information.) The serial number may be a unique, nonidentifying number assigned by the agency if the aircraft is used in a sensitive mission.

11. *Non-disruption of Current Agency Reporting Systems or Unreasonable Data Manipulations.* Participating agencies are not required to modify their existing internal aircraft management information reporting systems or to incur additional reporting costs other than the personnel costs necessary to transmit to GSA the data requested.

12. *Reports.* Each participating agency shall submit within 120 days after the date of publication of this regulation in the **Federal Register** a report covering the existing inventory of aircraft and related facilities (Attachments B–1 and B–2) as of September 30, 1984. Changes that occurred between September 30, 1984, and the date of preparation of the first report should also be reflected in the first report. Subsequent changes in aircraft facility inventories shall be reported to GSA as they occur. Each participating agency shall submit within 120 days after the date of publication of this regulation in the **Federal Register** a report covering cost and utilization (Attachments C–1 and C–2) for fiscal year 1984. The cost and utilization report for fiscal year 1985 shall be submitted by January 15, 1986, and a subsequent report due every 12 months thereafter applicable to each succeeding fiscal year. Reports shall be sent to the Office of Transportation (FT), General Services Administration, Washington, DC 20406. Interagency Report Control Number 0322–GSA–AN has been assigned to this report in accordance with FPMR 101–11.11.

13. *Comments and Recommendations.* Comments and recommendations concerning the provisions of this regulation may be submitted to the Office of Transportation (FT), General Services Administration, Washington, DC 20406, within 90 days of publication.

Dated: January 11, 1985.

**Ray Kline,**

*Acting Administrator of General Services.*

## Attachment A—Participating Agencies

All Federal civilian agencies that own, operate, or procure aircraft services at any time during the effective period of this temporary regulation, or which did so at any point in Fiscal Years 1984 or 1985 prior to the effective date of this regulation, are required to participate in this reporting system. The following agencies were specifically referred to in the 1983 General Accounting Office report on this subject (see paragraph 5c) but, this list should not be interpreted as an all-inclusive list of participating departments or agencies:

Department of Agriculture
Department of Commerce
Department of Energy
Department of the Interior
Department of Justice
Department of Transportation
Department of the Treasury
Environmental Protection Agency
National Aeronautics and Space Administration
National Science Foundation
Smithsonian Institution
Tennessee Valley Authority

## Attachment B—Preparation Instructions for Aircraft and Facility Inventory (Attachments B–1 and B–2)

Attachments B–1 and B–2 are provided to facilitate the reporting of aircraft and facility inventory data. Agencies have the option to report to GSA on any organizational level, as they see fit. GSA does not require data to be aggregated by a single, consolidated agency contact point and then forwarded to GSA. GSA is developing printed forms which will be distributed to contact points at participating agencies.

Aircraft used in sensitive missions, as determined and requested by reporting agencies in writing to GSA, will not be identified for those elements so identified on Attachment B–1. The serial number may be a number assigned by the agency if the aircraft is used in a sensitive mission and should be reported as such by the agency in its regular inventory reports, as well as any updates to those reports. For example, an aircraft with a serial number of 1234567 should be reported to GSA as "ABC" or any other designation chosen by the agency. Once established, designations for individual aircraft must remain unique and consistent to allow for accurate inventory updates by GSA.

The inventory component of this system will include aircraft that are owned, leased, lease/purchase, borrowed, bailed, or seized by agencies. The output will be segregated by GSA as to whether the aircraft and/or facilities are available for interagency use or are not available for interagency use. The data elements should be completed on a "per aircraft" or "per facility" basis. GSA shall receive, compile, and disseminate inventory data in the following manner:

1. Agencies shall provide GSA with inventory data/information for aircraft and related facilities that each agency designates as potentially available for interagency use (see Attachments B–1 and B–2). Once this initial "source list" is compiled, agencies shall inform GSA when there is a change to that source list. GSA will send this source list to designated contact points in each participating agency for information as to possible interagency sharing of aircraft or related services. Agencies are required to provide to GSA their inventory in accordance with paragraph 12 of this regulation.

2. Agencies will also provide GSA with inventory input for those aircraft and related facilities that are not available for interagency use, as determined by the reporting agency (see Attachments B–1 and B–2). Agencies will be required to report this information to GSA along with their "source list" input in paragraph 1, above. As with source list inventory, agencies will inform GSA when there is a change to that inventory regardless of whether it is or is not eligible for sharing.

**Attachment B–1—Government Aircraft Inventory (Per Aircraft)**

Type of report (Check one): New —— Change —— Delete ——
1. Department or Independent Office ——— Department ——— (First two digits of agency location code)
2. Agency ——— Agency ——— (Do not complete)
3. Address ———
4. Title and Telephone number of contacts ———
5. Aircraft type (Make and model of aircraft) Aircraft type ——— (Do not complete)
6. Capitalized value (or market value if applicable) $———.00 (If Government-owned) ——
7. **Aircraft serial number ———
8. *Aircraft registration number ———
9. *Aircraft location ———
Is aircraft: 10. Owned —— 11. Bailed —— 12. Leased —— 13. Lease/Purchase —— 14. Borrowed —— 15. Seized ——
16. Primary mission or use — ——— Mission ——— (Do not complete)
17. Passenger seats ——— (Normal and utility category only)
18. Cargo limits (useful payload) ——— (Pounds) ——— (Cubic feet) L ——— W ——— H ———
19. Special Equipment installed (Report only if eligible for interagency sharing) ———
20. Special mission ———
21. Can this aircraft be listed on the source list for potential use by other Government Agencies? Yes —— No ——
22. If 21 is yes, would the aircraft be provided with crew. Yes —— No ——
23. If this aircraft is not operated by the owning or leasing agency, who operates? ———

*These items are optional for aircraft which the agency desires to remain classified.
**Aircraft serial number is required. However, for example, serial number "1234567" can be reported as "ABC" (See Attachment B).

**Government Aircraft Inventory (Per Aircraft)**

(Aircraft inventory shall include only those aircraft or facilities available to the agency on a long-term (longer than 90 calendar days) basis. The cost element definitions apply to those aircraft that are Government-owned, leased, lease/purchase, borrowed, seized, or bailed.)

Type of Report (Check One):

New—First time aircraft reported in the AIS.

Change—Change in any data element regarding aircraft previously reported in the AIS (circle format item number showing change).

Delete—Aircraft previously reported in AIS which had been removed from Department's inventory.

1. *Department or Independent Office*—Executive Department or Independent Office not assigned to a Department.

2. *Agency*—Bureau/Office/Service within a Department.

3. *Address*—Mailing address for reporting Office or Agency.

4. *Title and Telephone Number of Contact*—Position title and telephone number of the respondent agency coordinator. A department or agency may include multiple contacts. For example, there may be contacts at different organizational levels or various persons knowledgeable about different aspects of the reporting activity's aircraft operations.

5. *Aircraft Type*—Make and model of aircraft (e.g., Cessna 185, Cessna 185RG, Cessna 210, Cessna P 210).

6. *Capitalized or Market Value*—Value initially recorded on agency property records and/or accounting records at the time of acquisition. If the aircraft value is not capitalized, the market value at the time of acquisition should be used. Whichever methodology is used per aircraft, it should remain consistent with each data submission to GSA.

7. *Aircraft Serial Number*—Manufacturer's serial number or agency assigned number.

8. *Aircraft Registration Number*—Registration number assigned by the Federal Aviation Administration (FAA) or military-designated "tail" number.

9. *Aircraft Location*—Location of normal base of operations.

10. *Owned Aircraft*—Aircraft for which the reporting agency holds title.

11. *Bailed Aircraft*—Department of Defense (DOD) owned aircraft operated by a non-DOD reporting agency.

12. *Leased Aircraft*—Aircraft leased for 90 calendar days or more from the private sector and operated by a Federal agency.

13. *Lease/Purchase Aircraft*—Aircraft leased for 90 consecutive days or more by a Federal agency (with an option to purchase) from the private sector and operated by a Federal agency.

14. *Borrowed Aircraft*—An aircraft under the operational control of a reporting Federal agency when that agency does not hold title.

15. *Seized Aircraft*—Confiscated aircraft operated by a reporting Federal agency.

16. *Primary Mission or Use (Reason for having the aircraft)*—For example, fire suppression, administrative travel, medivac/rescue, law enforcement, etc.

17. *Passenger Seats*—Number of seats usually available for passenger use—excludes crew seats.

18. *Cargo Limits (Useful Payload)*—Difference between the equipped weight of the aircraft and the maximum allowable gross weight. Equipped weight does not include fuel and pilot. Also, cargo capacity should be expressed in cubic feet and dimensions of the cargo space.

19. *Special Equipment Installed*—Equipment which is identifiable or unique to special programs which may alter the capabilities or utilization for that aircraft model. For example, floats, infra-red detection equipment, large cargo door, airborne scientific platforms.

20. *Special Mission*—The specific mission for which an aircraft is modified or equipped and not readily adaptable to other cargo/passenger use.

21. *Self-explanatory.*

22. *Self-explanatory.*

23. *Self-explanatory.*

**FPMR Temp. Reg. A—Attachment B–2—Government-Owned/Leased Maintenance, Storage, Training, Refueling Facilities (Per Facility)**

Type of report (Check one): New —— Change —— Delete ——

A. Department or independent office ————

Department ——— (First two digits of agency location code)

B. Agency ————————

Agency ——— (Do not complete)

C. Address ————————

Type of report (Check one): New —— Change —— Delete ——

1. Maintenance facility ————————

a. Address ————————

b. Title and telephone number of contacts rule ————————

c. Can facility now accept and perform maintenance work for additional aircraft in a timely manner? Yes —— No ——

If "c" is "Yes" then:

d. Type of maintenance that can be performed and any special conditions for interagency use ————————

Type of report (Check one): New —— Change —— Delete ——

2. Storage facility ————————

a. Address ————————

b. Title and telephone number of contact rule ————————

c. Is Storage Space Now Available? Yes —— No ——

d. When is storage not available? ————

Type of report (Check one): New —— Change —— Delete ——

3. Training facility ————————

a. Address ————————

b. Title and telephone number of contacts rule ————————

c. What type of training is offered? ————

(Show title of individual responsible for training schedule in 3b)

Type of report (Check one): New —— Change —— Delete ——

4. Refueling facility ————————

a. Address ————————

b. Title and telephone number of contacts rule ————————

c. Special conditions for interagency use —

d. Type of fuel ————————

Type of report (Check one):

New—First time facility reported in the AIS.

Change—Change in any data element regarding facility previously reported in the AIS (circle format item number showing change).

Delete—Facility previously reported in AIS and removed or deleted from Department's inventory.

A, B, and C (see definitions for Attachment B–1).

1. *Maintenance Facility*—An aircraft repair station. Each Department must assign a unique four character number for each facility to enable reference in the automated system.

a. through c. Self-explanatory.

d. *Type of Maintenance That Can Be Performed and any special conditions for interagency use*—Types of maintenance the facility has been authorized to perform by FAA, i.e., engine overhaul, avionics, airframe, and any special conditions, identified by the agency designating the facility to be eligible for sharing.

2. *Storage Facility*—Aircraft hangar or tie-down facility. Each Department must assign a unique four character number for each facility to enable reference in the automated system.

a. through d. Self-explanatory.

3. *Training Facility*—A learning center for aviation utilization and aviation safety. Each Department must assign a unique four character number for each facility to enable reference in the automated system.

a. through c. Self-explanatory.

4. *Refueling Facility*—Aviation fuel supply depot. Each Department must assign a unique four character number for each facility to enable reference in the automated system.

a. through d. Self-explanatory.

**Attachment C—Preparation Instructions for Cost and Utilization (Attachments C–1 and C–2)**

Attachments C–1 and C–2 are provided to facilitate reporting of cost and utilization data. Agencies will report to GSA data as to costs incurred as a result of (1) owned, leased, lease/purchase, borrowed, bailed, or seized aircraft and related facilities; and, (2) aircraft services procured in any other way (i.e., chartered, contracted, or rented on a short-term basis). GSA will segregate the data output by those two basic categories. Costs and utilization data for previous fiscal years shall be reported by agencies annually, at a minimum, in accordance with paragraph 12 of this regulation. GSA is developing printed forms which will be distributed to contact points in participating agencies.

Agencies shall also report to GSA, on an annual basis, data as to utilization of aircraft. As with cost data, agencies should report utilization data as indicated on Attachments C–1 and C–2 for: (1) Aircraft that are Government-owned and operated, or leased, lease/purchase, borrowed, bailed, seized and operated (Attachment C–2); and (2) aircraft services procured by them in any other way, i.e., chartered or contracted (from a commercial or other external source) or rented on a short-term basis (Attachment C–1). As with inventory and cost data, agencies, at their option, may send the data to GSA from many separate points or from a consolidated point. If agencies elect to report data more frequently than annually to GSA, (for example, as costs occur per aircraft or procured aircraft service) they may do so.

As the attachments indicate, agencies shall provide a summary or total cost only for those aircraft costs involving contracted, chartered, or short-term rental charges (Attachment C–1). However, costs incurred from operation of Government-owned, leased, lease/purchase, seized, borrowed, or bailed aircraft (Attachment C–2) should be broken down by agencies into their various basic components. This means, at a minimum, that differentiation should be made among the following cost categories:

—Fuel and other fluids
—Direct maintenance materials
—Direct maintenance labor
—Direct labor crew
—Operations overhead
—Depreciation
—Aircraft damage costs
—Lease costs
—Other costs (if cost cannot be identified to the above elements enter here)
—Amount from total of above categories reimbursed from outside your department

Cost or utilization data for Government-owned, leased, lease/purchase, seized, borrowed, or bailed aircraft should be reported on a "per aircraft basis" (see Attachment C–2). Submission of summary cost and utilization data for all aircraft or submission on an aircraft-type or other aggregate basis is permissible only if agencies provide a written statement to GSA that this is their current practice internally and to report otherwise would result in disruption or higher costs to the agency.

The utilization data required is:

Hours flown
Mission of Flight (optional)

Cost and utilization data for contracted, chartered, or rented aircraft should be reported by aircraft type (make and model). (See note below.)

The objective of the utilization component of this system is to develop Government-wide information as to the utilization of various types of aircraft and the purpose of this usage, broken out by method of acquisition, to the greatest extent possible. (See note below.)

**Note.**—If any agency uses a different method to define hours flown for either its Government aircraft or commercially procured aircraft services, from that defined in Attachment C–1 or C–2, the methodology should be noted with the agency's data reported to GSA. Also, for contracted, chartered or rented aircraft, if the agency aggregates data by a method other than aircraft type, for example, by engine or wing configuration, it can report cost and utilization data on that basis instead of aircraft type.

**Attachment C–1—Contract/Rental/Charter Aircraft Cost and Utilization**

A. Department or independent office ———
Department ——— (First two digits of Agency Location Code)
B. Agency ———
Agency ——— (Do not complete)
C. Address ———
D. Title and telephone number of contacts —
Period covered: Beginning M M D D Y Y Ending M M D D Y Y
1. *Contract*
Number of aircraft summarized on this report ———
a. Hours flown (To nearest hour) ———.0
b. Costs (To nearest dollar) $———.00
c. Aircraft type (Make and model of aircraft) ———
Aircraft type ——— (Do not complete)
d. Mission (If data is summarized, indicate the basic mission involved, or specify "various") ———
Mission ——— (Do not complete)
e. Is aircraft procured without crew? Yes —— No ——; Without fuel? Yes —— No ——
f. If "e" is "Yes" for crew or fuel, then provide costs: Crew $———.00 Fuel $———.00
2. *Charter/Rental*
Number of aircraft summarized on this report ———
a. Hours flown (To nearest hour) ———.0
b. Costs (To nearest dollar) $———.00
c. Aircraft type (Make and model of aircraft) ———
Aircraft type ——— (Do not complete)
d. Mission (If data is summarized, indicate the basic mission involved, or specify "various") ———
Mission ——— (Do not complete)
e. Is aircraft chartered/rented without crew? Yes —— No ——; Without fuel? Yes —— No ——
f. If "e" is "Yes" for crew or fuel then, provide costs: Crew $———.00 Fuel $———.00

A, B, C, and D (See definitions for Attachment B–1)

*Period Covered*—The beginning and ending periods for which a report is submitted, i.e., August 6, 1984, would be reported 080684. (M=Month; D=Day; Y=Year)

1. *Contract*—Aircraft procured through formal contractual arrangements and fully operated by the vendor of said services. (See also a through d below.)

2. *Charter/Rental*—A non-formal procurement of aircraft which is fully operated by the vendor through an agreement arrangement or one-time charter. This includes one-time charters procured through Government Transportation Requests (GTR) (not to exceed 89 days). (See also a through d below.)

a. *Hours Flown (To nearest hour)*—The time elapsed from take-off to touch-down. If a reporting agency is using a different method of calculation for some or all of its aircraft utilization, this method shall be indicated with the agency's data submission.

b. *Contract and Charter/Rental Costs*—Report under 1b or 2b the total cost to civilian agencies for all procured aircraft and related services included in a given report, i.e., outlays to the private sector or organization (public or private) that are external to the Federal civilian agency. If contract or charter/rental aircraft are operated by in-house crews, some or all of the time, report these costs (which would otherwise not be part of the contract/charter/rental costs) under 1e/1f or 2e/2f. These costs should include fuel when the aircraft is contracted/chartered/rented "dry" (without fuel). Report these costs under 1e/1f or 2e/2f, as well. (See 8e(6)).

c. *Number of Aircraft Summarized on This Report/Aircraft Type*—Data may

be reported by individual aircraft or summarized by aircraft type (make and model).

d. *Contract and Charter/Rental Aircraft Mission*—This is an optional data element and can be reported at agency discretion. Its provision would enable a breakdown of commercially procured service costs by basic mission.

**Attachment C–2—Government Aircraft Cost and Utilization (Per Aircraft)**

A. Department or independent office ———
Department ——— (First two digits of Agency Location Code)
B. Agency ———
Agency ——— (Do not complete)
C. Address ———
D. Title and telephone number of contacts —
1. Aircraft type (Make and model of air craft) ———
Aircraft type ——— (Do not complete)
2.** Aircraft serial number ———
3.* Aircraft registration number ———
Is aircraft: 4. Owned —— 5. Bailed —— 6. Leased —— 7. Lease/purchase —— 8. Borrowed —— 9. Seized ——
10. Period covered: Beginning M M D D Y Y Ending M M D D Y Y
11. Hours flown (To nearest hour) ———.0
*AIRCRAFT COST ELEMENTS* (To nearest dollar)
12. Fuel and other fluids $———.00
13. Direct maintenance materials $———.00
14. Direct maintenance labor $———.00
15. Direct labor crew $———.00
16. Operations overhead $———.00
17. Depreciation $———.00
18. Aircraft damage costs $———.00
19. Lease costs $———.00
20. Other costs $———.00
(If costs cannot be identified to the above elements, enter all costs under this category.)
21. Amount from items 12 through 20 reimbursed from outside your department $———.00

*This item is optional for aircraft which the agency desires to remain classified.

**Aircraft serial number is required. However, for example, serial number "1234567" can be reported as "ABC" (See Attachment B).

A, B, C, and D (See definitions for Attachment B–1)

For the following Attachment C–2 items see definitions for:

1. Attachment B–1, item 5
2. Attachment B–1, item 7
3. Attachment B–1, item 8
4. Attachment B–1, item 10
5. Attachment B–1, item 11
6. Attachment B–1, item 12
7. Attachment B–1, item 13
8. Attachment B–1, item 14
9. Attachment B–1, item 15

10. *Period covered*—The beginning and ending periods for which a report is submitted, i.e., August 6, 1984 would be 080684. (M=Month; D=Day; Y=Year)

11. *Hours flown (To nearest hour)*—The time elapsed from take-off to touch-down. If a reporting agency is using a different method of calculation for some or all of its aircraft utilization, this method shall be indicated with the agency's data submission.

12. *Fuel and other fluids*—Fuel includes aviation gasoline and jet fuel used by aircraft. Other fluids include replacement fluids other than fuel, such as engine oil, hydraulic fluids, and water-methanol.

13. *Direct Maintenance (Materials)*—Direct maintenance (materials) includes parts and materials resulting from scheduled maintenance, unscheduled maintenance, scheduled and unscheduled rebuilding or overhaul (time-limited, life-limited, or condition-limited components), and modification of aircraft to accommodate special purpose applications. Included are all direct maintenance parts and materials whether directly identifiable to specific aircraft or not. (See note.)

14. *Direct Maintenance (Labor)*—Direct maintenance (labor) includes salaries, employee benefits, training and travel associated with scheduled maintenance, unscheduled maintenance, avionics maintenance, and modification of aircraft to accommodate special-purpose applications. (See note.)

Note.—Maintenance work contracted out will be included in the direct maintenance categories.

Costs incurred under items 13 and 14, above, should they affect the capitalized value of an aircraft, can be reported by the agency incurring them as either maintenance costs or "other" costs to reflect the increase in capitalized value. If the latter approach is chosen, reporting agencies should note this method next to their "other" costs category entry. Otherwise, an agency may report these costs under Item 17, "depreciation" reflecting the increased capitalization over the life of the aircraft.

15. *Direct Labor Crew*—Crew cost includes salaries, benefits, travel, training, and all other miscellaneous costs associated with crew members assigned to aircraft. Such crew members include pilots, copilots, flight engineers, cabin attendants, and load masters, where applicable.

16. *Operation Overhead*—Fixed-base operations include hangar/storage rental, utilities, and aircraft tiedown costs for non-Government facilities. Costs for Government facilities include utilities and janitorial costs, maintenance costs for buildings and grounds, depreciation on capitalized facilities and related improvements, depreciation on capitalized shop and avionics support equipment (if this equipment is depreciated), and overhead costs.

17. *Depreciation*—Depreciation is the decrease or loss in value of an aircraft because of wear, age, or other causes, such as technological obsolescence. Value loss will be computed based upon the difference between the known or estimated capitalized value (or market value, if applicable) when acquired and the estimated residual value when the aircraft is scheduled for replacement. This is not to mean that the value of the aircraft should be reassessed annually based on market value. Depreciation will be straight line from the date of acquisition to the date of scheduled replacement. Aircraft which have depreciated to a static residual value and are still kept in inventory will not be depreciated further. Aircraft leased from the private sector and operated by the Government will have no depreciation cost.

18. *Aircraft Damage Cost*—In the private sector, the costs of aircraft damage are usually covered by various insurance policies for which premiums are paid. Since the Government has a policy of insuring itself, there is no cost for premiums, as such. Consequently, it is appropriate to view cash outlays and values lost as the result of accidents, incidents, ground mishaps, and other situations which cause damage as being tantamount to the premium the Government pays as a self-insured entity. Aircraft damage cost is therefore the cost of such happenings and includes the cost of repair, salvage or recovery, and write-off costs with respect to the aircraft.

19. *Lease Costs*—Lease costs include direct costs incurred in the lease of an aircraft or related facilities from (and paid to) the private sector.

20. *Self-explanatory.*

21. *Self-explanatory.*

[FR Doc. 85–3165 Filed 2–7–85; 8:45 am]
BILLING CODE 6820–24–M

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR PART 73

**[MM Docket No. 84–73; RM–4640]**

### FM Broadcast Station in Mio, MI

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This action assigns a first FM channel to Mio, Michigan, in response to a petition filed by Midwest Radio Consultants.

**EFFECTIVE DATE:** April 8, 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 (Mio, Michigan) MM Docket No. 84–73, RM–4640.

Adopted: January 2, 1985.
Released: January 30, 1985.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 49 FR 5632, published February 14, 1984, proposing the assignment of Channel 280A to Mio, Michigan, as its first FM assignment. The *Notice* was issued in response to a petition filed by Midwest Radio Consultants ("petitioner"). Supporting comments were filed by the petitioner reaffirming that it will apply for Channel 280A, if assigned.

2. The Commission believes that the public interest would be served by the assignment of Channel 280A to Mio, which could provide that community with an opportunity for its first broadcast station. The channel can be assigned in conformity with the minimum distance separation requirements.[1]

3. Canadian concurrence has been obtained in the assignment of Channel 280A at Mio, Michigan.

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective April 8, 1985, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the following community:

| City | Channel No. |
|---|---|
| Mio, Michigan | 280A |

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

[1] The *Notice* indicated that this assignment is contingent upon FM Station WKJC (Channel 280A) Tawas City, Michigan, switching to Channel 257A as directed in Docket 81–854. In a review of that decision, the Commission substituted Channel 284A for 280A at Tawas City and modified the license of Station WKJC to specify Channel 284A thus freeing Channel 280A for assignment elsewhere.

6. For further information concerning this proceeding contact Montrose H. Tyree, 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. 85–3238 Filed 2–7–85; 8:45 am]

BILLING CODE 6712–01–M

**47 CFR PART 73**

**[MM Docket No. 84–1008; RM–4808]**

**TV Broadcast Station in Joplin, MO, Fort Scott and Columbus, KS**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** Action taken herein, at the request of Ozark Public Telecommunications, Inc., assigns UHF TV Channel *26- to Joplin, Missouri, as a substitute for Channel *22-; substitutes UHF TV Channel 20 for Channel 26 in Fort Scott, Kansas; and substitutes UHF TV Channel *48 for *34 in Columbus, Kansas. This action will enable the petitioner to extend its noncommercial educational service to the Joplin area.

**EFFECTIVE DATE:** April 8, 1985.

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

**FOR FURTHER INFORMATION CONTACT:** Patricia Rawlings, Mass Media Bureau, (202) 634–6520.

**SUPPLEMENTARY INFORMATION:**

**List of Subjects in 47 CFR Part 73**

Television broadcasting.

**Report and Order (Proceeding Terminated)**

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Joplin, Missouri, Fort Scott and Columbus, Kansas) MM Docket No. 84–1008 RM–4808.

Adopted: January 14, 1985.
Released: January 30, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 49 FR 44113, published November 2, 1984, proposing the substitution of UHF TV Channel *26- for Channel *22- in Joplin, Missouri. In addition, two relatd substitutions of unoccupied channels are necessary, UHF TV Channel 20 for Channel 26 in Fort Scott, Kansas, and UHF TV Channel *48 for Channel *34 in Columbus, Kansas. The *Notice* was adopted in response to a petition filed by Ozark Public Telecommunications, Inc. ("petitioner"). Comments were filed by petitioner reiterating its intention to use the channel, if assigned.

2. Joplin (population 38,983),[1] in Jasper County (population 86,958), is located in southwest Missouri, approximately 113 kilometers (70 miles) west of Springfield, Missouri. Joplin is presently served by two commercial television stations (Channel 12 and 16). Channel *22 is unoccupied and unapplied for.

3. Petitioner, licensee of noncommercial educational TV Station KOZK (Channel *21), in Springfield, Missouri, under a grant from the Public Telecommunications Facilities Program of the National Telecommunications and Information Administration, U.S. Department of Commerce, studied ways to provide off-the-air public television service to Joplin. As a result of the study, petitioner proposes to rebroadcast KOZK's signal on a repeater transmitter or satellite on Channel *26 in Joplin. It would not be technically feasible to retransmit the signal from its current Channel *21 to first adjacent Channel *22.

4. We believe that the public interest would be served by assigning Channel *26- to Joplin in order to enable the petitioner to extend its public television service to the Joplin area. The substitutions can be made in compliance with the Commission's minimum distance separation and other technical requirements.

5. Accordingly, pursuant to the authority contained in §§ 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective April 8, 1985, the Television Table of Assignments, § 73.606(b) of the Rules is amended, with respect to the following community:

| City | Channel No. |
|---|---|
| Columbus, Kansas | *48– |
| Fort Scott, Kansas | 20+ |
| Joplin, Missouri | 12+, 16, *26– |

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

7. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634–6530.

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

[1] Population figures are taken from the 1980 U.S. Census.

Federal Communications Commission.

**Charles Schott,**

*Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 85-3234 Filed 2-7-85; 8:45 am]

BILLING CODE 6712-01-M

## 47 CFR PART 73

**[MM Docket No. 84-458; RM-4732]**

## FM Broadcast Station in Salina, KS

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This action assigns a third FM channel to Salina, Kansas, in response to a petition filed by Smoky Hill Broadcasting Company. Additionally, the counterproposal submitted by Hutchinson Community College to reserve Channel 285A at Salina for noncommercial educational use is denied.

**DATE:** Effective: April 8, 1985.

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

**FOR FURTHER INFORMATION CONTACT:** Montrose 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 (Salina, Kansas) Docket No. 84-458, RM-4732.

Adopted: January 2, 1985.
Released: January 30, 1985.
By the Chief, Policy and Rules Division.

1. The Commission has under consideration its *Notice of Proposed Rule Making*, 49 FR 21964, published May 24, 1984, which invited comments on a proposal to assign Channel 285A to Salina, Kansas, as its third commercial FM assignment. The *Notice* was issued in response to a petition filed by Smoky Hill Broadcasting Co., Inc. ("petitioner"). Comments in support of the proposal were filed by the petitioner and by Charles Throne, both stating their intention to apply for the channel, if assigned. In response to the *Notice*, Hutchinson Community College requests that Channel 285A be reserved for noncommercial educational use.

2. Here the alternatives to be considered are making a third commercial assignment to Salina or a first educational channel available for the use of Hutchinson Community College (or other interested parties). In most instances noncommercial educational licensees operate on FM channels (201-220) specifically designated for noncommercial educational use. However, in cases where a showing of necessity was clearly established, we have reserved commercial FM channels for educational use.[1] In those cases, the petitioner substantiated that the use of the noncommercial educational channels would result in harmful interference with nearby television stations on Channel 6 or to Canadian or Mexican allocations and that only commercial channels could be utilized to provide the needed noncommercial educational service. Hutchinson Community College has provided no such data for consideration that would result in reserving Channel 285A at Salina for educational use. Therefore, based on the expressed interest of the petitioner, we find that providing Salina with a third commercial channel outweighs the need presented for a noncommercial educational station.

3. We have concluded that the public interest would be better served by assigning Channel 285A to Salina, Kansas. The channel would be available for application to provide noncommercial educational use as well. The assignment can be made in compliance with the minimum distance separation requirements. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective April 8, 1985, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the following community:

| City | Channel No. |
|---|---|
| Salina, Kansas | 229, 260, 285A |

4. It is further ordered, That the counterproposal submitted by Hutchinson Community College is denied.

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

6. 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)

[1] See *e.g., Muncie, Indiana*, 59 F.C.C. 2d 788 (1976) and *Presque Isle, Maine*, 36 R.R. 2d 840 (1976).

Federal Communications Commission.

**Charles Schott,**

*Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 85-3237 Filed 2-7-85; 8:45 am]

BILLING CODE 6712-01-M

## 47 CFR Part 73

**[MM Docket 84-495; RM-4670]**

## FM Broadcast Station in Buffalo Gap, VA

**AGENCY:** Federal Communication Commission.

**ACTION:** Final rule.

**SUMMARY:** Action taken herein assigns FM Channel 288A to Buffalo Gap, Virginia as that community's first local FM service in response to a petition filed by John Galanses. The assignment is located within the "quiet zone". Applicants must provide protection from interference to the National Radio Astronomy Observatory at Green Bank, West Virginia, and the Naval Research Laboratory at Sugar Grove, West Virginia.

**EFFECTIVE DATE:** April 8, 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 (Buffalo Gap, Virginia); MM Docket No. 84-495 RM-4670.

Adopted: January 14, 1985.
Released: January 30, 1985.
By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 49 FR 23898, published June 8, 1984, proposing the assignment of FM Channel 288A to Buffalo Gap, Virginia, as that community's first local FM service. The *Notice* was adopted in response to a petition filed by John T. Galanses ("petitioner"). Supporting comments were filed by petitioner reaffirming his intention to apply for the channel, if assigned. No oppositions or other comments expressing an interest in the proposal were received.

2. The assignment can be made in compliance with the minimum distance separation requirements of § 73.207 of

the Rules. As the *Notice* pointed out, Buffalo Gap, Virginia is located within the "quiet zone" established in Docket 16991, 6 FCC 2d 793 (1967) and any applicant is required to provide protection from interference to the National Radio Astronomy Observatory at Green Bank, West Virginia, and the Naval Research Laboratory at Sugar Grove, West Virginia. See § 73.1030 of the Commission's Rules.

3. In view of the above, the Commission believes that the public interest would be served by the assignment of FM Channel 288A to Buffalo Gap, Virginia since it could provide that community with its first local FM service. Accordingly, pursuant to the authority contained in sections 4(i) 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b), and 0.283 of the Commission's Rules, it is ordered, that effective April 8, 1985, the FM Table of Assignments, § 73.202(b) of the Commission's Rules is amended for the following community:

| City | Channel No. |
|---|---|
| Buffalo Gap, VA | 288A |

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

5. 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. 85–3236 Filed 2–7–85; 8:45 am]

BILLING CODE 6712-01-M

## 47 CFR Part 73

**[MM Docket No. 84–638; RM–4689]**

## TV Broadcast Station in Hillsboro, OH

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** Action taken herein assigns UHF television Channel 55 to Hillsboro, Ohio, as that community's first local commercial television service, in response to a petition filed by Marsha Boone.

**EFFECTIVE DATE:** April 8, 1985.

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

**FOR FURTHER INFORMATION CONTACT:** Nancy V. Joyner or Stanley Schmulewitz, Mass Media Bureau, (202) 634–6530.

**SUPPLEMENTARY INFORMATION:**

**List of Subjects in 47 CFR Part 73**

Television broadcasting.

**Report and Order (Proceeding Terminated)**

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Hillsboro, Ohio); MM Docket No. 84–638, RM–4689.

Adopted: January 2, 1985.
Released: January 30, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 49 FR 27950, published July 9, 1984, proposing the assignment of UHF television Channel 55 to Hillsboro, Ohio, as that community's first local commercial television service, in response to a petition filed by Marsha Boone ("petitioner"). Supporting comments were filed by petitioner reiterating her intention to apply for the channel, if assigned. Additionally, comments were filed by the Greater Cincinnati TV Educational Foundation ("Greater Cincinnati"), licensee of Station WCET–TV, Cincinnati, Ohio.

2. Hillsboro (population 6,356),[1] the seat of Highland County (population 33,477), is located in southern Ohio, approximately 78 kilometers (48 miles) east of Cincinnati. Currently, Hillsboro is assigned noncommercial educational Channel *24, which is vacant and unapplied for.

3. In its comments, Greater Cincinnati requests that the 12.1 mile east site restriction announced in the *Notice* for the protection of Station WCET–TV (Channel 48), be strictly enforced.

4. In view of the above, and having found no policy objections to the proposal, we believe the public interest would be served by assigning UHF television Channel 55 to Hillsboro, since it could provide a first local commercial television service to the community.

5. As indicated in the *Notice*, Channel 55 can be assigned to Hillsboro consistent with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules provided the transmitter is restricted to an area 12.1 miles east of the community to avoid short-spacing to Station WCET–TV.

6. Since this proposal is within 400 kilometers (250 miles) of the common U.S.-Canadian border, the Commission obtained the concurrence of the Canadian Government.[1]

7. Accordingly, pursuant to the authority contained in sections 4(i), 5 (c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective April 8, 1985, the TV Table of Assignments, § 73.606(b) of the Commission's Rules, is amended as follows:

| City | Channel No. |
|---|---|
| Hillsboro, Ohio | *24+, 55+ |

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

9. For further information concerning the above, contact Nancy V. Joyner or Stanley Schmulewitz, 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. 85–3235 Filed 2–7–85; 8:45 am]

BILLING CODE 6712-01-M

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

# Proposed Rules

Federal Register
Vol. 50, No. 27
Friday, February 8, 1985

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

### Rural Electrification Administration

### 7 CFR Part 1789

### Unapplied Advance Payments

**AGENCY:** Rural Electrification Administration, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Rural Electrification Administration (REA) proposes to add a new Part 1789 consisting of § 1789.16 which will amend REA Bulletins 1–7, General Funds,[1] and 20–9, Loan Payments and Statements.[1] The new section will cover future advance loan payments not designated by electric borrowers to be applied to a specific note (cushion of credit payments) and defined in section 2.94 of REA Bulletin 20–9 as voluntary unscheduled payments.

This proposed rule provides for the elimination of future cushion of credit payments by electric borrowers of REA insured funds effective February 1, 1985. It will not affect existing cushion of credit accounts. Interest credits will continue to be earned on these payments. Borrowers with existing cushion of credit payments may continue to use them in lieu of making debt payments to REA to the extent such credits are available, or may request that such existing credits be applied to a specific note. If applied to a specific note, pro rata payments must be made to a concurrent lender, if any, as provided in the borrower's mortgage.

This proposed rule will not impact the REA mortgage provision which permits a borrower to make prepayments on all or part of specific notes, and will continue the requirement for pro rata payments on such notes to a concurrent lender.

[1] A copy of these forms and publications may be obtained by writing the Rural Electrification Administration, Washington, D.C. 20250.

**DATE:** Public comments must be received by REA no later than April 9, 1985.

**ADDRESS:** Submit written comments to Charles R. Weaver, Director, Electric Borrowers Management Division, Rural Electrification Administration, Room 1246, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this action will be made available for public inspection during regular business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles R. Weaver, Director, Electric Borrowers Management Division, at the above address, telephone number (202) 382–1900.

The Draft Impact Analysis describing the options considered in developing and implementing this proposal is available on request from the above office.

**SUPPLEMENTARY INFORMATION:** REA proposes to add 7 CFR Part 1789, Loan Account Computations, Procedures, and Policies. The new part concerns the elimination of future unapplied advance loan payments.

This proposed action has been issued in conformance with executive order 12291, Federal Regulation. It will not: (1) Have an annual effect on the economy of $100 million or more; (2) result in major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) result in significant adverse effect on competition, employment, investment or productivity, and therefore has been determined "not major."

The action does not fall within the scope of the Regulatory Flexibility Act. This program is listed in the Catalog of Federal Domestic Assistance as 10.850, Rural Electrification Loan and Loan Guarantees.

#### Background

Currently REA accepts advance loan payments not designated by the borrower to repay particular notes. Such advance payments (cushion of credit payments) may be subsequently applied toward payment of interest and principal becoming due at a later date, or as requested by the borrower as a prepayment on a specific note. Interest credits of 2 percent or 5 percent, as applicable to a particular borrower's cushion of credit accounts, are added by REA to the respective accounts.

In the early years of the REA program, REA suggested that each borrower have an amount equal to 2 years' debt service coverage in a cushion of credit account. This was to ensure greater financial security for the government's loans because borrowers did not have ready access to short-term financing from other sources. This situation no longer exists.

Today most REA electric borrowers have found that it is also better cash management to place excess general funds in other types of investments where they can earn higher rates of interest. This practice has come about not only due to the rise in interest rates, but also to the increasing financial maturity of most borrowers.

Additionally in recent years, payments have been made into cushion of credit accounts by some individual borrowers which permitted a premature drawdown of committed but unadvanced REA loan funds. This proposed rule will limit such premature advances.

#### Options Considered

One option would be for REA to continue the present policy and accept unapplied advance loan payments (cushion of credit payments). A second option and the one selected would be to limit future advance loan payments after a specified date to those designated by the borrower as prepayments on specific notes. This would: (1) Encourage electric borrowers to invest excess general funds in acceptable financial institutions; (2) eliminate possible abuses of the unapplied advance payment account; and (3) result in more general funds being used to finance construction of electric projects.

#### List of Subjects in 7 CFR Part 1789

Administrative practice and procedure, Electric utilities, Loan programs—Energy.

In view of the above, Part 1789 is proposed to be added to 7 CFR Chapter XVII, consisting at this time of § 1789.16, to read as follows:

## PART 1789—LOAN ACCOUNT COMPUTATIONS, PROCEDURES AND POLICIES

1. The authority for Part 1789 reads as follows:

**Authority:** 7 U.S.C. 901 et seq.

2. Section 1789.16 is added to read as follows:

**§ 1789.16 Unapplied advance payments—electric.**

**Termination of Unapplied Advance Payments**

Unapplied advance loan payments (cushion of credit payments) by electric borrowers of REA insured funds will no longer be accepted by REA. Borrowers with funds in existing advance payment accounts may continue to use them in lieu of payment of principal and interest on notes due REA to the extent such credits are available or, as requested by the borrower, as prepayment on a particular note. These accounts will continue to earn interest credits of 2 percent and 5 percent, as appropriate.

Dated: October 5, 1984.

**Harold V. Hunter,**

*Administrator.*

[FR Doc. 85-3078 Filed 2-7-85; 8:45 am]

BILLING CODE 3410-15-M

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

### 8 CFR Part 212

### Documentary Requirements; Nonimmigrants; Waivers Admission of Certain Inadmissible Aliens; Parole; Direct Transits; Restriction for Citizens of Bangladesh, India, Pakistan and Sri Lanka

*Correction*

In FR Doc. 85-2800 beginning on page 4865 in the issue of Monday, February 4, 1985, make the following correction:

**§ 212.1 [Corrected]**

On page 4866, second column, under § 212.1(e)(4), third line, "213" should have read "212".

BILLING CODE 1505-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 84-ANE-27]**

### Airworthiness Directives; Pratt & Whitney Aircraft JT9D-3A, -7, -7H, -7A, -7AH, -7F, -7J, -20

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This notice proposes to adopt an airworthiness directive (AD) that would require removal of the centrifugal oil filter and related gears, bearings and attaching hardware from the main gearbox, on Pratt & Whitney Aircraft (PWA) JT9D-3A, -7, -7H, -7A, -7AH, -7F, and -7J series turbofan engines, in accordance with PWA Service Bulletin 5486 Revision 3. Also, it would require the removal of the centrifugal oil filter and related hardware from the main gearbox, on PWA JT9D-20 turbofan engines, in accordance with PWA Service Bulletin 5558. The proposed AD is needed to prevent gearbox initiated fires which can result in an inflight shutdown, complete loss of engine power and an aircraft fire hazard which requires ground equipment for extinguishment.

**DATE:** Comments must be received on or before March 31, 1985.

**ADDRESSES:** Comments on the proposal may be mailed in duplicate to: Federal Aviation Administration, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 84-ANE-27, 12 New England Executive Park, Burlington, Massachusetts 01803, or delivered in duplicate to Room 311 at the above address.

Comments delivered must be marked: Docket No. 84-ANE-27.

Comments may be inspected at the New England Regional Office, Office of the Regional Counsel, Room 311, between the hours of 8:00 am to 4:30 pm, Monday through Friday, except Federal holidays.

The applicable service bulletins may be obtained from Pratt & Whitney Aircraft, Publication Department, P.O. Box 611, Middletown, Connecticut 06457.

Copies of the service bulletins are contained in Rules Docket No. 84-ANE-27, in the Office of the Regional Counsel, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

**FOR FURTHER INFORMATION CONTACT:** Chris Gavriel, Transport Engine Branch, ANE-141, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7084.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments, as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket, at the address given above, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice, must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 84-ANE-27". The postcard will be date/time stamped and returned to the commenter.

The FAA has determined that several gearbox induced gearbox fires on certain PWA JT9D-3A, -7, -7H, -7A, -7AH, -7F, -7J, -20, series turbofan engines have been initiated by failures in the centrifugal oil filter bearings. Since this condition is likely to exist or develop on other engines of the same type design, the proposed AD would require incorporation of PWA Service Bulletins 5486 Revision 3, 5558. Service Bulletin 5486 specifies the procedure for the removal of the centrifugal oil filter and related gears, bearings and attaching hardware from the main gearbox in the Boeing 747 series, JT9D engine powered, aircraft. Service Bulletin 5558 specifies the removal of the centrifugal oil filter and related hardware from the main gearbox in the McDonnell Douglas DC-10 series 40, JT9D engine powered, aircraft.

**Conclusion**

The FAA has determined that this proposed regulation involves 1,543 JT9D engines installed on Boeing 747 series aircraft and 75 JT9D engines installed on McDonnell Douglas DC-10 series 40 aircraft, and the approximate total cost is $4,490,791. It is also determined that few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected since the rule affects only operators using Boeing 747 and McDonnell Douglas DC-10 aircraft in which the JT9D engines are installed, none of which are believed to be small entities. Therefore, I certify that this action: (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) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT".**

**List of Subjects in 14 CFR Part 39**

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

**The Proposed Amendment**

Accordingly, the FAA proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD:

**Pratt & Whitney Aircraft:** Applies to Pratt & Whitney Aircraft JT9D-3A, -7, -7H, -7A, -7AH, -7F, -7J, -20, series turbofan engines.

Compliance is required as indicated unless already accomplished.

To prevent centrifugal oil filter initiated main gearbox fires, accomplish the following:

Remove the centrifugal oil filter and related gears, bearings and attaching hardware from the main gearbox of PWA JT9D-3A, -7, -7H, -7A, -7AH, -7F, and -7J series turbofan engines per PWA Service Bulletin 5486 Revision 3, or FAA approved equivalent, at next shop visit but not later than December 31, 1988.

Remove the centrifugal oil filter and related hardware from the main gearbox of PWA JT9D-20 turbofan engines per PWA Service Bulletin 5558, or FAA approved equivalent, at nest shop visit but not later than December 31, 1988.

Note.—Shop Visit (as defined in the World Airlines Technical Operations Glossary) is defined as the input of an engine to a repair shop where the subsequent engine maintenance entails:

(a) Separation of a major engine flange (lettered or numbered) other than flanges mating with major sections of the nacelle or reverser. Note: Separation of flanges purely for purposes of shipment, without subsequent internal maintenance, is not a "Shop Visit".

(b) Removal of a disk or hub or spool.

(c) Removal of the main or angle gearbox.

(d) Removal of the fuel nozzles.

For purpose of this AD the term "repair shop" refers to a maintenance station where main gearbox overhaul facilities exist.

Upon request, an alternate means of compliance may be approved by the Manager, Engine Certification Office, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

The FAA will request the permission of the Federal Register to incorporate by reference the manufacturer's service bulletins identified and described in this document.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.85)

Issued in Burlington, Massachusetts, on January 30, 1985.

**Robert E. Whittington,**

*Director, New England Region.*

[FR Doc. 85-3196 Filed 2-7-85; 8:45 am]

BILLING CODE 4910-13-M

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**14 CFR Part 39**

**[Docket Nos. 20421 and 83-CE-14-AD]**

## Airworthiness Directives; Short Brothers and Harland, Ltd. Model SC-7, Series 2 and 3 Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This Notice proposes to rescind Airworthiness Directives (AD) 80-13-04 (Amendment 39-3802) and 83-06-04 (Amendment 39-4592), applicable to Short Brothers Model SC-7, Series 2 and 3 airplanes. Subsequent to the issuance of these AD's, the FAA has learned that the conditions addressed by the United Kingdom mandatory Dowty Rotol Service Bulletins, which were the basis for these two AD's, are design improvement in nature and do not address unsafe conditions. The withdrawal of these AD's will be relieving to the public and not adversly affect the safety of the affected airplanes.

**DATE:** Comments must be received on or before April 2, 1985.

**ADDRESSES:** Dowty Rotol Service Bulletin (S/B) No. 32-4M, dated September 5, 1978; S/B No. 32-4M, Revision 3, dated February 15, 1982; S/B No. 32-9M, dated February 15, 1982; and S/B No. 32-9M, Revision 2, dated June 22, 1983, applicable to this AD may be obtained from Dowty Rotal Inc., Staverton West Sully Road, Post Office Box 5000, Sterling, Virginia 22170 or the Rules Docket at the address below.

Send comments on the proposal in duplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 20421 and 83-CE-14-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays, excepted.

**FOR FURTHER INFORMATION CONTACT:** Mr. M. Cook, Brussels Aircraft Certification Office, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium; Telephone 513.38.30; or Mr. L. Werth, FAA ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested persons are invited to participate in the making of the proposed action by submitting such written data, views or agruments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above, will be considered by the Director before taking action on the proposal. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and emergency aspects of the proposal. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

**Availability of NPRMs**

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket Nos. 20421 and 83-CE-14-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

**Discussion**

AD 80-13-04, Amendment 39-3802 (45 FR 39832) was issued to require crack inspections and modifications of the main and nose landing gear on Short Brothers and Harland Ltd. Model SC-7 Skyvan Series 2 and Series 3 airplanes in accordance with Dowty Rotol Service Bulletin (S/B) No. 32-4M, dated September 5, 1978.

AD 83-06-04, Amendment 39-4592 (48 FR 12342/43) was issued to require crack inspections and modifications of the main landing gear on Short Brothers and Harland Ltd. Model SC-7 Skyvan Series 3 airplanes in accordance with Dowty Rotol S/B No. 32-9M, dated February 15, 1982. Subsequently, the manufacturer issued S/B No. 32-4M, Revision 3, dated February 15, 1982, and S/B No. 32-9M, Revision 2, dated June

22, 1983, which pertain to a design improvement only and do not correct unsafe conditions in the original type design.

The FAA has examined the available information related to the issuance of the service bulletins, as revised, and the mandatory classification of these bulletins by the United Kingdom. The FAA has determined that the conditions addressed by these revised service bulletins, as well as AD's 80–13–04 and 83–06–04 which reference the original service bulletins, are design improvement in nature and do not pertain to unairworthy conditions.

Therefore, AD's 80–13–04 and 83–06–04 are proposed to be rescinded.

There are approximately 13 U.S. registered airplanes affected by the proposed action. The cost of complying with the proposed rescissions is estimated to be negligible to the private sector. Therefore, I certify that this action is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location identified under the caption "ADDRESSES."

### List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

### The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulation (14 CFR 39.13) by rescinding AD 80–13–04, Amendment 39–3802, and AD 83–06–04, Amendment 39–4592.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and § 11.65 of the Federal Aviation Regulations (14 CFR 11.85))

Issued in Kansas City, Missouri, on February 1, 1985.

Murray E. Smith,

*Director, Central Region.*

[FR Doc. 85–3193 Filed 2–7–85; 8:45 am]

BILLING CODE 4910–13–M

## 14 CFR Part 71

**[Airspace Docket No. 85–AGL–4]**

## Proposed Alteration to Control Zone and Transition Area, Indiana

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to alter the Indianapolis, Indiana, control zone and transition area to reflect airport name changes and minor adjustments to the parameters of the transition area.

The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

**DATES:** Comments must be received on or before March 18, 1985.

**ADDRESS:** Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL–7, Attn: Rules Docket No. 85–AGL–4, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

**FOR FURTHER INFORMATION CONTACT:** Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7360.

**SUPPLEMENTARY INFORMATION:** This action effects a name change in both the Indianapolis, Indiana, control zone and the Indianapolis, Indiana, transition area from Indianapolis Municipal (Weir-Cook) Airport to Indianapolis International Airport. It also eliminates reference to Bob Shank Airport and introduces Skyway Airport in the transition area description. Further, it contains minor modifications to the parameters of the transition area, none of which would exceed a 1-mile adjustment.

The development of the proposed procedure requires that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitudes for this procedure may be established below the floor of the 700-foot controlled airspace. Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rules requirements.

### 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. 85–AGL–4." 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, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, 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, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2, which describes the application procedure.

**The Proposal**

The FAA is considering an amendment to §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to effect airport name changes and to modify the described area.

Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were 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 71**

Control zones, Transition areas, Aviation safety.

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

**Indianapolis, IN [Revised]**

By amending 71.171 in the description of the Indianapolis, Indiana, control zone by removing the words "Indianapolis Municipal (Weir-Cook) Airport" and substituting the words "Indianapolis International Airport."

By amending 71.181 by redescribing the Indianapolis transition area as follows:

That airspace extending upward from 700 feet above the surface within a 8.5-mile radius of Indianapolis International Airport (lat. 39°43'35"N, long. 86°17'05"W); within a 5-mile radius of Skyway Airport, Greenwood, IN (lat. 39°38'00"N, long. 86°05'15"W); within a 6.5-mile radius of Eagle Creek Airport (lat. 39°49'45"N, long. 86°17'45"W); within 3 miles each side of the Indianapolis VORTAC 256° radial, extending from the 6.5-mile radius of Eagle Creek Airport and 8.5-mile radius of Indianapolis International Airport to 8 miles west of the VORTAC.

(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 Des Plaines, Illinois, on January 28, 1985.

**Paul K. Bohr,**

*Director, Great Lakes Region.*

[FR Doc. 85-3204 Filed 2-7-85; 8:45 am]

BILLING CODE 4910-13-M

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**14 CFR Part 71**

**[Airspace Docket No. 85-ANM-1]**

## Alteration of Havre City-County, MT, Control Zone and Transition Area

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

**ACTION:** Notice of proposes rulemaking.

**SUMMARY:** This notice proposes to redefine the current geographical boundaries of the Havre City-County, Montana, control zone and 700' transition area. This action is required due to a magnetic variation change resulting in amendments to the VOR Rwy 7 and VOR Rwy 25 instrument approach procedures. This proposed action provides the revised descriptions.

**DATE:** Comments must be received on or before April 3, 1985.

**ADDRESS:** Send comments on the proposal to: Manager, Airspace & Procedures Branch, ANM-530, Federal Aviation Administration, Docket No. 85-ANM-1, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The official docket may be examined in the Regional Counsel's office at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

**FOR FURTHER INFORMATION CONTACT:** Kathy Paul, Airspace Technical Specialist, ANM-535, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, The telephone number is (206) 431-2530.

**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 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. 85-ANM-1." 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 Airspace & Procedures Branch, 17900 Pacific Highway South, Seattle, Washington 98168, 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 the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & Procedures Branch, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Communications must identify the notice number of the NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

**The Proposal**

The FAA is considering an amendment to §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to redefine the geographical boundaries of the Havre City-County, Montana, control zone and 700' transition area. A change in the magnetic variation resulted in amendments to the VOR Rwy 7 and VOR Rwy 25 instrument approach procedures. This proposed action redefines the control zone and 700' transition area required to accommodate these amendments.

Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were 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 71**

Control zones, Transition areas, Aviation safety.

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

**Havre City-County, Montana, Control Zone [Revised]**

Within a 5-mile radius of Havre City-County Airport (lat. 48° 32' 39" N., long. 109° 45' 41"W.); within 3 miles each side of the Havre VOR 080° radial, extending from the 5-mile radius zone to 7 miles east of the VOR; and within 3 miles each side of the Havre VOR 290° radial, extending from the 5-mile radius zone to 7 miles west of the VOR; within 2 miles each side of the Havre VOR 006° radial, extending from the 5-mile radius area to 7.5 miles north of the VOR. This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time thereafter will be continuously published in the Airport/Facility Directory.

**Havre City-County, Montana, Transition Area [Revised]**

That airspace extending upward from 700 feet above the surface within a 14-mile radius of Havre VOR within 4.5 miles south and 9.5 miles north of the Havre VOR 080° radial, extending from the 14-mile radius area to 18.5 miles east of the VOR; and within 4.5 miles north and 9.5 miles south of the Havre VOR 290° radial, extending from the 14-mile radius area to 18.5 miles west of the VOR.

(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 Seattle, Washington, on January 29, 1985.

**Wayne J. Barlow,**

*Acting Director, Northwest Mountain Region.*

[FR Doc. 85-3198 Filed 2-7-85; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 271

**[Docket No. RM79-76-242; Wyoming—18]**

## High-Cost Gas Produced From Tight Formations; Wyoming

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (1982), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Wyoming that the Turner Formation be designated as a tight formation under § 271.703(d).

**DATES:** Comments on the proposed rule are due on March 25, 1985. Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on February 21, 1985.

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

**FOR FURTHER INFORMATION CONTACT:** Edward Gingold, (202) 357-5491, or Victor Zabel, (202) 357-8616.

**SUPPLEMENTARY INFORMATION:**

Issued: February 6, 1985.

### I. Background

On December 31, 1984, the State of Wyoming Oil and Gas Conservation Commission (Wyoming) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that the Turner Formation located in Campbell and Converse Counties, Wyoming, be designated as a tight formation. This Notice of Proposed Rulemaking is issued under § 271.703(c)(4) to determine whether Wyoming's recommendation that the Turner Formation be designated a tight formation should be adopted. Wyoming's recommendation and supporting data are on file with the Commission and are available for public inspection.

### II. Description of Recommendation

The recommended area is located in the south central portion of the Powder River Basin. The recommended formation underlies approximately 85,760 acres within Campbell and Converse Counties, Wyoming. The vertical limits of the Turner Formation are defined by the Sage Breaks Shale Formation above and the Carliles Shale Formation below. The average depth to the top of the recommended formation is 9,400 feet.

### III. Discussion of Recommendation

Wyoming claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. 1, Order No. 1, Docket No. 231-82 convened by Wyoming on this matter demonstrates that:

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

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

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

Wyoming further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97 [Reg. Preambles 1977-1981], FERC Stats. and Regs. ¶ 30,180 (1980), the Director gives notice of the proposal submitted by Wyoming that the Turner Formation as described and delineated in Wyoming's recommendation as filed with the Commission, be designated as a tight formation under § 271.703.

### IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting

written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 25, 1985. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–242 (Wyoming-18), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they want to make an oral presentation and so request a public hearing. The person shall specfy the amount of time requested at the hearing, and should file the request with the Secretary of the Commission no later than February 21, 1985.

**List of Subjects in 18 CFR Part 271**

Natural gas, Incentive price, Tight formations.

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

**Kenneth A. Williams,**

*Director, Office of Pipeline and Producer Regulation.*

**PART 271—[AMENDED]**

Section 271.703 is amended as follows:

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

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

2. Section 271.703 is amended by adding paragraph (d)(208) to read as follows:

**§ 271.703 Tight formations.**

* * * * *

(d) *Designated tight formations.*

* * * * *

(187) through (207) [Reserved]

(208) *Turner Formation in Wyoming.* RM79–76–242 (Wyoming-18).

(i) *Delineation of formation.* The Turner Formation is located in Campbell and Converse Counties, Wyoming, in Township 40 North, Range 69 West, 6th P.M., Sections 7, 18, 30, and 31; Township 40 North, Range 70 West, 6th P.M., All Sections; Township 40 North, Range 71 West, 6th P.M., Sections 1, 2, 3, 11, 12, and 13; Township 41 North, Range 70 West, 6th P.M., Sections 4 through 9, 16 through 22, and 25 through 36; Township 41 North, Range 71 West, 6th P.M., Sections 1 through 5, 8 through 17, 20 through 26, 28, 34, 35, and 36; Township 42 North, Range 70 West, 6th P.M., Sections 18, 19, 30, and 31; Township 42 North, Range 71 West, 6th P.M., Sections 1 through 22, 24, 25, 27 through 29, and 32 through 36.

(ii) *Depth.* The Turner Formation is defined as that interval which begins at a depth of approximately 9,400 feet and has an average thickness of 30 feet.

[FR Doc. 85–3171 Filed 2–7–85; 8:45 am]

BILLING CODE 6717–01–M

## ENVIRONMENTAL PROTECTION AGENCY

**40 CFR Part 761**

**[OPTS–62035C; TSH FRL 2776–8]**

### Polychlorinated Biphenyls (PCBs) Use in Electrical Transformers; Extension of Comment Period

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Extension of comment period for proposed rule.

**SUMMARY:** EPA issued a proposed rule, published in the **Federal Register** of October 11, 1984 (49 FR 39966), to address the risks posed by fire-related events involving electrical transformers containing PCBs. An informal hearing was held on January 14, 15, and 16, 1985, to accept comments and testimony on the proposed rule. An additional meeting was held on January 29, 1985, at the request of the Environmental Defense Fund and other interested parties, to further discuss the proposed rule. The Chemical Manufacturers Association and other have requested an extension of the comment period on the proposed rule. Today's action grants that request.

**DATE:** The comment period now closes on February 11, 1985.

**ADDRESS:** Comments bearing the identification number OPTS 62035C, should be submitted in triplicate to: TSCA Public Information Office (TS–793), Office of Toxic Substances, Environmental Protection Agency, Rm. E–108, 401 M St., SW., Washington, D.C. 20460.

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

**SUPPLEMENTARY INFORMATION:** In addition to the Environmental Defense Fund, other parties in attendence at the January 29th meeting included: Edison Electric Institute/Utility Solid Waste Activities Group, Chemical Manufacturers Association/Monsanto Industrial Chemical Company/Dow Corning Corporation, American Paper Institute/National Forest Products Association, National Electrical Manufacturers Association, Natural Resources Defense Council, Service Employees International Union, and the International Association of Fire Fighters. The minutes of this meeting are available as part of the public record. The reply comment period was scheduled to expire on January 30, 1985. An extension of the comment period was requested by the Chemical Manufacturers Association and other interested parties. Today's action extends the comment period for the proposed rule to February 11, 1985. Any additional comments or information submitted until February 11, 1985, will be available as part of the public record.

**List of Subjects in 40 CFR Part 761**

Hazardous substances, Labeling, Polychlorinated biphenyls, Recordkeeping and reporting requirements, Environmental protection.

Dated: February 6, 1985.

**John A. Moore,**

*Assistant Administrator for Pesticides and Toxic Substances.*

[FR Doc. 85–3392 Filed 2–7–85; 8:45 am]

BILLING CODE 6560–50–M

## FEDERAL MARITIME COMMISSION

**46 CFR Part 572**

**[Docket No. 85–4]**

### Miscellaneous Modifications to Existing Agreements-Exemption

**AGENCY:** Federal Maritime Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This amendment describes the approach the Commission intends to take under the Shipping Act of 1984 with

regard to modifications to existing agreements which provide for cancellations of agreements and reflect changes in conference membership, officials of agreements, and neutral body authority and procedures. Copies of these modifications shall be submitted to the Commission for information purposes in the propoer format but are otherwise exempt from the Information Form, notice and waiting period requirements of the rules.

**DATE:** Comments on or before March 11, 1985.

**ADDRESS:** Comments may be mailed to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

**FOR FURTHER INFORMATION CONTACT:** Joseph C. Polking, Director, Bureau of Agreements and Trade Monitoring, Federal Maritime Commission, Washington, D.C. 20573, (202) 523-5787.

**SUPPLEMENTARY INFORMATION:** At the time of the issuance of the Federal Rule in Dockets Nos. 84-26 and 84-32, *Rules Governing Agreements by Ocean Common Carriers and Other Persons Subject to the Shipping Act of 1984*, 49 FR 45320 (November 15, 1984), the Commission was unable, because of the notice requirements of section 16 of the Shipping Act of 1984 (46 U.S.C. app. 1715), to grant relief requested in certain comments, to exempt certain modifications to existing agreements from the waiting period requirements of section 6 of the Act (46 U.S.C. app. 1705), which would allow them to become effective upon filing. As an interim measure, however, the Commission added a new paragraph (c) to 46 CFR 572.605 to provide for expedited approval of cancellations of agreements and modifications which reflect changes in conference membership, officials of the agreements, and neutral body authority and procedures. At the same time, the Commission stated in its Final Rule that it would consider the institution of a separate proceeding to exempt these categories of agreements from the waiting period requirements of section 6 of the Act and allow them to become effective upon filing. The Commission believes such an exemption would be appropriate for the reasons discussed below.

No regulatory purpose is served by delaying cancellations of agreements when the cancellations are initiated by action of the parties to the agreement. Cancellations should routinely be allowed to become effective.

Modifications to conference agreements which reflect changes in membership also should be allowed early effectiveness. This is consistent with section 5(b) of the Act which requires conference agreements to provide for reasonable conditions for admission and readmission to membership for any carrier willing to serve the trade, and for withdrawal from membership upon reasonable notice without penalty. While ease of entry into conference agreements is intended by the statute and permitted by this proposed rule, the Commission would not, under this exemption, be precluded from post-effective examination of the anticompetitive effect of membership changes and taking appropriate action under section 6(g) of the Act.

Changes in officials of an agreement are administrative matters involving no substantive Shipping Act ramifications and therefore are appropriately permitted early effectiveness.

Agreement provisions regarding neutral body authority and procedures similary are administrative in nature. While they are required to be part of the agreement in that they reflect the understanding of the parties, they too should be permitted ease of modification.

In light of the foregoing, the Commission believes that this proposed exemption will not substantially impair effective regulation by the Commission, be unjustly discriminatory, result in substantial reduction in competition, or be detrimental to commerce within the meaning of section 16 of the Act.

The Federal Maritime Commission has determined that this proposed rule is it not a "major rule" as defined in Executive Order 12291 dated February 17, 1981, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or,

(3) Significant adverse effect on competition, employment, investment productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Chairman of the Federal Maritime Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units or small governmental jurisdictions.

**List of Subjects in 46 CFR Part 572**

Antitrust, Contracts, Maritime carriers, Administrative practice and procedure, Rates and fares, Reporting and recordkeeping requirements.

Therefore, in order to exempt these agreements from the waiting period requirements of section 6 of the Act, and allow them to become effective upon filing, the Commission, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553) and sections 16 and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1715, 1716), hereby proposes to amend Title 46 of the Code of Federal Regulations as follows:

**PART 572—[AMENDED]**

1. A new § 572.307 *Miscellaneous Modifications to Agreements-Exemption* is added to read as follows:

**§ 572.307 Miscellaneous Modifications to Agreements—Exemption.**

(a) Each of the following types of modifications to agreements is exempt from the Information Form, notice and waiting period requirements of the Act and of this part provided that such modifications are filed for informational purposes in the proper format:

(1) Any modification which cancels an effective agreement.

(2) Any modification to the following designated agreement articles:

(i) *Article 3*—Parties to the agreement (limited to conference agreements).

(ii) *Article 6*—Officials of the agreement and delegations of authority.

(iii) *Article 10*—Neutral body policing (limited to the description of neutral body authority and procedures related thereto).

(b) Any modification exempt under paragraph (a) is effective upon filing.

**§ 572.605 [Amended]**

2. Section 572.605 *Requests for Expedited Approval* is amended by the removal of paragraph (c).

By the Commission.

Bruce A. Dombrowski,

*Assistant Secretary.*

[FR Doc. 85-3221 Filed 2-7-85; 8:45 am]

BILLING CODE 6730-01-M

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

**[MM Docket No. 85-3; RM-4846]**

**TV Broadcast Station in Holbrook, AZ**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This action proposes the assignment of VHF Television Channel 6 to Holbrook, Arizona, in response to a

petition filed by Metro Telecasting, as that community's first commercial television assignment.

**DATES:** Comments must be filed on or before March 25, 1985, and reply comments on or before April 10, 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**

Television broadcasting.

**Notice of Proposed Rule Making**

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Holbrook, Arizona) MM Docket No. 85–3, RM–4846.

Adopted: January 7, 1985.
Released: January 31, 1985.

By the Chief, Policy and Rules Division.

1. Before the Commission is a petition for rule making filed by Metro Telecasting ("petitioner") requesting the assignment of VHF TV Channel 6 to Holbrook, Arizona, as that community's second television assignment. Petitioner states that he will apply for the channel, if assigned.

2. Holbrook (population 5,785) [1], seat of Navajo County (population 67,629) is located in eastern Arizona, approximately 230 kilometers (140 miles) northeast of Phoenix, Arizona. Holbrook currently has a noncommercial educational television channel assignment.

3. The proposed assignment can be made in compliance with the minimum distance separation requirements of §73.610 with a site restriction 15.7 miles north of Holbrook to avoid short spacing to Station KUAT–TV, Channel 6, Tucson, Arizona. In addition, the offset of Channel 6 at Kingman, Arizona [2], must be changed from "minus" to "plus" to accommodate the proposed assignment. Since Kingman is within 400 kilometers 250 miles) of the U.S.-Mexico border, Mexican concurrence is required.

4. In view of the foregoing and the fact that the proposed assignment could provide a first commercial television assignment to Holbrook, Arizona, the Commission believes it appropriate to propose amending the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

| City | Channel No. | |
|---|---|---|
| | Present | Proposed |
| Holbrook, Arizona | *18+ | 6–, *18+ |
| Kingman, Arizona | 6–, *14– | 6+, *14– |

5. It is further ordered, That the Secretary shall send a copy of this *Notice of Proposed Rule Making* to the pending applicants for TV Channel 6, Kingman, Arizona, at the following addresses: Contemporary Communications, Inc., P.O. Box 3976, Jackson, Georgia 30233; John R. Powley, 1536 Logan Avenue, Altoona, Pennsylvania, 16602; Grand Canyon Television Co., Inc., 2201 North Vickey Drive, Flagstaff, Arizona, 86001; and Canyon Communications Company, Liberty Square, Sparta, Tennessee, 38583, certified mail return receipt requested.

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before March 25, 1985, and reply comments on or before April 10, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Metro Telecasting, c/o June Gray, President, P.O. Box 811, Stockbridge, GA. 30281.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b) 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact D. David Weston, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes and *ex parte* presentation and shall not be considered in the proceeding.

(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.*

**Appendix**

1. Pursuant to 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 proposed to amend the TV Table of Assignments § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial

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

[2] There are four applications pending for Channel 6, Kingman, Arizona, as follows: (BPCT–840511KG) Contemporary Communications, Inc.; (BPCT–840709KE) John R. Powley; (BPCT–840711KP) Grand Canyon Television Co., Inc.; and (BPCT–840711KR) Canyon Communications Company.

comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of §1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 85-3233 Filed 2-7-85; 8:45 am]
BILLING CODE 6712-01-M

## 47 CFR PART 73

**[MM Docket No. 85-9; RM-4848]**

## TV Broadcast Station in El Dorado, AR

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This action proposes the assignment of UHF Television Channel 49 to El Dorado, Arkansas, as that community's third commercial television assignment in response to a petition filed by Steven D. King.

**DATES:** Comments must be filed on or before March 25, 1985, and reply comments on or before April 10, 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**

Television broadcasting.

**Notice of Proposed Rule Making**

In the matter of amendment of § 73.606(b), Table of Assignments (El Dorado, Arkansas); MM Docket No. 85-9, RM-4848.

Adopted: January 8, 1985.
Released: January 31, 1985.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed by Steven D. King ("petitioner") requesting the deservation of UHF TV Channel *30 and the substitution of UHF TV Channel *49 at El Dorado, Arkansas. If the reservation is removed, petitioner states that it will promptly apply for the channel and operate a commercial station thereon.

2. El Dorado (population 25,270) [1], seat of Union County (population 48,573) is located in south central Arkansas, approximately 170 kilometers (105 miles) south of Little Rock, Arkansas. El Dorado currently has two commercial and one noncommercial educational television assignments. Petitioner states that "Union County houses approximately 19,600 households with an average spendable income of $20,023 per household. Annual retail sales in Union County are approximately $214,556,000."

3. We believe that petitioner has demonstrated the need for a third commercial television channel at El Dorado, Arkansas. However, petitioner's showing that "no party has expressed an interest in applying for Channel *30 as a noncommercial educational facility" is insufficient to dereserve an existing channel, especially where another channel can be assigned to accommodate the commercial interest. See *Houston, Texas*, 50 R.R. 2d 1420 (1982). *Mansfield & Marion, Ohio*, 48 R.R. 2d 1003 (1980); and *Vancouver, Washington*, 46 R.R. 2d 1498 (1980). We propose, therefore, to solicit comments on the desirability of assigning Channel 49 to El Dorado, Arkansas, for commercial use. Petitioner, in its comments should express an interest in this channel, if assigned.

4. Channel 49 can be assigned to El Dorado in compliance with the minimum distance separation requirements and other technical criteria.

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

5. In view of the fact that there has been a demonstrated need and interest for a third commercial television allocation to El Dorado, Arkansas, the Commission believes that it is appropriate to seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the Commission's Rules) with respect to the following community:

| City | Channel No. | |
|---|---|---|
| | Present | Proposed |
| El Dorado, Arkansas | 10-, *30+, 43- | 10-, *30+, 43-, 49- |

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before March 25, 1985, and reply comments on or before April 10, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Steven D. King, P.O. Box 90357, Atlanta, Georgia 30364.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact D. David Weston, Mass Media Bureau (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered

in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(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.*

Appendix

1. Pursuant to authority found in sections 4(i), 5(e)(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 proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 85-3232 Filed 2-7-85; 8:45 am]

BILLING CODE 6712-01-M

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## National Highway Traffic Safety Administration

### 49 CFR Part 531

**[Docket No. LVM 82-01; Notice 3]**

## Passenger Automobile Average Fuel Economy Standards; Proposed Decision To Grant Exemption

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Proposed decision to grant exemption from average fuel economy standards and to establish an alternative standard.

**SUMMARY:** This notice is being issued in response to a petition filed by Rolls-Royce Motors, Ltd. (Rolls-Royce) requesting that it be exempted from the generally applicable average fuel economy standard of 27.5 miles per gallon (mpg) for 1986 model year passenger automobiles, and that a lower alternative standard be established for it. This notice proposes that the requested exemption be granted and that an alternative standard of 11.0 mpg be established for Rolls-Royce for the 1986 model year.

**DATE:** Comments on this notice must be received by this agency on or before March 25, 1985.

**ADDRESS:** Comments on this notice must refer to Docket No. LVM 82-01; Notice 3 and should be submitted to: Docket Section, NHTSA, Room 5109, 400 Seventh Street, SW., Washington, D.C. 20590. Docket hours are from 8:00 a.m. to 4:00 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Orron Kee, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, D.C. 20590 (202-755-9384).

**SUPPLEMENTARY INFORMATION:** Section 502(c) of the Motor Vehicle Information and Cost Savings Act, as amended (the Act), provides that a low volume manufacturer of passenger automobiles may be exempted from the generally applicable average fuel economy standards for passenger automobiles if those standards are more stringent than the maximum feasible average fuel economy for that manufacturer and if the NHTSA establishes an alternative standard for the manufacturer at its maximum feasible level. Under the Act, a low volume manufacturer is one which manufacturers fewer than 10,000 passenger automobiles in the model year for which the exemption is sought (the affected model year) and which manufactured fewer than 10,000 passenger automobiles in the second model year before the affected model year. In determining maximum feasible average fuel economy, the agency is required by section 502(e) of the Act to consider:

(1) Technological feasibility;

(2) Economic practicability;

(3) The effect of other Federal motor vehicle standards on fuel economy; and

(4) The need of the Nation to conserve energy.

*Selection of the type of alternative standard.* The Act permits NHTSA to establish alternative average fuel economy standards applicable to exempted low volume manufacturers in one of three ways: (1) A separate standard may be established for each exempted manufacturer; (2) classes, based on design, size, price, or other factors, may be established for the automobiles of exempted manufacturers, with a separate average fuel economy standard applicable to each class; or (3) a single standard may be established for all exempted manufacturers.

For the 1986 model year, the NHTSA believes it is appropriate to establish a separate standard for Rolls-Royce. The analyses of the petitions submitted by

other low volume manufacturers for the 1986 model year have not yet been completed, so the agency cannot use the second or third approaches described above.

*Methodology used to project maximum feasible average fuel economy level for Rolls-Royce.* To project the level of fuel economy which could be achieved by Rolls-Royce in the 1986 model year, the agency used regression relations from the baseline of the 1984 model year vehicles currently being sold, and for which EPA fuel economy data are available. The agency then considered whether there were any technical or other improvements that would be feasible for 1986 model year Rolls-Royce vehicles, whether or not the company actually plans to incorporate such improvements in those vehicles.

NHTSA has interpreted "technological feasibility" as meaning that technology which would be available to Rolls-Royce for use on its 1986 model year automobiles, and which would improve the fuel economy of those automobiles. The areas examined for technologically feasible improvements were weight reduction, aerodynamic improvements, engine improvements, drive line improvements, reduced rolling resistance, and mix shifts.

"Economic practicability" has been interpreted as meaning the financial capability of the manufacturer to improve its average fuel economy by incorporating technologically feasible changes to its 1986 model year automobiles.

Throughout this analysis, NHTSA has considered only those improvements which would be compatible with the basic design concepts of Rolls-Royce automobiles. NHTSA assumes that Rolls-Royce will continue to produce a five-passenger luxury car. Hence design changes which would make the cars unsuitable for five passengers or would remove items traditionally offered on luxury cars, such as air conditioning, automatic transmission, power steering, and power windows, were not examined. Such changes to the basic design might well significantly reduce the demand for these automobiles, thereby reducing sales and causing significant economic injury to the low volume manufacturer.

*Baseline fuel economy.* The 1985 model year Rolls-Royce vehicles are measured as achieving 11.0 mpg. No change to the vehicle specifications or the emissions certification is planned by Rolls-Royce for this vehicle for the 1986 model year, which means the 1985 fuel economy rating can be carried forward to the 1986 model year. Rolls-Royce actually produces six different models, four of which are in the 5000 pound inertia weight class and the other two are in the 5500 pound inertia weight class. However, all six models are measured as achieving 11.0 mpg, so the vehicles can be considered as identical for fuel economy purposes.

Accordingly, 11.0 mpg was used as the baseline and any changes found technologically feasible and economically practicable were added thereto to arrive at a proposed determination of Rolls-Royce maximum feasible average fuel economy for the 1986 model year.

*Weight reduction.* In determining whether Rolls-Royce could make weight reductions on its 1986 model year automobiles, the agency has considered two options—downsizing and materials substitution. The goal of downsizing is to reduce the exterior dimensions of the automobile without significantly reducing the interior passenger and luggage volume of the automobile. Any downsizing would necessitate a redesign of the vehicle and retooling. The economic downturn in the automotive industry caused Rolls-Royce to reduce its annual production by approximately one-third (from 3200 vehicles in the 1980 model year to 2200 vehicles in the 1983 model year), its number of employees by 22 percent, and its budget for research and development by a significant amount. Rolls-Royce stated in its petition that it has begun a major project to downsize its vehicles, but that the project's results would not be available in time to be incorporated in its 1986 cars. The project should be completed and new downsized vehicles put into production by the 1990 model year. Given the current economic position of the company, and the need in any vehicle downsizing to retain the vehicle's image, NHTSA has tentatively concluded that downsizing would not be economically practicable for 1986 model year Rolls-Royce automobiles.

The other primary means of achieving weight reduction is materials substitution. This refers to the substitution of lighter materials, such as aluminum, plastics, and high strength low alloy steels, for currently used materials. Rolls-Royce already uses aluminum in all of its major castings and most of the unstressed body parts of its automobiles.

In its proposed decision to exempt Rolls-Royce from the 1981–1985 model year average fuel economy standards and to establish alternative standards for Rolls-Royce in those model years, NHTSA indicated that it believed that weight reduction through materials substitution would be practicable for Rolls-Royce beginning with the 1984 model year (47 FR 20639, at 20648; May 13, 1982). Rolls-Royce stated in its petition for 1986 that it had conducted a research project showing that it could improve the fuel economy of its vehicles by 15 percent by using a combination of weight reduction, reduced engine displacement, and transmission improvements. However, the company encountered problems with achieving the required emissions levels with the new vehicle. Because of the economic situation of the company following its reduced sales from 1980 to 1983, the company stated that it did not feel it could continue with the development work on the redesigned car without a high degree of confidence that the car could satisfy all emissions and safety requirements and be in production by late 1984. Rolls-Royce concluded that it did not have the necessary degree of confidence, and decided not to make the retooling expenditure. Shortly after this decision, Rolls-Royce also determined that work on the project could not be continued, given the current economic status of the company. Based on these facts, NHTSA has tentatively determined that further weight reduction resulting from materials substitution would not be economically practicable for Rolls-Royce in the 1986 model year.

*Aerodynamic improvements.* Rolls-Royce 1986 vehicles will have a relatively large frontal area, because of the exterior dimensions of the vehicle and the distinctive grille design. A larger frontal area generally results in more wind resistance than a smaller frontal area, yielding reduced fuel economy.

Any fuel economy gains resulting from aerodynamic improvements to these vehicles would arise only from a complete redesign to lower the aerodynamic drag of these vehicles. Rolls-Royce currently has a project underway to improve the aerodynamics of its vehicles in connection with the downsizing program mentioned above. The petition states, "A major part of our engineering design staff is committed to this project and detailed design work has commenced following the acceptance of the initial project designs." Given the company's recent financial difficulties and the scope of a project to redesign its vehicles, NHTSA has tentatively concluded that it would not be economically practicable for Rolls-Royce to increase the fuel economy of its 1986 automobiles by means of aerodynamic improvements.

*Engine improvements.* This agency has examined the question of whether Rolls-Royce could improve the fuel economy of its 1986 cars by reducing the

engine displacement or by using an alternative engine. Rolls-Royce plans to continue using its current 412 cubic inch V–8 engine for its 1986 automobiles. This size engine is used because of the relatively high weight of the vehicles. In connection with the downsizing program mentioned above, Rolls-Royce plans to reduce the engine displacement to 260 cubic inches. NHTSA does not believe it would be feasible to use that size engine on vehicles in the 5000 and 5500 pound inertia weight class, and offer the sort of acceleration performance traditionally offered in luxury cars.

There probably is some reduction of engine displacement between 412 cubic inches and 260 cubic inches which would offer satisfactory performance in Rolls-Royce 1986 cars and offer improved fuel economy. However, such a fuel economy improvement would require Rolls-Royce to divert its engineering staff and resources from the downsizing project to such a project, with the promise of smaller fuel economy gains than would be realized if the downsizing project were completed and put into production. Accordingly, NHTSA has tentatively determined that it would not be economically practicable for Rolls-Royce to reduce its engine displacement to some level between 412 cubic inches and 260 cubic inches for its 1986 automobiles.

With respect to the use of an alternative engine, the only alternative engine which has been shown to be feasible in cars of this size is the diesel engine. Rolls-Royce has examined the possibility of using diesel engines. However, according to its petition, the company cannot comply with the diesel particulate emission standards for the 1986 model year because of its vehicles' relatively high weight. Further, the company stated that using the large diesel engine offered on some full-size 1983 Oldsmobiles would double the 0–60 mph acceleration times for Rolls-Royces, and Rolls-Royce believes such performance would be unacceptable on vehicles costing over $100,000. After considering these statements, NHTSA has tentatively determined that it would not be technologically feasible and economically practicable for Rolls-Royce to improve the projected fuel economy of its 1986 automobiles by the use of alternative engines.

*Drive line improvements.* The primary drive line improvements to enhance achievable fuel economy are transmission improvements and the use of a lower rear axle ratio. Rolls-Royce plans to use the General Motors THM 400 transmission, a heavy duty transmission which does not use a lockup clutch for the torque converter. Using a transmission with a lockup clutch would offer improved fuel economy. However, General Motors offers the lockup clutch only on its lighter-duty 200–4R transmission, and the power and torque output of the Rolls-Royce 412 cubic inch engine is too great to permit the use of that lighter-duty transmission.

Both Ford and Chrysler manufacture transmissions equipped with a lockup clutch but these transmissions are not applied to engines as large as 412 cubic inches. Further, the use of a different transmission would require extensive redesign and would divert engineering staff and finances from the downsizing project, which plans to incorporate an improved transmission in that car. Accordingly, NHTSA has tentatively determined that it would not be technologically feasible and economically practicable for Rolls-Royce to improve its planned 1986 fuel economy by using improved transmissions.

Rolls-Royce 1986 models will use a 3.08 rear axle ratio. That company has run tests using a lower axle ratio (2.69), which showed fuel economy gains of up to 7 percent in highway driving. However, the city driving results showed slightly increased fuel consumption because of increased slip in the transmission's torque converter, and the lower axle ratio increased the oxides of nitrogen emissions above allowable levels. Retuning of the engine and emission control system would have resulted in a net loss of fuel economy and poorer driveability, so Rolls-Royce did not take this action. Based on this, NHTSA has tentatively determined that it would not be technologically feasible and economically practicable for Rolls-Royce to improve its 1986 fuel economy by reducing the rear axle ratios of its cars.

*Mix shifts.* Mix shifts refers to shifting the percentage of vehicles sold in each of a manufacturer's model types for the purposes of increasing average fuel economy. Since all of Rolls-Royce 1986 models will achieve the same fuel economy level, no fuel economy improvement could be accomplished by shifting customers to other models.

*Impacts of other Federal standards.* Rolls-Royce did not claim any negative impacts on its 1986 average fuel economy above those impacts claimed for the 1978 model year, as a result of applicable Federal safety, damageability, emissions, or noise standards. In the absence of a specific showing of a fuel economy penalty arising from those standards, NHTSA will assume that whatever fuel economy is lost as a result of compliance with Federal standards will be built into the Environmental Protection Agency's fuel economy test results and will be taken into account by NHTSA in considering the technological feasibility of any actions when setting alternative standards. With respect to the Rolls-Royce petition for 1986, NHTSA has tentatively assumed that there is no unaccounted-for negative impact on fuel economy caused by applicable Federal standards.

*The need of the Nation to conserve energy.* As stated above, NHTSA has tentatively determined that it is not technologically feasible or economically practicable for Rolls-Royce to achieve an average fuel economy in the 1986 model year above the baseline of 11.0 mpg. Granting an exemption to Rolls-Royce and setting an alternative standard at that level will result in only a negligible increase in fuel consumption and will not affect the need of the Nation to conserve energy.

For illustrative purposes only, the Rolls-Royce 1986 model year fleet will consume 38 extra barrels of fuel per day over a twelve year period by achieving 11.0 mpg rather than 27.5 mpg. The fuel consumed by passenger automobiles in the United States is about 5 million barrels each day.

*Proposed alternative standard.* This agency has tentatively concluded that it would not be technologically feasible and economically practicable for Rolls-Royce to improve the fuel economy of its 1986 automobiles above an average of 11.0 mpg, that compliance with other Federal automobile standards will not adversely affect achievable fuel economy, and that the national effort to conserve energy will not be affected by granting the requested exemption and establishing an alternative standard. Consequently, this notice proposes to conclude that the maximum feasible average fuel economy for Rolls-Royce in the 1986 model is 11.0 mpg. Therefore, the agency proposes to exempt Rolls-Royce from the generally applicable standard of 27.5 mpg and to establish an alternative standard for Rolls-Royce of 11.0 mpg in the 1986 model year.

In consideration of the foregoing, it is proposed that 49 CFR Part 531 be amended by revising § 531.5(a)(2) to read as follows:

## PART 531—PASSENGER AUTOMOBILE AVERAGE FUEL ECONOMY STANDARDS

**§ 531.5 Fuel economy standards.**

* * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

* * * * *

(2) Rolls-Royce Motors, Inc.

| Model year | Average fuel economy standard (miles per gallon) |
|---|---|
| 1978 | 10.7 |
| 1979 | 10.8 |
| 1980 | 11.1 |
| 1981 | 10.7 |
| 1982 | 10.6 |
| 1983 | 9.9 |
| 1984 | 10.0 |
| 1985 | 10.0 |
| 1986 | 11.0 |

* * * * *

NHTSA has analyzed this proposal and determined that neither Executive Order 12291 nor the Department of Transportation regulatory policies and procedures apply, because the proposal would not establish a "rule," which term is defined as "an agency statement of general applicability and future effect. The exemption is not generally applicable, since it applies only to Rolls-Royce. If the Executive Order and the Department policies and procedures were applicable, the agency would have determined that this proposed action is neither major nor significant. The principal impact of this proposal is that Rolls-Royce will not be required to pay civil penalties if it achieves its maximum feasible average fuel economy, and purchasers of those vehicles will not have to bear the burden of those civil penalties in the form of higher prices. NHTSA notes that purchasers of those vehicles will be required to pay a gas guzzler tax on these cars. Since this proposal sets an alternative standard at the level determined to be Rolls-Royce's maximum feasible level, no fuel would be saved by establishing a higher alterantive standard. The impacts for the public at large will be minimal.

The agency has also considered the environmental implications of this proposal in accordance with the National Environmental Policy Act and determined that this proposal, if adopted as a rule, will not significantly affect the human environment. Regardless of the fuel economy of a vehicle, it must pass the emisisons standards which measure the amount of emisisons per mile traveled. Thus, the quality of the air is not affected by this proposed exemption and alternative standard. Further, since Rolls-Royce's 1986 automobiles cannot achieve better fuel economy than is proposed herein, granting these proposed exemption would not affect the amount of fuel available.

Since the Regulatory Flexibility Act may apply to a notice exempting a manufacturer from a generally applicable standard, I certify that this proposed exemption would not have a significant economic impact on a substantial number of small entities. This proposal would not impose any additional burdens on Rolls-Royce. It would relieve the company of having to pay civil penalties in the 1986 model year. Small organizations and small governmental jurisdictions are believed not to be purchasers of Rolls-Royce automobiles. In any event, since the prices of 1986 Rolls-Royce automobiles would not be affected by this proposed exemption, the purchasers would not be affected.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. (49 CFR 553.21) Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

**List of Subjects in 49 CFR Part 531**

Energy conservation, Gasoline, Imports, Motor vehicles.

(Sec. 9, Pub. L. 89-670, 80 Stat. 981 (49 U.S.C. 1657); sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2002); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on February 4, 1985.

**Barry Felrice,**

*Associate Administrator for Rulemaking.*

[FR Doc. 85-3177 Filed 2-7-85; 8:45 am]

BILLING CODE 4910-59-M

# Notices

Federal Register
Vol. 50, No. 27
Friday, February 8, 1985

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.

## THE NATIONAL COMMISSION ON AGRICULTURAL TRADE AND EXPORT POLICY

### Finance Committee; Meeting

The National Commission on Agricultural Trade and Export Policy will hold its next meeting at 9 a.m. on February 20, 1985, in Room 385, Russell Senate Office Building, Washington, D.C.

The meeting is expected to include discussion of major policy issues. The meeting is open to the public.

The Finance Committee of the National Commission on Agricultural Trade and Export Policy will meet on February 19, 1985.

Dated: February 5, 1985.

**Kenneth L. Bader,**

*Chairman.*

[FR Doc. 85-3256 Filed 2-7-85; 8:45 am]

BILLING CODE 3410-05-M

## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

### 1985—Crop Peanut Program; Support Differentials

*Correction*

In FR Doc. 85-2544 beginning on page 4550, in the issue of Thursday, January 31, 1985, make the following correction: On page 4551, third column, in the first complete paragraph, the fourth line should read, "calculated by using a two-step process. The first step is to".

BILLING CODE 1505-01-M

### Forest Service

### Montana; Flathead National Forest Plan Draft Environmental Impact Statement

**AGENCY:** Forest Service, USDA.

**ACTION:** Extension of public review period for the Flathead National Forest Plan Draft Environmental Impact Statement.

**SUMMARY:** The period of public review for the Flathead National Forest Draft Environmental Impact Statement has been extended until March 15, 1985.

**ADDRESS:** Requests for further information should be addressed to: Ed Brannon, Supervisor, Flathead National Forest, P.O. Box 147, Kalispell, MT 59901.

**James E. Reid,**

*Acting Regional Forester.*

[FR Doc. 85-2915 Filed 2-7-85; 8:45 am]

BILLING CODE 3410-11-M

### Montana; Lewis & Clark National Forest Plan Draft Environmental Impact Statement

**AGENCY:** Forest Service, USDA.

**ACTION:** Extension of public review period for the Lewis & Clark National Forest Plan Draft Environmental Impact Statement.

**SUMMARY:** The period of public review for the Lewis & Clark National Forest Draft Environmental Impact Statement has been extended until March 15, 1985.

**ADDRESS:** Requests for further information should be addressed to: John D. Gorman, Supervisor, Lewis & Clark National Forest, P.O. Box 871, Great Falls, MT 59403.

**James E. Reid,**

*Acting Regional Forester.*

[FR Doc. 85-2914 Filed 2-7-85; 8:45 am]

BILLING CODE 3410-11-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A-469-407]**

### Termination of Antidumping Investigations; Certain Small Diameter Circular and Light-Walled Rectangular Welded Carbon Steel Pipes and Tubes From Spain

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** On January 18, 1985, the Committee on Pipe and Tube Imports withdrew its antidumping petition, filed on July 17, 1984, on Certain Small Diameter Circular and Light-walled Rectangular Welded Carbon Steel Pipes and Tubes from Spain. Based on the withdrawal, we are terminating the investigations.

**EFFECTIVE DATE:** February 8, 1985.

**FOR FURTHER INFORMATION CONTACT:** John R. Brinkman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-4929.

**SUPPLEMENTARY INFORMATION:**

#### Case History

On July 17, 1984, we received a petition from the Committee on Pipe and Tube Imports filed on behalf of the U.S. industry producing certain small diameter circular and light-walled rectangular welded carbon steel pipes and tubes.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate antidumping investigations. We notified the International Trade Commission (ITC) of our action and initiated the investigations on August 6 (49 FR 32246). On August 31 the ITC found that there is a reasonable indication that imports of Certain Small Diameter Circular and Light-walled Rectangular Welded Carbon Steel Pipes and Tubes from Spain materially injure, or threaten material injury to, a United States industry. On December 31 we made a preliminary determination the Certain Small Diameter Circular and Light-walled Rectangular Welded Carbon Steel Pipes and Tubes from Spain were being, or were likely to be, sold in the United States at less than fair value (49 FR 50758).

#### Scope of Investigation

The merchandise covered by this investigation is "certain welded carbon steel pipes and tubes," specifically, certain small-diameter circular welded carbon steel pipes and tubes and light-walled rectangular welded carbon steel pipes and tubes.

Small-diameter circular welded carbon steel pipes and tubes, with an

outside diameter of 0.375 inch or more but not over 4.5 inches and with a wall thickness of not less than 0.065 inch, are currently classified in the *Tariff Schedules of the United States, Annotated* (TSUSA) under items 610.3231, 610.3234, 610.3241, 610.3242, and 610.3243. These products, commonly referred to in the industry as standard pipe or structural tubing, are produced to various ASTM specifications, most notably A–120 and A–135.

Light-walled rectangular (including square) welded carbon steel pipes and tubes having a wall thickness of less than 0.156 inch are currently classified under TSUSA item 610.4928. These products, commonly referred to in the industry as mechanical or structural tubing, are generally produced to ASTM specifications A–500 or A–513.

**Withdrawal of Petition**

On January 18, 1985, petitioners notified us that they were withdrawing their petition, and requested that the investigations be terminated. Under section 734(a) of the Act, upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation. These withdrawals are based on arrangements with the Government of Spain to limit the volume of imports of this product. We have assessed the public interest factors set out in section 734(a)(2) of the Act and consulted with potentially affected producers, workers, and consuming interests. On the basis of our assessment of the public interest factors and our consultations with affected interests, we have determined that termination would be in the public interest.

We have notified all parties to the investigation and the ITC of petitioner's withdrawal and our intention to terminate.

For these reasons, we are terminating our investigations.

**Alan F. Holmer,**

*Deputy Assistant Secretary for Import Administration.*

January 31, 1985.

[FR Doc. 85–3269 Filed 2–7–85; 8:45 am]

BILLING CODE 3510–DS–M

## Minority Business Development Agency

### Financial Assistance Application Announcements; Alaska

**AGENCY:** Minority Business Development Agency, Commerce.

**ACTION:** Notice.

**SUMMARY:** The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period, subject to available funds. The cost of performance for the first 13 months is estimated at $254,902 for the project performance period of June 1, 1985 to June 30, 1986. The MBDC will operate in the Alaska Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $216,667 in Federal funds and a minimum of $38,235 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The I.D. Number for this project will be 10–10–85026–01.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as the MBDC's satisfactory performance, the availability of funds, and Agency priorities.

A pre-application conference to assist all interested applicants will be held at the following address and time: Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Room 13216C, San Francisco, California 94102. February 20, 1985 at 10:00 a.m.

*Proposals are to be mailed to the following address:* Minority Business Development Agency, U.S. Department of Commerce, San Francisco Regional Office, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102, 415/556–6734.

Closing Date: The closing date for applications is March 7, 1985. Applications must be postmarked on or before 5:00 p.m.—March 7, 1985.

**FOR FURTHER INFORMATION CONTACT:** Dr. Xavier Mena, Regional Director, San Francisco Regional Office.

**SUPPLEMENTARY INFORMATION:** Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.600 Minority Business Development (Catalog of Federal Domestic Assistance)

**Xavier Mena,**

*Regional Director, San Francisco Regional Office.*

February 4, 1985.

[FR Doc. 85–3173 Filed 2–7–85; 8:45 am]

BILLING CODE 3510–21–M

### Financial Assistance Application Announcements; California

**AGENCY:** Minority Business Development Agency, Commerce.

**ACTION:** Notice.

**SUMMARY:** The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period, subject to available funds. The cost of performance for the first 12 months is estimated at $275,000 for the project performance period of July 1, 1985 to June 30, 1986. The MBDC will operate in the Oxnard Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $233,750 in Federal funds and a minimum of $41,250 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The I.D. Number for this project will be 09–10–85009–01.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American

Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as the MBDC's satisfactory performance, the availability of funds, and Agency priorities.

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Proposals are to be mailed to the following address: Minority Business Development Agency, U.S. Department of Commerce, San Francisco Regional Office, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102, 415/556-6734.

Closing Date: The closing date for applications is March 7, 1985. Applications must be postmarked on or before 5:00 p.m.—March 7, 1985.

**FOR FURTHER INFORMATION CONTACT:** Dr. Xavier Mena, Regional Director, San Francisco Regional Office.

**SUPPLEMENTARY INFORMATION:** Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

**Xavier Mena,**

*Regional Director, San Francisco Regional Office.*

February 4, 1985.

[FR Doc. 85-3172 Filed 2-7-85; 8:45 am]

BILLING CODE 3510-21-M

## National Bureau of Standards

## National Voluntary Laboratory Accreditation Program

**AGENCY:** National Bureau of Standards, Commerce.

**ACTION:** Request for comments on need for establishing a laboratory accreditation program.

**SUMMARY:** The National Bureau of Standards (NBS) has received a request to establish a laboratory accreditation program (LAP) under the newly revised procedures of the National Voluntary Laboratory Accreditation Program (NVLAP) (49 FR 44622-44628, dated November 8, 1984). In a letter dated January 23, 1985, Retlif, Inc. Testing Laboratories, Ronkonkoma, New York, on behalf of itself and several other testing laboratories, requested that NBS establish a LAP for eletromagnetic compatibility and telecommunication testing using U.S. military and Federal Communications Commission (FCC) standards. A copy of the request letter and its attachment is set out as an appendix to this notice. Announcement of this request and of the NBS request for comments with respect thereto is being made under section 7.11(d) of the referenced procedures.

**FOR FURTHER INFORMATION CONTACT:** Peter S. Unger, Associate Manager, Laboratory Accreditation, National Bureau of Standards, ADMIN A 531, Gaithersburg, MD 20899; phone (301) 921-3431.

**ADDRESS:** Persons desiring to comment on the need for such a LAP are invited to submit their comments in writing on or before April 9, 1985, to the Director, Office of Product Standards Policy, National Bureau of Standards, ADMIN A 603, Gaithersburg, MD 20899.

**SUPPLEMENTARY INFORMATION:**

### Scope of LAP

Military and FCC standards would be included in this LAP. However, additional test methods related to electromagnetic compatibility and telecommunications may be included as a result of comments or further requests.

### Procedure Following Receipt of Comments

After the 60 day comment period, NBS will thoroughly evaluate all comments pertaining to the proposed LAP. Upon completion of that evaluation, interested persons (those who submit comments or request to be placed on the NVLAP mailing list) will be notified of the decision by the Director of NBS whether NBS will proceed with the development of this LAP.

### Documents in Public Record

All comments in response to this notice will be made part of the public record and will be available for inspection and copying at the NBS Records Inspection Facility, Administration Building, Room E106, Gaithersburg, Maryland.

Dated: February 4, 1985.

**Ernest Ambler,**

*Director, National Bureau of Standards.*

### Appendix

January 23, 1985.

Office of the Director, N.B.S. ADMIN A1134, Gaithersburg, MD 20899

Sir: I, Walter A. Poggi, representing Retlif, Inc. Testing Laboratories and authorized in the matter to represent Met Electrical Testing Company, Inc., Hyak Laboratories, Inc., Timco Engineering, Inc., and Emaco, Inc., hereby request the development of a Laboratory Accreditation Program (LAP) under the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Bureau of Standards (NBS) in the *Test Technology : Electronics*, covering the *Test Disciplines* : Electromagnetic Compatible (Military Standards), Electromagnetic Compatibility (FCC Standards) and Telecommunications Testing (FCC Standards). It is our desire that this LAP will cover testing services provided under military standard MIL-STD-461 and Federal Communication Commission Standards Part 2, Part 15, Part 18, and Part 68.

In an effort to better define the areas covered and to present a logical breakdown of the areas, we have attached for your review (Appendix A) our suggested outline for such a LAP.

It is the opinion of the group that a LAP is required in this area to better control the quality of electromagnetic compatibility testing laboratories in this country and to help to promote better acceptance of U.S. generated test data overseas. As I am sure you are aware, at this time there is not a national accreditation program in this country covering this type of laboratory.

Although many laboratories in this area are listed or recognized by the FCC this does not represent an approval by the FCC and certainly does not attest to the quality of the measurements and procedures used by such laboratories. This lack of a national accreditation program has seriously hurt laboratories such as ours in international matters. It is now evident that without some type of an accreditation program it is going to continue to be difficult to have U.S. generated test data accepted by foreign government agencies. This is most evident at this time in regards to the acceptance of telecommunication equipment manufactured in the country by Japan. Without acceptable U.S. generated test data the ability to export to Japan becomes a difficult problem mandating testing of U.S. manufactured products in Japan. This situation certainly will force most small to mid size manufacturing companies out of the Japanese marketplace because of cost and logistics. We can see the type of problems occurring with most European countries as well. Unfortunately most, if not all, foreign marketplaces are no where near as open as ours and we therefore must have such items as laboratory accreditation programs in place so that we have viable and reputable tools to use in international negotiations regarding testing of products.

We assume that additional independent as well as in-house laboratories will avail themselves of this LAP. Obviously, our group as listed above would immediately be involved and we would estimate that an additional 10 to 15 laboratories may take part. As far as the users of such laboratories, we would feel that each boratory should, on the average, intain a customer file of approximately 300 customers evenly divided between military and commercial work. Certainly we would look forward to being involved and supporting the development of this LAP. This support would be in the form of both personnel and funding. However, we would feel that it would be unfair for the laboratories alone to fund such a program which will aid manufacturers and even governmental agencies when it comes to international trade. We would hope that the funding required would be so as to not be overbearing for the involvement of independent laboratories which for the most part can be classified as small business.

We look forward to your timely action on this request and certaintly stand ready to be of assistance to you in any way we can.

Very truly yours,

Retlif, Inc.

Walter A. Poggi,

*President.*

**Appendix A**

*Test Technology:* Electronics.

Test Disciplines:

Electromagnetic Compatibility (FCC Standards)

Electromagnetic Compatibility (Military Standards)

Telecommunications (FCC Standards)

*General Requirements:*

(A) Company History.

(B) Staffing.

(C) Instrumentation FCC/CISPR: ——— Mil-Spec: ———.

(D) Applicable Documents (Calibration and QC Manuals).

(E) General Laboratory Practices.

(F) Facility Layout (Including FCC Listed Outdoor Site).

*Electromagnetic Compatibility (FCC Standards) Requirements.*

Line Conducted Emission:

20Hz to 10KHz

10KHz to 150KHz

150KHz to 30 MHz

30MHz to 200MHz

Radiated Emissions:

20Hz to 10KHz

10KHz to 150KHz

Radiated Emissions:

150KHz to 30MHz

30MHz to 1,000MHz

Radiated Emissions: 1GHz to 40GHz.

Antenna Conducted Emissions: 10KHz to 18GHz.

Frequency Stability (Temperature):

10KHz to 1GHz

1GHz to 18GHz

Frequency Stability (Voltage):

10KHz to 1GHz

1GHz to 18GHz

Occupied Bandwidth.

Modulation Characteristics.

Power Output.

*Electromagnetic Compatibility (Military) Requirements:*

Line Conducted Emissions: MIL–STD–461 A and B all notices

Line Conducted Susceptibility: MIL–STD–461 A and B all notices

Radiated Emissions: MIL–STD–461 A and B all notices

Radiated Susceptibility: MIL–STD–461 A and B all notices

High Level Radiated Susceptibility: 200 volts/meter 10 KHz to 40 GHz

*Telecommunications (FCC Standards) Requirements:*

Environmental Simulation

Leakage Current Limitations

Hazardous Voltage Limitations

Signal Power Limitations

Longitudinal Balance Limitations

On Look Impedance Limitations

Billing Protection

[FR Doc. 85–3213 Filed 2–7–85; 8:45 am]

BILLING CODE 3510–13–M

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Announcing Import Limits for Certain Cotton and Wool Textiles and Textile Products Produced or Manufactured in Peru Under a New Bilateral Agreement

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on February 11, 1985. For further information contact James Nader, International Trade Specialist, (202) 377–4212.

**Background**

The Governments of the United States and Peru have exchanged diplomatic notes on a new bilateral agreement concerning trade in cotton, wool and man-made fiber textiles and textile products, produced or manufactured in Peru and exported during the five-year period which began on May 1, 1984 and extends through April 30, 1989. The agreement establishes import restraint levels for cotton and wool textiles and textile products in Categories 300, 301, 313, 315, 317, 319, 320, and 410, exported during the first agreement year which began on May 1, 1984 and extends through April 30, 1985. In the directive to the Commissioner of Customs which follows this notice, the new limits are established and charges and provided for imports exported during the period which began on May 1, 1984 and extended through November 1984. When the data become available, further charges will be made to account for merchandise imported in these categories during the period which began on December 1, 1984 and extends to the effective date of this action, as well as thereafter.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July

16, 1984 (49 FR 28754), and November 9, 1984 (49 FR 44782).

This letter and the actions taken pursuant to it are not designated to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Walter C. Lenahan,

*Chairman, Committee for the Implementation of Textile Agreements.*

Committee for the Implementation of Textile Agreements

February 5, 1985.

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

Dear Mr. Commissioner: Effective on February 11, 1985, this letter cancels and supersedes the directives of April 5 and June 8, 1984 which directed you to prohibit entry of certain cotton textile products produced or manufactured in Peru in excess of designated restraint levels.

Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton Wool and Man-Made Fiber Textile Agreement of January 3, 1985, between the Governments of the United States and Peru; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on February 11, 1985, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and wool textile products in Categories 300, 301, 313, 315, 317, 319, 320 and 410, produced or manufactured in Peru and exported during the twelve-month period which began on May 1, 1984 and extends through April 30, 1985 in excess of the following restraint limits:

| Category | 12-mo restraint limit [1] |
|---|---|
| 300 | 3,000,000 pounds. |
| 301 | 2,250,000 pounds. |
| 313 | 15,000,000 square yards. |
| 315 | 3,600,000 square yards. |
| 317 | 15,000,000 square yards of which not more than 4,500,000 square yards shall be in Category 317 pt.[2] |
| 319 | 20,000,000 square yards. |
| 320 | 14,500,000 square yards of which not more than 4,000,000 square yards shall be in Category 320 pt.[3] |
| 410 | 1,500,000 square yards. |

[1] The restraint limits have not been adjusted to reflect any imports exported after April 30, 1984.
[2] In Category 317, only TSUS items 320.—through 331.— with statistical suffixes 51, 52, 65, 89, 91 and 95.
[3] In Category 320, only TSUSA numbers 320.—92, 321.—92, 322.—92, 326.—92, 327.—92 and 328—92.

Textile products in the foregoing categories which have been exported before May 1, 1984 shall not be subject to this directive.

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

The restraint limit set forth above is subject to adjustment pursuant to the provisions of the bilateral agreement of January 1, 1985 between the Governments of the United States and Peru provide, in part, that: (a) specific limits may be exceeded by designated percentages, provided a corresponding reduction in equivalent square yards is made in one or more other specific limits during the same agreement year; (2) specific limits may be increased for carryover and carryforward not to exceed 11 percent and (3) administrative arrangement or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

A description of the textile categories in terms of T.S.U.S.A numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), and November 9, 1984 (49 FR 44782).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Peru and with respect to imports of wool textile products from Peru has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 85-3268 Filed 2-7-85; 8:45 am]

BILLING CODE 3510-DR-M

## COMMODITY FUTURES TRADING COMMISSION

### Public Information collection Requirement Submitted to Office of Management and Budget for Review

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of Information Collection.

**SUMMARY:** The Commodity Futures Trading Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

**ADDRESS:** Persons wishing to comment on this information collection should contact Katie Lewin, Office of Management and Budget, Room 3235, NEOB, Washington, D.C. 20503, (202) 395-7231. Copies of the submission are available from Joseph G. Salazar, Agency Clearance Officer, (202) 254-9735.

Title: Regulations and Forms Pertaining to the Financial Integrity of the Marketplace
Control number: 3038-0024
Action: Reinstatement
Respondents: Businesses (excluding small businesses)
Estimated annual burden: 34,436
Estimated number of respondents: 3,152

Issued in Washington, D.C., on February 5, 1985.

Jean A. Webb,

*Secretary of the Commission.*

[FR Doc. 85-3160 Filed 2-7-85; 8:45 am]

BILLING CODE 6351-01-M

### New York Cotton Exchange U.S. Dollar Index Futures Contract

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of availability of the terms and conditions of proposed commodity futures contract.

**SUMMARY:** The New York Cotton Exchange ("NYCE") has applied for designation as a contract market in the U.S. Dollar Index. The Commodity Futures Trading Commission ("Commission") has determined that the terms and conditions of the proposed futures contract are of major economic significance and that, accordingly, making available the proposed contract for public inspection and comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

**DATE:** Comments must be received on or before April 9, 1965.

**ADDRESS:** Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the NYCE U.S. Dollar Index.

**FOR FURTHER INFORMATION CONTACT:** Naomi Jaffe, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254-7227.

A copy of the terms and conditions of the proposed NYCE U.S. Dollar Index futures contract will be available for inspection at the Office of the

Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the NYCE in support of its application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1983)), except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by the NYCE in support of its application, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by April 9, 1985.

Issued in Washington, D.C., on February 4, 1985.

**Jean A. Webb,**

*Secretary to the Commission.*

[FR Doc. 85–3162 Filed 2–7–85; 8:45 am]

BILLING CODE 6351-01-M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### DOD Avisory Group on Electron Devices; Advisory Committe Meeting

**SUMMARY:** Working Group A (Mainly Mocrowave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

**DATE:** The meeting will be held at 9:00 a.m., Wednesday, March 20, 1985.

**ADDRESS:** The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, One Crystal Park, Suite 307, Arlington, Virginia 22202.

**FOR FURTHER INFORMATION CONTACT:** Harold Summer, AGED Secretariat, 201 Varick Street, New York 10014.

**SUPPLEMENTARY INFORMATION:** The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. II section 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

**Patricia H. Means,**

*OSD Federal Register Liaison Officer, Department of Defense.*

February 5, 1985

[FR Doc. 85–3259 Filed 2–7–85; 8:45 am]

BILLING CODE 3810-01-M

### Department of the Navy

### Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the David W. Taylor Naval Ship Research and Development Center (DTNSRDC) Review Team of the Naval Research Advisory Committee Panel on Laboratory Oversight will meet on February 25–27, 1985, at the David W. Taylor Naval Ship Research and Development Center, Carderock, Maryland. The first session of the meeting will commence at 9:00 a.m. and terminate at 5:00 p.m. on February 25. The second session will commence at 9:00 a.m. and terminate at 4:00 p.m. on February 26. The third session will commence at 9:00 a.m. and terminate at 10:00 a.m. on February 27. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to examine the scientific, technical, and engineering health of DTNSRDC. The entire meeting will consist of classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified purusant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M.B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217–5000. Telephone number (202) 696–4870.

Dated: February 4, 1985.

**William F. Roos, Jr.,**

*Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.*

[FR Doc. 85–3249 Filed 2–7–85; 8:45 am]

BILLING CODE 3810-AE-M

## DEPARTMENT OF EDUCATION

### Office of Elementary and Secondary Education

### Indian Education Programs; Formula Grants; Local Educational Agencies and Tribal Schools

**AGENCY:** Department of Education.

**ACTION:** Notice of Extension of Closing Date for Transmittal of New Applications for Fiscal Year 1985 Assistance Under the Formula Grants—Local Educational Agencies and Tribal Schools Program.

**SUMMARY:** This notice extends the closing date of November 23, 1984 to March 1, 1985 for the transmittal of new applications under the Formula Grants—Local Educational Agencies and Tribal Schools Program (84.060A). The application notice for this program published in the **Federal Register** on July 30, 1984 (49 FR 30344) provides detailed information concerning this program.

**SUPPLEMENTARY INFORMATION:** Although prior to fiscal year 1985, the Department generally had established a closing date in March, the Department established a November closing date for fiscal year 1985 awards with the intent of providing an earlier notification of and distribution of awards to successful applicants.

However, the Department has determined that many eligible applicants, as a result of the earlier closing date this year, encountered substantial difficulties in planning projects, preparing applications, and

obtaining required local and State clearances by the November closing date (which also occurred during the Thanksgiving recess). As a consequence, many eligible applicants were either unable to meet the closing date or submitted applications for projects that had been hastily planned. The extension of the closing date to March 1, 1985 will permit all eligible applicants to have an opportunity to apply or to amend their applications at their discretion. This extension will not substantially alter the schedule for issuance of grants.

**FOR FURTHER INFORMATION CONTACT:** Inquiries concerning this extension should be addressed to Adrion Baird, Indian Education Programs, U.S. Department of Education, Office of Elementary and Secondary Education, Room 2177, FOB-6, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone (202) 732-1890.

(20 U.S.C. 241aa-241ff)

(Catalog of Federal Domestic Assistance No. 84.060, Formula Grants to Local Educational Agencies and Tribal Schools)

Dated: February 6, 1985.

**Lawrence F. Davenport,**

*Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. 85-3397 Filed 2-7-85; 8:45 am]

BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### Verification of Extended Burnup Capability of Westinghouse; Optimized Fuel Assembly Design; Notice of a Cooperative Agreement

**Summary**

The Department of Energy announces that, pursuant to 10 CFR 600.7(b), eligibility for a cooperative agreement to extend the burnup of two Optimized Fuel Test Assemblies to 52,500 MWD/MTU and to report the results of post irradiation examinations has been restricted to the Westinghouse Electric Company, Nuclear Fuels Division, Pittsburgh.

**Background**

For several years the Department has been engaged in a program of extending the burnup of nuclear fuel in reactor powerplants by about 50 percent. For pressurized water reactors this has meant raising the batch average discharge burnup from 33,000 MWD/MTU to 50,000 MWD/MTU and for boiling water reactors from 28,000 MWD/MTU to 45,000 MWD/MTU. Through cost sharing contracts, mostly with the electric power utilities, all five domestic suppliers of nuclear fuel have been involved in this program. In September 1984, Westinghouse completed its subcontract with the Virginia Electric and Power Company, a contractor to the Department, bringing a 17 × 17 fuel assembly to a burnup of about 42,500 MWD/MTU. The other four domestic suppliers have contining programs, the longest lasting until 1992. This agreement will bring the burnup of Westinghouse Optimized Fuel Test Assemblies to 52,500 MWD/MTU by 1988 at the Alabama Power Company's Farley plant.

*Solicitation Number: DE-FC01-85NE34131*

**Scope of Project**

The project consists of the irradiation of two Westinghouse Optimized Fuel Assemblies at the Alabama Power Company's Farley plant from the present burnup of 39,600 MWD/MTU to 52,500 MWD/MTU and the post irradiation examination of components of these assemblies both nondestructively and destructively. The results of these examinations and the results of previous characterizations, power histories, and examinations will be reported and made available to the National Fuel Performance Data Base.

For Further Information Contact: Dr. Peter N. Lang, NE-14, U.S. Department of Energy, Room E-455, Germantown, MD 20545, (301) 353-3313.

Issued in Washington, D.C., on February 1, 1984.

**David G. Newman,**

*Director, Office of Procurement Operations.*

[FR Doc. 85-3336 Filed 2-6-85; 1:28 pm]

BILLING CODE 6450-01-M

## ENVIRONMENTAL PROTECTION AGENCY

**[OPTS-59181A; FRL-2774-2]**

### Certain Chemicals; Approval of Test Marketing Exemption

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces EPA's approval of an application for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME-85-14. The test marketing conditions are described below.

**EFFECTIVE DATE:** January 30, 1985.

**FOR FURTHER INFORMATION CONTACT:** Candy Brassard, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-609B, 401 M St. SW., Washington, D.C. 20460, (202-382-3394).

**SUPPLEMENTARY INFORMATION:** Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-85-14. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. Production volumes must not exceed those specified in the application.

The following additional restrictions apply to TME-85-14. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME. In addition, the Company shall maintain the following records until five years after the dates they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity of the TME substance produced and must make these records available to EPA upon request.

2. The applicant must maintain records of the dates of shipment to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

**TME 85-14**

*Date of Receipt:* December 21, 1984.

*Notice of Receipt:* January 4, 1985 (50 FR 545).

*Applicant:* Confidential.

*Chemical:* (G) Tri-substituted triazine.

*Use:* (G) Polyolefin additive; open, non-dispersive.

*Production Volume:* Confidential.

*Number of Customers:* Confidential.
*Worker Exposure:* Confidential.
*Test Marketing Period:* One year.
*Commencing on:* January 30, 1985.
*Risk Assessment:* No significant health or environmental concerns were identified. Therefore, the test market substance will not present any unreasonable risk of injury to health or the enviroment.
*Public Comments:* None.
The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its funding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: January 30, 1985.

**Don R. Clay,**

*Director, Office of Toxic Substances.*

[FR Doc. 85-3224 Filed 2-7-85; 8:45 am]

BILLING CODE 6560-50-M

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**[OPTS-51557; FRL-2774-4]**

## Certain Chemicals; Premanufacture Notices

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of fifteen PMNs and provides a summary of each.

**DATES:** Close of Review Period:
P 85-442 and 85-443: April 24, 1985
P 85-444, 85-445 and 85-446: April 27, 1985
P 85-447, 85-448 and 85-449: April 28, 1985
P 85-450, 85-451, 85-452, 85-453 and 85-454: April 29, 1985
P 85-455 and 85-456: April 30, 1985
Written comments by:
P 85-442 and 85-443: March 25, 1985
P 85-444, 85-445 and 85-446: March 28, 1985
P 85-447, 85-448 and 85-449: March 29, 1985
P 85-450, 85-451, 85-452, 85-453 and 85-454: March 30, 1985
P 85-455 and 85-456: March 31, 1985

**ADDRESS:** Written comments, identified by the document control number "[OPTS-51557]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M St., SW., Washington, DC 20460 (202-382-3532).

**FOR FURTHER INFORMATION CONTACT:** Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M St., SW., Washington, DC 20460 (202-382-3725).

**SUPPLEMENTARY INFORMATION:** A nonsubstantive change in the prefixes is being initiated for information published under sections 5(d)(2) and 5(h)(6) of the Toxic Substances Control Act (TSCA). The notices will contain essentially the same information but the prefixes to the specific number assignment will appear in an abbreviated form. Prefixes under the modified format will use the letters "P" (PMN), "T" (TMEA) and "Y" (Polymer Exemption). The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

**P 85-442**

*Manufacturer.* American Hoechst Corporation.
*Chemical.* (G) 2-Naphthalenediazonium, 5-sulfo, substituted.
*Use/Production.* (S) Site-limited intermediate. Prod. range: Confidential.
*Toxicity Data.* No data submitted.
*Exposure.* Manufacture: Dermal, a total of 4 workers, up to 4 hrs/da, up to 100 da/yr.
*Environmental Release/Disposal.* 140 kg released to water reaction liquor. Disposal by navigable waterway and biological treatment facility.

**P 85-443**

*Manufacturer.* Confidential.
*Chemical.* (G) Bis(substituted alkyl)disulfide.
*Use/Production.* (S) Industrial intermediate. Prod. range: 30,000-40,000 kg/yr.
*Toxicity Data.* Acute oral: >5,000 mg/kg; Irritation: Skin—Severe, Eye—Mild; Ames Test: Non-mutagenic.
*Exposure.* Manufacture and processing: Dermal, a total of 4 workers, up to 1½ hrs/da, up to <225 da/yr.
*Environmental Release/Disposal.* 1.8 to 5.7 kg/batch released. Disposal decision may vary.

**P 85-444**

*Manufacturer.* Reichhold Chemicals, Inc.
*Chemical.* (G) Aromatic amidoamine.
*Use/Production.* (S) Industrial and commercial curing agent for epoxy resins. Prod. range: Confidential.
*Toxicity Data.* No data submitted.
*Exposure.* Manufacture: Dermal, a total of 16 workers, up to 40 hr/yr.
*Environmental Release/Disposal.* 0.5 to 2.5 kg/batch released to land. Disposal by incineration and landfill.

**P 85-445**

*Manufacturer.* Confidential.
*Chemical.* (G) Unsaturated polyester.
*Use/Production.* (G) Potting Compound. Prod. range: Confidential.
*Toxicity Data.* No data submitted.
*Exposure.* Confidential.
*Environmental Release/Disposal.* Confidential.

**P 85-446**

*Manufacturer.* Nor-Am Chemical Company.
*Chemical.* (S) 2,3-isopropylidene dioxyphenol.
*Use/Production.* (G) Bendiocarb manufacture. Prod. range: Confidential.
*Toxicity Data.* Acute oral: Male and female >4,600 mg/kg; 16 Day subacute: 1,280 mg/kg; Ames Test: Non-mutagenic $EC_{50}$ 24 hr (Daphnia Magna): 52.1 mg/1; $EC_{50}$ 48 hr (Daphnia Magna): 25.4 mg/1; $LC_{50}$ 96 hr (Rainbow trout): 10 mg/1.
*Exposure.* Manufacture: Inhalation, a total of 2 workers, up to 4 hrs/da.
*Environmental Release/Disposal.* 0.5 kg/batch released to air. Disposal by dust control.

**P 85-447**

*Manufacturer.* Confidential.
*Chemical.* (S) Polymer of 4,4'-isopropylidenedicyclohexanol-epichlorohydrin, terephthalic acid, isophthalic acid, adipic acid, tetramethyl ammonium chloride, linseed fatty acid.
*Use/Production.* (S) Industrial hi solids coating enamel (low V.O.C. coating). Prod range: 51,000-90,000 kg/yr.
*Toxicity Data.* No data submitted.
*Exposure.* Manufacture and processing: Dermal, a total of 6 workers, up to 14 hrs/da, up to 24 da/yr.
*Environmental Release/Disposal.* Less than 5 kg/batch released to land. Disposal by publicly owned treatment works (POTW) and landfill.

P 85-448

*Manufacturer.* Confidential.
*Chemical.* (G) Tetra-substituted-biphenol.
*Use/Production.* (G) Chemical intermediate. Prod. range: Confidential.
*Toxicity Data.* No data submitted.
*Exposure.* Confidential.
*Environmental Release/Disposal.* Confidential.

P 85-449

*Importer.* Confidential.
*Chemical.* (G) Phosphorous acid ester.
*Use/Import.* (S) Industrial stabilizer for thermoplastics. Import range: 900-2,700 kg/yr.
*Toxicity Data.* No data submitted.
*Exposure.* No exposure expected.
*Environmental Release/Disposal.* No release expected.

P 85-450

*Manufacturer.* Confidential.
*Chemical.* (G) Alkyd resin.
*Use/Production.* (S) Alkyd resin used in making paint. Prod. range: Confidential.
*Toxicity Data.* No data submitted.
*Exposure.* Confidential.
*Environmental Release/Disposal.* Confidential.

P 85-451

*Manufacturer.* Confidential.
*Chemical.* (G) Alkyd resin.
*Use/Production.* (S) Alkyd resin coverted into paint. Prod. range: Confidential.
*Toxicity Data.* No data submitted.
*Exposure.* Confidential.
*Environmental Release/Disposal.* Confidential.

P 85-452

*Manufacturer.* Confidential.
*Chemical.* (G) Alkyd resin.
*Use/Production.* (S) Alkyd resin converted into paint. Prod. range: Confidential.
*Toxicity Data.* No data submitted.
*Exposure.* Confidential.
*Environmental Release/Disposal.* Confidential.

P 85-453

*Manufacturer.* Confidential.
*Chemical.* (G) Alkyd resin.
*Use/Production.* (S) Alkyd resin converted into paint. Prod. range: Confidential.
*Toxicity Data.* No data submitted.
*Exposure.* Confidential.
*Environmental Release/Disposal.* Confidential.

P 85-454

*Manufacturer.* Confidential.
*Chemical.* (G) Tetra-substituted-biphenol.
*Use/Production.* (G) Chemical intermediate. Prod. range: Confidential.
*Toxicity Data.* No data submitted.
*Exposure.* Confidential.
*Environmental Release/Disposal.* Confidential.

P 85-455

*Importer.* American Hoechst Corporation.
*Chemical.* (S) Palm kernel acids, 2-sulfoethyl ester, sodium salt.
*Use/Import.* (S) General use emulsifier. Import range: 50,000-75,000 kg/yr.
*Toxicity Data.* Irritation: Skin—Non-irritant. Eye—Moderate.
*Exposure.* Import: Dermal and inhalation, up to 500 manhours/yr.
*Environmental Release/Disposal.* No data submitted.

P 85-456

*Manufacturer.* Confidential.
*Chemical.* (G) Substituted phenylazopyridone trisulfonic acid, alkali metal salt.
*Use/Production.* (S) Dye. Prod. range: Confidential.
*Toxicity Data.* Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Minimal: Skin sensitization: Non-sensitizer; Ames test: Unequivocal negative; $LC_{50}$ 24 hr (Rainbow trout): >400 mg/1; $LC_{50}$ 48 hr (Rainbow trout): >400 mg/1; $LC_{50}$ 72 hr (Rainbow trout): >400 mg/1; $LC_{50}$ 96 hr (Rainbow trout): >400 mg/1; $EC_{50}$ 24 hr (Daphnia magna): >400 mg/1; $EC_{50}$ 48 hr (Daphnia magna): >400 mg/1; Green algae test: No observed effect concentration—100 mg/1; Lowest significant effect concentration: 180 mg/1; Median effective concentration, biomass: 410 mg/1.
*Exposure.* Confidential.
*Environmental Release/Disposal.* Confidential. Disposal by navigable waterway.

Dated: February 1, 1985.

**Linda A. Travers,**

*Acting Director, Information Management Division.*

[FR Doc. 85-3222 Filed 2-7-85; 8:45 am]
BILLING CODE 6560-50-M

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**[OPTS-59704; FRL-2774-5]**

## Certain Chemicals; Premanufacture Notices

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of four such PMNs and provides a summary of each.

**DATES:** Close of Review Period:

Y 85-14: February 17, 1985
Y 85-15 and 85-16: February 18, 1985
Y 85-17: February 19, 1985

**FOR FURTHER INFORMATION CONTACT:** Wendy Cleland-Hamnett, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M. St., SW., Washington, DC 20460, (202-382-3725).

**SUPPLEMENTARY INFORMATION:** A nonsubstantive change in the prefixes is being initiated for information published under sections 5(d)(2) and 5(h)(6) of TSCA. The notices will contain essentially the same information but the prefixes to the specific number assignment will appear in an abbreviated form. Prefixes under the modified format will use the letters "Y" (Polymer Exemption), "P" (PMN) and "T" (TMEA). The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemption received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 85-14

*Manufacturer.* Confidential.
*Chemical.* (G) Rosin-modified phenolic resin.
*Use/Production.* (S) Industrial heat set web offset printing inks. Prod. range: Confidential.
*Toxicity Data.* No data on the PMN substance submitted.
*Exposure.* Manufacture: Dermal and inhalation, a total of 4 workers.
*Environmental Release/Disposal.* Less than 0.1 kg/batch released to water with less than 4 kg/batch to land. Disposal by POTW and sanitary landfill.

**Y 85–15**

*Manufacturer.* Enterprise Companies.

*Chemical.* (S) Polymer of soybean oil, pentaerythritol, phthalic anhydride, intermediate, 1,2-propanediol, 2,4-tolylene diisocyanate and 2,6-tolylene diisocyanate.

*Use/Production.* (S) Commercial and consumer binder in urethane varnishes and paints, primarily in aersol spray cans, possibly as a floor sealer. Prod. range: 75,000 kg/yr.

*Toxicity Data.* No data submitted.

*Exposure.* No data submitted.

*Environmental Release/Disposal.* No data submitted.

**Y 85–16**

*Manufacturer.* Enterprise Companies.

*Chemical.* (S) Polymer of phthalic anhydride, trimethylolpropane and tone 0200 polycaprolactone diol.

*Use/Production.* (S) Industrial and commerical crosslinking agent for urethane type coatings, primarily but not exclusively for concrete floors. Prod. range: 2,000–6,000 kg/yr.

*Toxicity Data.* No data submitted.

*Exposure.* No data submitted.

*Environmental Release/Disposal.* No data submitted.

**Y 85–17**

*Manufacturer.* Confidential.

*Chemical.* (G) Ethylene terpolymer.

*Use/Production.* (S) Industrial and consumer use for film, blow molding, extrusion and sheeting. Prod. range: Confidential.

*Toxicity Data.* No data submitted.

*Exposure.* No data submitted.

*Environmental Release/Disposal.* No data submitted.

Dated: February 1, 1985.

**Linda A. Travers,**

*Acting Director, Information Management Division.*

[FR Doc. 85–3220 Filed 2–7–85; 8:45 am]

BILLING CODE 6560–50–M

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**[OPTS–59180B; FRL–2774–7]**

## Certain Chemical; Approval of Test Marketing Exemption

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces EPA's approval of an application for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). TME–85–13. The test marketing conditions are described below.

**EFFECTIVE DATE:** January 30, 1985.

**FOR FURTHER INFORMATION CONTACT:** Charlotte White, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611B, 401 M St. SW., Washington, DC 20460, (202–475–8992).

**SUPPLEMENTARY INFORMATION:** Section 5(h)1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury

EPA hereby approves TME–85–13. EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the TME application, and for the time period and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. The production volume must not exceed that specified in the application

The following additional restrictions apply to TME–85–13. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME. In addition, the Company shall maintain the following records until five years after the dates they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity of the TME substance produced and must make these records available to EPA upon request.

2. The applicant must maintain daily records of the number of workers exposed and the duration of exposure.

3. The applicant must maintain records of determinations that the gloves are impervious to the TME substance.

4. The applicant must maintain records of names of persons who wear impervious gloves and chemical safety goggles during manufacturing of the TME substance.

5. The applicant must maintain records of the dates of shipment to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

6. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

**TME 85–13**

*Date of Receipt:* December 20, 1984.

*Notice of Receipt:* December 28, 1984 (49 FR 50447).

*Applicant:* Uniroyal, Inc.

*Chemical:* (G) Isocyanate terminated polyurethane prepolymer.

*Use:* (G) Customer evaluation of end products.

*Production Volume:* 45,000 kilograms.

*Number of Customers:* One.

*Worker Exposure:* Manufacture: A total of 3 workers for up to 4 hours per day for 20 days. Use: A total of 8 workers for an average of 0.5 hours per person for about 2 months actual operation time.

*Test Marketing Period:* Four months. *Commencing on:* January 30, 1985.

*Risk Assessment:* The Agency has identified potential adverse health effects associated with exposure to residuals in the TME substance. However, under the conditions outlined above and the restrictions below, the estimated worker exposure to the test market substance will not be significant. Therefore, the test market substance will not pose an enreasonable risk to health during manufacturing and use. EPA has identified potential environmental concerns. However, estimated releases of the test market substance will be below levels of concern. Therefore, under these conditions, the test market substance will not pose any unreasonable environmental risk.

*Additional Restrictions:* The workers are required to wear impervious gloves and chemical safety goggles during operations that involve manufacturing of the substance.

The gloves must be determined by the applicant to be impervious to the TME substance under the conditions of exposure, including the duration of exposure. The applicant shall make this determination either by testing the gloves under the conditions of exposure or by evaluating the specifications provided by the manufacturer of the gloves. Testing or evaluation of specifications shall include consideration of permeability, penetration, and potential chemical and mechanical degradation of the gloves by the TME substance and associated chemical substances.

*Public Comments:* None.

The Agency reserves the right to rescind approval or modify the

conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: January 30, 1985.

**Don R. Clay,**

*Director, Office of Toxic Substances.*

[FR Doc. 85-3218 Filed 2-7-85; 8:45 am]

BILLING CODE 6560-50-M

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[RD-4-FRL-2775-4]

## Health Assessment Documents

**AGENCY:** Environmental Protection Agency.

**ACTION:** Call for information and data.

**SUMMARY:** The Environmental Criteria and Assessment Office of the U.S. Environmental Protection Agency is assessing the health effects associated with ambient air exposures to the following.

Ammonia
Chlorine
Hydrogen Sulfide
Naphthalene
Phenol
Propylene and Propylene Oxide
Styrene
Toluene Diisocyanate
Woodstove and Fireplace Emissions
Zinc and Zinc Oxide

Interested parties are invited to assist EPA in developing and refining a health information base for these chemicals. To be considered for inclusion in health assessment documents, all submitted data and information must be limited to published material, although information that has been accepted for publication or is in a form for presentation at scientific meetings will be reviewed.

**DATE:** All communications and information must be received by close of business March 15, 1985.

**ADDRESS:** Address all communications and information to: Project Officer for HAPS, Environmental Criteria and Assessment Office, MD-52, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

**FOR FURTHER INFORMATION CONTACT:** Ms. Diane Ray, Environmental Criteria and Assessment Office, MD-52, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

Dated: January 30, 1985.

**Bernard D. Goldstein,**

*Assistant Administrator for Research and Development.*

[FR Doc. 85-3216 Filed 2-7-85; 8:45 am]

BILLING CODE 6560-50-M

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[OW-1-FRL-2773-6]

## Petition Requesting Sole Source Aquifer Designation; Request for Public Comment

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of receipt of petition, public comment requested.

**SUMMARY:** A Brimfield, Massachusetts citizens group has submitted a petition under section 1424(e) of the Safe Drinking Water Act (42 U.S.C. 300 f. 300 h-3(e). Pub. L. 93-523) requesting the U.S. Environmental Protection Agency (EPA to designate a portion of the aquifer underlying the towns of Brimfield, Monson, Palmer, and Warren, Massachusetts (herein referred to as the Quaboag River Valley Aquifer) as the sole or principal drinking water source for the area.

If EPA so designates the aquifer, no commitment for Federal financial assistance may be entered into for any project which EPA determines may contaminate the aquifer through a recharge zone so as to create a significant hazard to public health. EPA is hereby inviting public comment on the requested designation.

**DATES:** Comments on the requested designation must be received within sixty days of the publication of this notice. If sufficient public interest is expressed, a public hearing may be scheduled for the requested designation. The Regional Administrator will give widespread notice of such a hearing.

**ADDRESSES:** Written comments should be sent to Jerome J. Healey, Chief, Water Supply Branch, EPA, Region I, JFK Federal Building, Boston, Massachusetts 02203, telephone: (617) 223-6486.

Background information on the requested designation including the original petition and attachments, will be available for inspection by the public at the EPA, Region I Library, Room B121, JFK Federal Building, Boston, MA 02203, telephone: (617) 223-4017, from the hours of 9:00 a.m. to 5:00 p.m. and at the Brimfield, Massachusetts Town Library, Main Street, Brimfield, MA 01010, telephone: (413) 245-3518, on Mondays from 6:00 p.m. to 9:00 p.m. and on Wednesdays, Thursdays, and Saturdays from 2:00 p.m. to 6:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Gregory P. Charest (617) 223-5529, Region I, EPA, JFK Federal Building, Boston, MA 02203.

**SUPPLEMENTARY INFORMATION:** On February 5, 1984, EPA, Region I received a petition from a Brimfield, Massachusetts citizens group. A summary of the petition is reprinted below.

### Designation of Sole or Principal Source Aquifer Area

1. *Why I am interested in the EPA's determination.* I am president of a grass-roots environmental organization who is trying to protect the current high quality of the environment in this area. We began an educational program to inform residents who drink water from this aquifer of the potential danger of aquifer contamination from a proposed regional hazardous waste facility. The sole source aquifer project was just one of many educational projects carried out by our organization.

2. *Why I believe contamination of the aquifer would result in a significant hazard to public health.* I believe that events at the proposed regional hazardous waste facility such as leachate migration, leaks, spills, fire, explosions, emission of toxic gas/mists, erosion and planned and unplanned discharges into the hydrogeological cycle of this area will cause significant hazard to public health by raising the contaminant level in the aquifer to exceed maximum contaminant level standards promulgated as the National Primary Drinking Water Regulations.

3. *The aquifer and its location.* The segment of the aquifer which I am petitioning to protect is a segment of a very large aquifer identified on the Massachusetts Department of Environmental Quality Engineering (DEQE) 1982 Water Supply Protection Atlas. (See photostat copy from "Groundwater Protection Strategy," Mass. DEQE, July 1983). This aquifer is also identified on earlier maps. (See photostat from "Generalized Surfical Geology-Ground Water Favorability Map of the Ware-Quaboag-Quinebaug-French River" published by Water Resources Commission, Commonwealth of Mass., 1962) (Appendix B). The segment which I wish to petition for designation is located within the boundaries of the towns of Brimfield, Monson, Palmer and Warren. (See photostat from the DEQE's 1982 Water Supply Protection Atlas with Water Supply and Aquifer Overlays) (Appendix C).

In the town of Brimfield the division line for the proposed protected aquifer

should follow the division line between the Thames Basin Overlay and the Chicopee Basin (according to the Drainage Basin Overlay of the Mass. DEQE 1982 Water Supply Protection Atlas) (Appendix D). The portion of the aquifer in the Chicopee Drainage Basin is the portion that I am petitioning for protection.

In the town of Warren the segment is bounded on the southeast by the Thames Drainage Basin and on the north by the northern boundary of the Chicopee Drainage Basins #264 and #292 along Taylor Brook, Tufts Brook and Blodgett Mill Brook where it empties into the Quaboag River.

In Palmer the boundary of the petitioned aquifer includes the segment along the Quaboag River to the northern boundary of Chicopee Drainage Basin #269 and #293, and west to the town of Palmer well fields #11A-227-302A.

The portion in the town of Monson lies along the boundary line between the towns of Palmer and Monson where the aquifer follows the Quaboag River. The town Boundary line is the center of the river. The segment of the aquifer I am petitioning for protection is the portion in Monson lying alongside the Quaboag River.

4. *The location of the area for which I allege the aquifer is the sole or principal source of drinking water.* The aquifer segment is the sole source of drinking water for all private wells in this area. All drinking water in the town of Brimfield is from private wells. There is a community water supply in Meadowbrook Acres Trailer Park in the Fentonville area of Brimfield whose water supply, to the best of my knowledge, is solely from the aquifer. The aquifer is the sole source of drinking water for private wells in the Taylor Brook aquifer area of Brimfield and in the area called West Brimfield in the Blodgett Mill Brook aquifer area, especially along Lyman Barnes Road, Millbrook Road, Dunhamtown Road, and Washington Road.

The aquifer is the sole source of drinking water for private wells in the area of Warren located along Taylor Brook, Tufts Brook, and Blodgett Mill Brook aquifer area. The well field for the West Warren Water District is located in the aquifer area at the junction of Dunham Road and Route 19 (#21A-311-301A).

Any resident in the West Warren district drinking only from that source would get their water solely from this aquifer.

In the Town of Palmer this aquifer would be the sole source of drinking water for residents having private wells along the Quaboag River from the Brimfield, Warren, and Palmer town lines junction to a point where the Palmer town water supply reaches. To the best of my knowledge this includes residents along Route 67 and Park St. in Palmer.

The municipal water supply for the Town of Palmer is located on this segment of the acquifer at a point along the Quaboag River just east of where Chicopee Brook enters the Quaboag River (#11A-227-302A). According to current information available to me, I allege that this segment of the aquifer is the sole source of drinking water for all Palmer residents supplied with municipal water from this well. (As of November 1, 1983 the Town of Palmer has hired a firm to study the aquifer as it relates to Palmer's drinking water. More specific information from the study should be forthcoming.)

5. *The population in the area.* According to the 1980 U.S. Census: Warren 3,777; Brimfield 2,318; Palmer 11,389.

6. *Alternative sources of drinking for the area described.* The Palmer Reservoir (11A-227-301A), according to information in "Water Quality Issues in Mass., Chemical Contamination," DEQE, October 1981, could supply the town water district residents with water for one month if no wells were working. In all other cases there are no alternative drinking water sources for the area described.

7. *The recharge and streamflow source zone (or zones) for the aquifer and their location.* The following information was obtained from the Mass. DEQE's 1982 Water Supply Protection Atlas: Drainage Basin Overlays (Appendix D).

Warren Quadrangle
Chicopee Drainage Basins 262, 264, 267, 270, 292, 260, 277, 273
Wales Quadrangle
Chicopee Drainage Basin 274
Monson Quadrangle
Chicopee Drainage Basins 275, 272, 278
Palmer Quadrangle
Chicopee Drainage Basins 261, 293, 266, 263, 268, 271, 279, 269, 276

8. *Projects which might contaminate the aquifer through the recharge zone.* New England Regional Hazardous Waste Management Facility to be built by the IT Corporation on 200± acres owned by the Mass. Turnpike Authority. (See photostat of Environmental Notificatiion Form and maps) (Appendixes F and G).

9. *Public water systems utilizing water from the aquifer.*

1. West Warren Water District; 319 households; no treatment.

2. Meadowbrook Acres Community Water Supply; 92 homes; no treatment.

3. Palmer Fire District #1; 1200 services; chlorination.

10. *Other petitioners (Appendix H).* Submitted by: Virginia A. Irvine, RFD 210½ Brimfield, Massachusetts 01010, Telephone: (413) 245-3179.

The petition was accompanied by technical data and letters of support from the towns of Warren, Brimfield and Palmer, Massachusetts.

Section 1424(e) of the Safe Drinking Water Act states:

> If the Administrator determines on his own initiative or upon petition that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health; but, a commitment may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

EPA intends to decide whether to make the requested designation at the earliest time consistent with a complete review of the relevant data and information and a full opportunity for public participation. In this regard, the Agency is developing a full factual record and solicits comments, data, and references to sources of information relevant to the determination. In particular, information is sought concerning: (a) The geographical boundaries, hydrogeology, and other characteristics of the aquifer and its recharge zones, (b) the area or areas dependent upon the aquifer for drinking water, (c) the significance of current or anticipated threats to public health that might result from contamination of the aquifer, (d) the prospects that such contamination will occur as the result of current activities or events that are anticipated, (e) the significance of current or anticipated projects receiving Federal financial assistance that may result in contamination of the aquifer and (f) any other relevent information. Comments, data, and references in response to this notice should be submitted in writing to Jerome J. Healey, Chief, Water Supply Branch, EPA, Region I, JFK Federal Building, Boston, MA 02203 within sixty days of the date of this notice. Information concerning the Quaboag River Valley Aquifer will be available at the above addresses at

the EPA Library and the Brimfield Town Library, Brimfield, Massachusetts.

Dated: November 29, 1984.

Michael R. Deland,

*Regional Administrator.*

[FR Doc. 85-3228 Filed 2-7-85; 8:45 am]

BILLING CODE 6560-50-M

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[OPTS-440109; FRL-2774-1]

## TSCA Chemical Testing; Receipt of Data

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces the data submissions received by EPA during the fourth quarter of 1984 from negotiated testing programs accepted by EPA in lieu of requiring testing under section 4 of the Toxic Substances Control Act (TSCA). These submissions include results of certain studies and tests on ten chemical substances or groups of chemicals.

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

**SUPPLEMENTARY INFORMATION:** Section 4(d) of TSCA requires the EPA to issue a notice in the **Federal Register** reporting on any test data received pursuant to test rules promulgated under section 4(a). Although not required by section 4(d), EPA also periodically publishes notices of receipt of data from negotiated testing programs and other industry programs the conduct of which led EPA not to require testing through test rules. This notice announces test data submissions received during the fourth quarter of 1984 from such industry testing programs under TSCA.

### I. Alkyl Phthalates

The Chemical Manufacturers Association (CMA), on behalf of the Phthalate Esters Program Panel, is conducting testing on a number of alkyl phthalates, alkyl diesters of 1,2-benzenedicarboxylic acid, which are primarily used as plasticizers. The CMA's proposal was accepted by the Agency in lieu of a test rule under section 4 of TSCA and is described in the **Federal Register** of October 30, 1981 (46 FR 53775).

On November 20, 1984, EPA received the results of an algal (*Selanastrum capricornutum*) acute toxicity study which determined the $EC_{50}$ for dimethyl phthalate (DMP, CAS No. 131-11-3), diethyl phthalate (DEP, CAS No. 84-66-2), di-*n*-butyl phthalate (DBP, CAS No. 84-74-2), butyl benzyl phthalate (BBP, CAS No. 85-68-7), dihexyl phthalate (DHP, CAS No. 146-50-9), butyl-2-ethylhexyl phthalate (BOP, CAS No. 85-69-8), di(*n*-hexyl, *n*-octyl, *n*-decyl) phthalate (610P, CAS No. 25724-58-7), di-2-ethylhexyl phthalate (DEHP, CAS No. 117-81-7), diisooctyl phthalate (DIOP, CAS No. 27554-26-3), diisononyl phthalate (DINP, CAS No. 28553-12-0), diisodecyl phthalate (DIDP, CAS No. 26761-40-0), diundecyl phthalate (DUP, CAS No. 3648-20-2), ditridecyl phthalate (DTDP, CAS No. 119-06-2), and di(heptyl, nonyl, undecyl) phthalate (711P, no CAS No.). The Agency also received the results of a *Daphnia magna* 21-day flow-through chronic toxicity test on DMP, DEP, DBP, BBP, DHP, BOP, 610P, DEHP, DIOP, DINP, 711P, DIDP, DUP, AND DTDP. Additionally, in October 1984, EPA received the results of a comparative *in vivo* metabolism study in monkeys, rats, and mice of DEHP. Eastman Kodak Company, on behalf of CMA, submitted the results of an *in vivo* metabolism study of DEHP in rats.

### II. Acrylamide

The manufacturers of acrylamide (CAS No. 79-06-1) sponsored testing of this substance which is used as a chemical intermediate and a soil grouting agent.

EPA issued a decision not to develop a test rule for acrylamide, July 31, 1984 (49 FR 30592), based partially on the completion of this study and review of preliminary test results.

In October 1984, EPA received the results of a 2-year chronic toxicity/oncogenicity test on rats.

### III. 4-Chlorobenzotrifluoride

Occidental Chemical Corporation is conducting a testing program on 4-chlorobenzotrifluoride (4-CBTF, CAS No. 98-56-6), a chemical used in the production of dinitroaniline herbicides.

A summary of this testing program was published in the decision to adopt this negotiated testing program on July 18, 1983 (48 FR 32730).

On November 15, 1984, EPA received the results of an air fate/chemical fate study which reported the atmospheric lifetime of 4-CBTF.

### IV. 2-Chlorotoluene

Occidental Chemical Corporation is conducting a negotiated testing program on 2-chlorotoluene (CAS No. 95-49-8), a solvent for agricultural pesticides and a general solvent replacement for 1,2-dichlorobenzene. Occidental's testing program was accepted by the Agency in lieu of a test rule under section 4 of TSCA and is described in the **Federal Register** of April 28, 1982 (47 FR 18172).

On October 9, 1984, EPA received the results of a metabolite identification study in the fathead minnow.

### V. Methyl Isobutyl Ketone/Methyl Ethyl Ketone

The Ketones Program Panel of the Chemical Manufacturers Association is conducting a testing program on methyl isobutyl ketone (MIBK, CAS No. 108-10-1) and methyl ethyl ketone (MEK, CAS No. 78-93-3) to characterize their potential health effects. These two compounds are used as part of various mixed solvents in coatings and adhesives. The Ketones Program Panel testing program was accepted by the Agency in lieu of a test rule under section 4 of TSCA and is described in the **Federal Register** of December 29, 1982 (47 FR 58027).

On October 18, 1984, EPA received the results of the following tests on MIBK:

Inhalation teratology evaluation on rats and mice; *Slamonella*/mammalian microsome preincubation mutagenicity assay (Ames test); micronucleus cytogenetic assay in mice; unscheduled DNA synthesis in rat primary hepatocytes; two studies of morphological transformation, using the BALB/3T3 mouse embryo cells assay; and 2 studies using the L5178Y TK mouse lymphoma mutagenesis assay.

Additionally, on the same date, the following studies were received on MEK: A *Salmonella*/mammalian microsome preincubation mutagenicity assay (Ames test), a L5178Y TK mouse lymphoma mutagenesis assay, a study of unscheduled DNA synthesis in rat primary hepatocytes, a micronucleus cytogenetic assay in mice, and a morphological transformation assay using BALB/3T3 mouse embryo cells.

### VI. Isophorone

The Ketones Program Panel of the Chemical Manufacturers Association is conducting health effects testing on isophorone (CAS No. 78-59-1), primarily used in coatings and as a chemical intermediate. This program, accepted by the Agency in lieu of a test rule under section 4 of TSCA is described in the **Federal Register** of January 17, 1984 (47 FR 2012).

On October 18, 1984, EPA received results of a mouse lymphoma mutagenesis assay, an unscheduled DNA synthesis assay in rat primary hepatocytes, and micronucleus cytogenetic assay in mice.

### VII. 4-(1,1,3,3-Tetramethylbutyl) Phenol

The Octylphenol Program Panel of CMA is sponsoring testing on 4-(1,1,3,3-tetramethylbutyl)phenol (TMBP, CAS No. 140-66-9), a surfactant and resin. This testing program, accepted by the Agency in lieu of a test rule under section 4 of TSCA, was summarized in the **Federal Register** of November 15, 1983 (48 FR 51971).

On December 20, 1984, the Agency received the results of: a dynamic 96-hour acute toxicity test on fathead minnow (*Pimephales promelas*), a dynamic 14-day acute toxicity test in rainbow trout (*Salmo gairdneri*), a dynamic 48-hour acute toxicity test on *Daphnia magna*, and a static acute toxicity test to green algae (*Selanastrum capricornutum*). A method validation and solubility study of TMBP in aquatic test waters was also received.

### VIII. Tris(2-Ethylhexyl) Trimellitate

Eastman Kodak Company is conducting a testing program on tris(2-ethylhexyl) trimellitate (TOTM, CAS No. 3319-31-1) a substance used as a speciality plasticizer in electronics insulation.

This program was accepted by the Agency in lieu of a test rule under section 4 of TSCA; details of the program are published in the **Federal Register** of June 4, 1984 (49 FR 23116).

In September 1984, EPA received the results of an *in vivo* absorption and metabolism test in the rat.

### IX. Bis(2-Ethylhexyl) Terephthalate

Eastman Kodak Company is conducting a testing program on bis(2-ethylhexyl) terephthalate (DOTP, CAS No. 6422-86-2), a plasticizer for polyvinyl chloride and related plastics. This program was accepted by the Agency in lieu of rulemaking under section 4 of TSCA, and is summarized in the **Federal Register** of June 4, 1984 (49 FR 23110).

In September 1984, EPA received the results of an *in vivo* absorption and metabolism study in rats.

### X. Public Record

EPA has established a public record for this quarterly receipt of data notice (docket number OPTS-44010). This record includes copies of all studies reported in this notice. The record is available for inspection from 8 a.m. to 4 p.m. Monday through Friday, except legal holidays, in the OPTS reading room, E-107, 401 M Street, SW., Washington, D.C. 20460.

Dated: January 29, 1985.

**Don R. Clay,**

*Director, Office of Toxic Substances.*

[FR Doc. 85-3226 Filed 2-7-85; 8:45 am]

BILLING CODE 6560-50-M

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**[ER-FRL-2775-2]**

## Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared January 21, 1985 through January 25, 1985 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act, as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5075/76. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in **Federal Register** dated October 19, 1984 (49 FR 41108).

### Draft EISs

ERP No. D-BLM-K65065-NW, Rating EC2, Walker Planning Area, Resource Mgmt. Plan, NY. Summary: EPA has requested additional analysis to resolve concerns with the adequacy of measures for protection for water bodies and riparian vegetation, the completeness of the air quality impacts analysis, the completeness of the herbicides use discussion; and the clarity of rationale for recommending no wilderness study areas.

ERP No. DS-COE-D32012-VA, Rating EC2, Norfolk Harbor and Channels Deepening and Dredged Material Disposal Site, Designation, VA. Summary: EPA identified several concerns with the impacts of the proposed project on biological resources from sediment transport and turbidity. EPA also noted possible impacts to recreational areas from sediment transport.

ERP No. D-COE-E36150-FL, Rating EC2, Kissimmee River Basin Flood Control Plan, FL. Summary: EPA disagrees with the document's conclusions and recommendations regarding resource management for the basin and requested that they be reconsidered before any final decisions are reached. EPA believes that there is a Federal interest in restoring water quality as well as fish and wildlife values in the basin. EPA expressed environmental concern about a policy in this case which appears to preclude Federal involvement in rectifying a situation brought about by previous Federal actions.

ERP No. D-COE-G36125-00, Rating EC2, Lower Boeuf River and Big LaFourche/Big/Colewa Creeks, Flood Control Plan, LA. Summary: EPA expressed environmental concerns regarding continued water quality deterioration in the project area and requested that additional water quality information be added to strengthen the FEIS. EPA also believes that incorporation of nonstructural features, such as conservation easements to preserve and reestablish forested bottomlands, would substantially increase the overall environmental and economic benefits of the project and would be an effective alternative to accomplish the planning objectives. Bottomland hardwood wetlands are extremely important, both environmentally and economically, for flood control, water quality maintenance, fish and wildlife habitat, timber production, and recreation. EPA requested that corrective measures, such as conservation easements, should be added to the preferred alternative.

ERP No. D-DOE-E22001-TN, Rating EO3, Oak Ridge Reservation Central Waste Disposal Facility for Low-Level Radioactive Waste, TN. Summary: This DEIS does not adequately consider the geological karst problems or the possible mitigative actions which would alleviate concerns for potential radioactive contamination of groundwater. The document also inadequately addresses other feasible alternatives for waste disposal. We, therefore, urge that either a draft supplement EIS, or a revised DEIS, be developed by DOE for public and agency review.

ERP No. DS-HUD-K89034-HI, Rating EO2, Kaka'Ako Community Development Plan, Makai Area Plan, Mortgage Insurance, Grants and Rental Housing Subsidies, Oahu Island, HI. Summary: EPA raised objections to proceeding with the proposed project because violations of National Ambient Air Quality Standards are predicted and the EIS lacked specific commitment to mitigation measures that could avoid such violations. EPA considers a violation of the NAAQS to be a very significant adverse impact that should be mitigated.

ERP No. D-IBR-J28012-ND, Rating EC2, Dunn-Nokota Methanol Project, Water Supply Contract Approval, Lake Sakakawea, ND. Summary: EPA expressed concerns about possible carbonyl sulfide emissions and odorous organic compounds and the air model that was used. Additional information on the fate of dredged material was requested.

ERP No. D–SFW–B65001–00, Rating EC2, New England Rivers Atlantic Salmon, Restoration, CT, RI, NH, VT, MA, ME. Summary: EPA identified environmental concerns with impacts of salmon restoration on resident fish and fisheries, and potentially significant impacts associated with the introduction of salmon (via fish passage facilities) to stretches of rivers that may not have been historic salmon waters. EPA requested that these impacts be quantified in the FEIS.

Final EISs

ERP No. F–COE–E32039–GA, Bellville Point Navigation Improvements, Sapelo River, GA. Summary: EPA's review identified a number of environmental concerns, including cumulative impacts, with the proposed project. EPA does not agree with the document's implication that the loss of upland habitat for spoil disposal sites is of such magnitude that open-water disposal should be substituted wherever possible. Our evaluation of the section on rationalizing open-water disposal revealed that it contained a sufficient number of factual errors and misinterpretations, and it failed to note that both the area dredged and the receiving site are disrupted. EPA has no fundamental objections to providing improved navigation to Bellville Harbor, but we are concerned about the manner by which this objective is going to be accomplished.

ERP No. F–COE–G36110–TX, Palo Blanco and Cibolo Creeks Flood Control Plan, TX. Summary: The FEIS adequately responds to EPA's comments issued on the DEIS and no new issues of concern were identified.

ERP No. FS–FHW–C40108–NY, Westside Highway Replacement/I–478 Construction, Battery to 42nd Street, Impact on the Westway Landfill on Fisheries in the Hudson River, Funding and Permit, NY. Summary: EPA's review indicated that the required Section 404 demonstration (showing the proposed project will not inflict an unacceptable adverse effect on the environment due to the loss of striped bass habitat), had not been made and accordingly, EPA recommended that the COE not issue the section 404 permit. EPA indicated that should the COE propose to issue the 404 permit, serious consideration would be given to refer this matter to the Council on Environmental Quality.

ERP No. F1–FHW–E40158–TN, TN–22/N. Martin Bypass Improvement, Illinois Central Gulf Railroad to the Ralston Community, TN. Summary: EPA believes that the FHWA should give additional consideration on implementing specific noise mitigation measures for those receptors that will have significant noise increases. Furthermore, a slight adjustment of the proposed alignment is also recommended to avoid the wetland tract located east of the North Fork Obion River.

Amended Notices

The following review was completed during the week of January 7 through 11, 1985 and should have appeared in the FR Notice published on January 25, 1985.

ERP No. D–HUD–G85177–OK, Rating EC2, Shenandoah Planned Community Development, Mortgage Insurance, OK. Summary: EPA expressed environmental concerns with the potential impacts to air quality (non-attainment for Ozone) and to the potential impacts due to the existence of an abandoned landfill site on and contiguous to the project site. Additional information is requested from the applicant, prior to the release of the FEIS, to more fully assess the related impacts and to assure the environment and the public are fully protected.

The following review was completed during the week of January 14 through 18, 1985 and should have appeared in the FR Notice published on February 1, 1985.

ERP No. D–USN–L11006–WA, Rating E02, Puget Sound Area, Carrier Battle Group Homeporting, Construction and Operation, WA. Summary: EPA requested additional information in the FEIS concerning dredge spoil disposal and mitigation of project impacts. EPA is also concerned about violations of air quality standards in the area of the proposed project.

February 5, 1985.

**David G. Davis,**

*Acting Director, Office of Federal Activities.*

[FR Doc. 85-3298 Filed 2-7-85; 8:45 am]

BILLING CODE 6560-50-M

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[ER-FRL-2775-1]

## Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements filed January 28, 1985 through February 1, 1985 Pursuant to 40 CFR 1506.9.

EIS No. 850041, Final, EPA, NC, Morehead City Ocean Dredged Material Disposal Site, Designation, Carteret County, Due: March 11, 1985, Contact: E. T. Heinen (404) 881-3776.

EIS No. 850042, Draft, FHW, NC, NC-280 Construction, NC-280 and NC 191 Intersection, Mills River to I-26 near Asheville Airport, Henderson and Buncombe Counties, Due: April 1, 1985, Contact: Kenneth Bellamy (919) 755-4346.

EIS No. 850043, Draft, COE, AR, Pine Bluff Harbor Expansion, Pine Bluff Metropolitan Area, Jefferson County, Due: March 25, 1985, Contact: Jerry Scott (601) 634-5432.

EIS No. 850044, Draft, BLM, NM, El Paso Electric 345 kV Springerville to Deming, Transmission Line, C/O/M, Right-of-Way Permit, Due: April 30, 1985, Contact: Jack Edwards (303) 236-1080.

EIS No. 850045, Final, FHW, CA, CA-1/Pacific Coast Highway Improvement, CA-73/MacArthur Boulevard to CA-55/Newport Boulevard, Orange County, Due: March 11, 1985, Contact: O. Glenn Clinton (916) 440-2804.

EIS No. 850046, Final, USN, NY, MA, RI, Battleship Surface Action Group Homeport, Construction and Operation, Due: March 11, 1985, Contact: Commander T. W. Boone (215) 897-6270.

EIS No. 850047, Draft, USN, NV, Fallon Naval Air Station, Master Land Withdrawal, Application for Withdrawal, Churchill Co., Due: March 25, 1985, Contact Dana Sakamoto (415) 877-7573.

Amended Notices

EIS No. 840514, Draft, DOE, CO, Durango/Vanadium Corp. Inactive Uranium/Vanadium Mill Tailing Site, Remedial Actions/Clean-up of Radioactively-Contaminated Material, Durango and La Plata Cos., Due: February 25, 1985, Published FR 11-16-84—Review extended.

EIS No. 850034, Draft, APH, HI, Tri-Fly Complex Eradication Program, Elimination, Due: March 26, 1985, Published FR 1-25-85—Review extended.

EIS No. 850020, Draft, AFS, PA, Allegheny National Forest Land and Resource Management Plan, Due: April 29, 1985, Published FR 1-18-85—Filing date reestablished.

EIS No. 850029, Revised, AFS, AZ, Tonto National Forest Land and Resource Management Plan, Due: April 30, 1985, Published FR 1-25-85—Incorrect status.

Dated: February 5, 1985.

**David G. Davis,**

*Acting Director, Office of Federal Activities.*

[FR Doc. 85-3299 Filed 2-7-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30000/10Q; PH-FRL 2776-5]

## Lindane; Amendment of Notice of Intent To Cancel Pesticide Products Containing Lindane

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Amendment of Notice of Intent to Cancel.

**SUMMARY:** A Notice of Intent to Cancel Pesticide Products Containing Lindane was issued on September 30, 1983. This Notice amends that Notice of Intent to Cancel to change the effective date for the cancellation of the remaining registrations of lindane smoke fumigation devices for indoor use, provided certain additional protective measures are instituted within 30 days of the publication of this Amended Notice. The Environmental Protection Agency has determined that maintenance of the registrations until May 31, 1986, under the conditions specified will not cause unreasonable adverse effects on the environment.

**EFFECTIVE DATE:** February 8, 1985.

**FOR FURTHER INFORMATION CONTACT:** Judith W. Wheeler, Pesticides and Toxic Substances Division, Office of General Counsel (LE-132P), 401 M St., SW., Washington, D.C. 20460 (202-382-7510).

The docket of the administrative hearing (FIFRA Docket No. 524, *et al.*) is avaliable for public inspection in the Office of the Hearing Clerk, Room 3708A, 401 M St., SW., Washington, D.C. from 7:30 a.m. to 4 p.m., Monday through Friday, except legal holidays. An administrative file containing public comments and publicly released Agency documents relating to this action is available for public inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in Rm. 711, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

**SUPPLEMENTARY INFORMATION:**

### I. Introduction

*A. Regulatory Background*

On September 30, 1983, EPA issued a Notice of Intent to Cancel Pesticide Products Containing Lindane which was published in the Federal Register of October 19, 1983 (48 FR 48512). This Notice, in relevant part, states the Administrator's intent to cancel the registrations of lindane smoke fumigation devices for indoor use. The decision to cancel registrations for lindane smoke fumigation devices for indoor use was a result of a careful evaluation of the risks to public health and benefits of this use.

Section 6(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) provides that a Notice of Intent to Cancel does not become a final order of cancellation if a person adversely affected by the Notice properly requests an adjudicatory hearing to contest the cancellation. A registrant, Continental Chemiste Corporation, did request a hearing on the cancellation of the registrations it holds for lindane smoke fumigation devices for indoor use. As a result of discussions between EPA and the remaining registrant of the smoke fumigation devices, Continental Chemiste Corporation, it was agreed that Continental Chemiste Corporation would withdraw its request for a hearing in FIFRA Docket No. 524, *et al.* following amendment of the notice of cancellation to provide that cancellation of registrations of its lindane smoke fumigation devices for indoor use will be effective May 31, 1986.

Continental Chemiste Corporation manufactures two lindane smoke fumigation devices for indoor use, Smo-Cloud and Moth-Cloud, and one, Bug-Tab, for indoor and outdoor use. Smo-Cloud is for general indoor use and Moth-Cloud is for use in closets. Only the indoor uses were cancelled by the September 30, 1983 Notice of Intent to Cancel.

*B. Amendment to the Notice*

This amendment to the September 30, 1983 Notice of Intent to Cancel changes the effective date for the cancellation of the remaining registrations of lindane smoke fumigation devices for indoor use to May 31, 1986, provided an appropriate application to amend registrations to impose certain additional protective measures is received by EPA within 30 days of the publication of this Amended Notice. In order for the registrations of lindane smoke fumigation devices for indoor use to continue until May 31, 1986 under this Notice, the registrant, Continental Chemiste Corporation, must amend its labels to reflect the terms and conditions which are detailed below. They are intended to provide additional protection to persons exposed to lindane smoke fumigation devices for indoor use to reduce the risk of cancer from exposure to the products during the interim period until cancellation becomes effective on May 31, 1986. The Agency has determined such registration will not have unreasonable adverse effects on the environment. Detailed below are specific requirements for registration of lindane smoke fumigation devices for indoor use until May 31, 1986, and the bases for the determination that such sale and use until May 31, 1986, will not have unreasonable adverse effects on the environment. Any other person who seeks to register lindane smoke fumigation devices for indoor use must do so under the terms and conditions required herein, and any such registrations will also be subject to the May 31, 1986 cancellation date. Any such registration could be granted only if the applicant also complies with all other requirements for registration.

### II. Bases for Determinations for Amendment to Cancellation Notice

The September 30, 1983 Notice of Intent to Cancel Pesticide Products Containing Lindane identified the risks associated with the indoor smoke fumigation device use of lindane. Based on the cancellation of registrations of lindane smoke fumigation devices for indoor use effective May 31, 1986 and the label modifications and other terms identified in Unit III of this Amended Notice, the Agency has determined that providing a period of time for the phase out of sales for these devices is consistent with the purpose of the Act and will not have unreasonable adverse effects on the environment.

The current registrations for indoor use permit significant exposure to humans and unacceptably high levels of cancer risk. Therefore, for Smo-Cloud, which has by far the largest volume sales of the three smoke fumigation devices, the revised labeling will limit use to two times per year. In order to further reduce exposure, the period of time for vacating the premises after lighting Smo-Cloud has been increased to 5 hours to allow for settling out of the particles. An aeration period of 2 hours after reentry has been specified to allow for removal of remaining particles in the air. To further reduce exposure the label modifications call for washing of horizontal surfaces, where most of the particulate settles, and require that impermeable gloves be worn during washing to limit dermal exposure to the person doing the washing. For Moth-Cloud, use will also be limited to two times per year and periods for vacating and aeration are specified. Bug-Tab will no longer be available for indoor use, but will continue to be available for outdoor use.

Implementation of these measures will reduce substantially exposure from the indoor use of lindane smoke fumigation devices and will reduce the risk to an acceptable level during the phaseout period. Based on a comparison of the benefits of continued use of the smoke fumigation devices to these reduced risks, the Agency has determined that the continued

registration of these products during the phaseout period will not have unreasonable adverse effects on the environment.

### III. Terms and Conditions for Continued Registration

This Unit of the Amended Notice establishes the terms and conditions governing registration of certain lindane smoke fumigation devices.

In order to allow for the continued registration of Smo-Cloud (Registration No. 495–6), Moth-Cloud (Registration No. 495–8) until May 31, 1986, and Bug-Tab (Registration No. 495–7), the registrant must request amendment to each registration incorporating all of the following terms and conditions, including all of the required labeling modifications.

1. Lindane smoke fumigation devices for indoor use only:

a. For Smo-Cloud and similar products, the label shall state: "Do not use more than two times per year on the same premises."

b. For Smo-Cloud and similar products, the label shall state: "Do not enter rooms for five hours after lighting. Air out rooms for two hours after reentering. After aeration, horizontal surfaces shall be washed. Impermeable gloves shall be worn during washing."

c. For Moth-Cloud and similar products, the label shall state: "Do not use more than two times per year on the same premises." It shall also state: "Closet door shall remain closed for one hour after lighting. Air out closet for one hour after opening door. All clothes in closet must be aired out before wearing."

d. The labels must be revised to meet current standards as specified in 40 CFR 162.10 and all other current standards as specified in 40 CFR 162.10 and all other current requirements applicable to these products. Labels must describe proper handling and disposal, symptoms of poisoning, practical treatment in the event of poisoning, and other warning statements approrpriate to the product's toxicity category.

e. The labels, must state: "Not to be sold after November 30, 1986."

2. Lindane smoke fumigation devices registered for indoor and outdoor use:

a. Lindane smoke fumigation devices registered for indoor and outdoor uses will no longer be registered for indoor use effective March 11, 1985.

b. Bug-Tab and similar products will continue to be registered for outdoor use only when accompanied by labeling which reflects the following limitation: The label must state: "Not for indoor use."

3. After April 15, 1985, lindane smoke fumigation devices for indoor use may not be distributed, offered for sale, held for sale, sold, shipped, or delivered for shipment by any registrant unless the labeling for the product complies with the amended terms of the registration.

4. After May 31, 1986, stocks of lindane smoke fumigation devices for indoor use in the possession of the registrant with labels which comply with the amended terms of registration may not be distributed, offered for sale, held for sale, sold, shipped, or delivered for shipment.

5. Any existing stocks of products within the possession of the registrant after May 31, 1986, and within the possession of distributors other than the registrant, including retailers, after November 30, 1986, must be disposed of in the manner required by the Resource Conservation and Recovery Act.

It is the responsibility of the registrant to notify distributors of this requirement by certified mail and maintain records of such notification until 5 years after such notification is accomplished. Existing stocks are defined in this Amended Notice as lindane smoke fumigation devices for indoor use which were registered products when marketed and which are present within the territorial United States.

6. The use of existing stocks by end-users is allowed to continue until the supply is exhausted.

7. Lindane smoke fumigation devices for indoor use whose registration becomes cancelled pursuant to the September 30, 1983 Notice of Intent to Cancel as amended by this Notice may not be distributed, shipped, delivered for shipment, received for delivery, sold, offered for sale, held for sale, or offered for delivery by or to any person or used or disposed of by any person in any State in any manner which would violate FIFRA section 12 of the product were still registered. For purposes of this paragraph, and FIFRA section 12(a)(1)(B) and (C), the term "statement required in connection with [the product's] registration" shall mean the statement on file with the Administrator in connection with the product's registration on the effective date of cancellation of the product.

### IV. Procedural Matters

This Notice announces the amendment of the September 30, 1983 Notice of Intent to Cancel Pesticide Products Containing Lindane. This action is taken pursuant to the authority granted by section 6(b) of FIFRA and by the Agency's procedural regulations (40 CFR 164.21(b)). This amendment is effective immediately and relates only to the registrations of Continental Chemiste Corporation, Registration Nos. 495–6, 495–7, and 495–8, since those are the only registrations which were not cancelled by operation of law under the terms of the September 30, 1983 Notice of Intent to Cancel.

This Notice of Amendment creates no new opportunity to request a hearing pursuant to section 6 of FIFRA. Section 6(b) provides adversely affected persons the right to request a hearing to challenge a notice of intent to cancel a registration of a pesticide product within 30 days. The Notice of Intent to Cancel the use of lindane was issued on September 30, 1983. This Notice of Amendment merely modifies the terms of the September 30 Notice to change the effective date of cancellation of lindane smoke fumigation devices for indoor use to May 31, 1986 and to allow for the phaseout of stocks of lindane smoke fumigation devices for indoor use in accordance with the terms and conditions contained herein. Therefore, this Notice of Amendment is not a notice of intent to cancel nor can any person be adversely affected by this Notice under the terms of section 6 of FIFRA. Continental Chemiste Corporation may comply with the agreement upon which this Notice is premised by filing with the Hearing Clerk (A–110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, a withdrawal of its request for a hearing in the FIFRA Docket No. 524, *et al.* The company may continue its registrations of Smo-Cloud and Moth-Cloud until May 31, 1986 and its registration of Bug-Tab by submitting a copy of the amended labeling which conforms to the requirements of this Notice by March 11, 1985 to:

By mail: George LaRocca, Product Manager (PM–15), Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring material to: Rm. 204, Crystall Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–2400).

Although Continental Chemiste Corporation, petitioner in the lindane cancellation hearing (FIFRA Docket No. 524, *et al.*), is permitted as a matter of right to amend its objections to the September 30, 1983 Notice to reflect the terms of this Notice of Amendment under 40 CFR 164.22(c), the Administrator expects that the company will, instead, abide by its commitment to withdraw its challenges to the cancellation altogether. Any

amendments to objections which are filed must be received by the Hearing Clerk (A–110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460 within 30 days of the date of publication of this Notice.

Dated: February 4, 1985.

**John A. Moore,**

*Assistant Administrator for Pesticides and Toxic Substances.*

[FR Doc. 85–3333 Filed 2–7–85; 8:45 am]

BILLING CODE 6560–50–M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

**[Docket No. FEMA–REP–2–NY–1]**

### The New York State and Local Emergency Preparedness Site-Specific for the Nine-Mile Point/James A. Fitzpatrick Nuclear Power Generating Stations

**ACTION:** Certification of FEMA findings and determination.

In accordance with the Federal Emergency Management Agency (FEMA) rule 44 CFR Part 350, the State of New York submitted its plans relating to the Nine-Mile Point/James A. Fitzpatrick Nuclear Power Generating Stations to the Director of FEMA Region II on July 15, 1981, for FEMA review and approval. On September 28, 1984, the Regional Director forwarded his evaluation to the Associate Director for State and Local Programs and Support in accordance with section 350.11 of the FEMA rule. Included in this evaluation is a review of the State and local plans around the Nine-Mile Point/James A. Fitzpatrick facilities; an evaluation of the joint exercise conducted on September 15, 1981, August 11, 1982, and September 28, 1983, in accordance with section 350.9 of the FEMA rule; and a public meeting held on November 4, 1981, to discuss the site-specific aspects of the State and local plans around the Nine-Mile Point/James A. Fitzpatrick Nuclear Power Generating Stations in accordance with section 350.10 of the FEMA rule.

Based on the evaluation by the Regional Director and the review by the FEMA Headquarters staff, I find and determine that the State and local plans and preparedness for the Nine-Mile Point/James A. Fitzpatrick Nuclear Power Generating Stations are adequate to protect the health and safety of the public living in the vicinity of the plant. These offsite plans and preparedness are assessed as adequate in that they provide reasonable assurance that appropriate protective actions can be taken offsite in the event of a radiological emergency and are capable of being implemented. The adequacy of the public alert and notification system also has been verified as meeting the standards set forth in Appendix 3 of the Nuclear Regulatory Commission (NRC)/FEMA criteria of NUREG–0654/FEMA–REP–1, Revision 1, and in the Standard Guide for the Evaluation of Alert and Notification Systems for Nuclear Power Plants (FEMA–43).

FEMA will continue to review the status of offsite plans and preparedness associated with the Nine-Mile Point/James A. Fitzpatrick Nuclear Power Generating Stations in accordance with § 350.13 of the FEMA rule.

For further details with respect to this action, refer to Docket File FEMA–REP–2–NY–1 maintained by the Regional Director, FEMA Region II, 26 Federal Plaza, Room 1349, New York, New York 10278.

Dated: February 1, 1985.

For the Federal Emergency Management Agency.

**Samuel W. Speck,**

*Associate Director, State and Local Programs and Support.*

[FR Doc. 85–3174 Filed 2–7–85; 8:45 am]

BILLING CODE 6718–01–M

## FEDERAL MARITIME COMMISSION

### Intent to Terminate Approval of Agreement

Agreement No.: 206–009876.

Title: The Associated Latin American Freight Conferences.

Parties:

Atlantic & Gulf/West Coast of South America Conference
East Coast/Colombia Conference
United States Atlantic & Gulf/Ecuador Conference
United States Atlantic & Gulf/Jamaica and Hispaniola Steamship Freight Association
United States Atlantic & Gulf/Southeastern Caribbean Conference
United States Atlantic & Gulf/Venezuela Conference
United States Florida/Ecuador Freight Association
West Coast of South America Northbound Conference

Synopsis: By letter dated December 28, 1984, the Commission was advised by the Associated Latin American Freight Conferences that all member conferences had submitted their resignations, effective December 31, 1984. The Commission, therefore, gives notice of its intent to terminate its prior approval of Agreement No. 206–009876.

By Order of the Federal Maritime Commission.

Dated: February 5, 1985.

**Bruce A. Dombrowski,**

*Assistant Secretary.*

[FR Doc. 85–3207 Filed 2–7–85; 8:45 am]

BILLING CODE 6730–01–M

**[Docket No. 85–2; Agreement No. 203–010633]**

### Order of Investigation and Hearing; Flota Mercante Grancolombiana, S.A. et al.; Correction

In the Order of Investigation and Hearing served in this proceeding on January 18, 1985 (50 FR 3408 appearing January 24, 1985—FR Doc. 85–1826), all references to "Agreement No. 207–010633," including the title of the proceeding, should have read "Agreement No. 203–010633." Additionally, the reference in the first line of the text of the Order in the **Federal Register** reprint to "Agreement No. 2078–010633" should have read "Agreement No. 203–010633."

**Bruce A. Dombrowski,**

*Assistant Secretary.*

[FR Doc. 85–3258 Filed 2–7–85; 8:45 am]

BILLING CODE 6730–01–M

## FEDERAL RESERVE SYSTEM

### BankEast Corp.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased

competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 1, 1985.

A. **Federal Reserve Bank of Boston** Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *BankEast Corporation,* Manchester, New Hampshire; to engage *de novo* through a subsidiary in making, acquiring and servicing loans or other extensions of credit secured by real estate mortgages for its own account and the accounts of others. These activities would be conducted from an office located in Buffalo, New York, and would serve all states located east of the Mississippi River.

Board of Governors of the Federal Reserve System, February 4, 1984.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 85-2988 Filed 2-7-85; 8:45 am]

BILLING CODE 6210-01-M

## Ponce Bancorporation, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 3, 1985.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Ponce Bancorporation, Inc.,* Hato Rey, Puerto Rico; to become a bank holding company by acquiring 100 percent of the voting shares of Banco De Ponce, Ponce, Puerto Rico.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Bankers Corporation of Florida,* Pompano Beach, Florida; to acquire 100 percent of the voting shares of The First Bankers of Seminole County, N.A., Longwood, Florida.

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

1. *Montgomery Financial Corporation,* Darlington, Indiana; to become a bank holding company by acquiring at least 80.84 percent of the voting shares of Farmers & Merchants State Bank, Darlington, Indiana.

2. *Romy Hammes, Inc.,* South Bend, Indiana; to acquire an additional 9.6 percent of the voting shares of Peoples Bank Marycrest, Kankakee, Illinois.

Board of Governors of the Federal Reserve System, February 4, 1985.

**James McAfee,**

*Associated Secretary of the Board.*

[FR Doc. 85-3166 Filed 2-7-85; 8:45 am]

BILLING CODE 6210-01-M

## FEDERAL TRADE COMMISSION

### Publication of "Tar", Nicotine and Carbon Monoxide Content of the Smoke of 207 Varieties of Cigarettes

*Correction*

In FR Doc. 85-2764 beginning on page 4910 in the issue of Monday, February 4, 1985, make the following correction:

On page 4912, the middle column, the entry reading "True 100; king size; filter; menthol" should read "True, king size; filter, menthol".

BILLING CODE 1505-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on February 1, 1985.

**Public Health Service**

*Food and Drug Administration*

Subject: Transmittal of Periodic Reports and Promotional Material for New Animal Drugs-Extension (0910-0019)
Respondents: Businesses/small businesses
OMB Desk Officer: Bruce Artim

**Health Care Financing Administration**

Subject: Reconsideration Determination and Sanction Report (HCFA-514) New
Respondents: States
OMB Desk Officer: Fay S. Iudicello

**Social Security Administration**

Subject: Quarterly Report of Expenditures and Supplement to OCSE 41 and Prior Quarter Expenditure Adjustment—Revision (0960-0235)
Respondents: States
Subject: Quarterly Budget Estimates—OCSE 25-Reinstatement (0960-0226)
Respondents: States
Subject: Quarterly Report of Collections—OCSE 34-Reinstatement (0960-0238)
Respondents: States
OMB Desk Officer: Robert J. Fishman.

Copies of the above information collection packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the

following address: OMB Reports Management Branch, New Executive Office Building, Room 3208; Washington, D.C. 20503, Attn: [name of OMB Desk Officer].

Dated: February 4, 1985.

**Wallace O. Keene,**

*Acting Deputy Assistant Secretary for Management Analysis and Systems.*

[FR Doc. 85-3266 Filed 2-7-85; 8:45 am]

BILLING CODE 4150-04-M

## National Institutes of Health

### Board of Scientific Counselors Division of Cancer Treatment; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCT, National Cancer Institute, February 14-15, 1985, Building 31, 6th Floor, "C" Wing, Conference Room 6, Bethesda, Maryland 20205. This meeting will be open to the public on February 14, 1985, from 8:30 a.m. until 4:45 p.m., and again on February 15, 1985 from 8:30 a.m. until adjournment, to review program plans, contract recompetitions and budget for the DCT program. In addition, there will be a scientific review by one of the programs in the Division. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 14, from 5:00 p.m. to recess, for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A-06, National Institutes of Health, Bethesda, Maryland 20205 (301-496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Bruce A. Chabner, Director, Division of Cancer Treatment, National Cancer Institute, Building 31, Room 3A-52, National Institutes of Health, Bethesda, Maryland 20205 (301-496-4291) will furnish substantive program information.

Dated: January 31, 1985.

**Betty J. Beveridge,**

*Committee Management Officer, NIH.*

[FR Doc 85-3180 Filed 2-7-85; 8:45 am]

BILLING CODE 4140-01-M

### Board of Scientific Counselors Division of Cancer Etiology; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Etiology on February 28-March 1, 1985, Building 31, C Wing, Conference Room 6, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205. The meeting will be open to the public from 10:30 a.m. to recess on February 28, and from 9:00 a.m. to adjournment on March 1, for discussion and review of the Division budget and review of concepts for grants and contacts. Attendance by the public will be limited to space available.

The Board of Scientific Counselors meeting will be closed to the public from 9:00 a.m. to approximately 10:30 a.m. on February 28, 1985, in accordance with the provisions set forth in section 552b(c)(6), Title 5, United State Code and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual programs and projects conducted by the Division of Cancer Etiology. These programs, projects, and discussions could reveal personal information concerning individuals associated with the programs and projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. David McB. Howell, Executive Secretary of the Board of Scientific Counselors, Division of Cancer Etiology, National Cancer Institute, Building 31, Room 11A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-6927) will furnish substantive program information.

Dated: January 31, 1985.

**Betty J. Beveridge,**

*Committee Management Officer, NIH.*

[FR Doc. 85-3181 Filed 2-7-85; 8:45 am]

BILLING CODE 4140-01-M

### President's Cancer Panel; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the President's Cancer Panel, February 25, 1985, at the Wistar Institute Auditorium, 36th Street at Spruce, Philadelphia, Pennsylvania 19104.

The entire meeting will be open to the public from 9:00 a.m. to adjournment. Agenda items include reports by the Chairman, President's Cancer Panel, and the Director, National Cancer Institute; and discussions to obtain information regarding centers programs supported by the National Cancer Institute. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and roster of Panel members, upon request.

Dr. Elliott Stonehill, Executive Secretary, President's Cancer Panel, National Cancer Institute, Building 31, Room 11A23, National Institutes of Health, Bethesda, Maryland 20205 (301/496-1148) will furnish substantive program information.

Dated: February 4, 1985.

**Betty J. Beveridge,**

*Committee Management Officer, NIH.*

[FR Doc. 85-3183 Filed 2-7-85; 8:45 am]

BILLING CODE 4140-01-M

### Clinical Applications and Prevention Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Epidemiology and Clinical Applications, National Heart, Lung, and Blood Institute, National Institutes of Health, March 4-5, 1985. The meeting will be held in Conference Room 3 [A Wing], Building 31, 9000 Rockville Pike, Bethesda, Maryland 20205.

This meeting will be open to the public on March 4 from 9:00 a.m. to recess and from 8:30 a.m. to adjournment on March 5 to discuss new initiatives, program policies and issues. Attendance by the public is limited to space available.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide a summary of the meeting and a roster of committee members upon request. Dr. William Friedewald, Executive Secretary of the Committee, Federal Building, Room 212, Bethesda, Maryland

20205, phone (301) 496–2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: February 4, 1985.

**Betty J. Beveridge,**

*NIH Committee Management Officer.*

[FR Doc. 85–3185 Filed 2–7–85 8:45 am]

BILLING CODE 4140–01–M

## National Heart, Lung, and Blood Institute Cardiology Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cardiology Advisory Committee, National Heart, Lung, and Blood Institute, March 25–26, 1985, Building 31C, Conference Room 8, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

The entire meeting will be open to the public from 8:00 a.m. on March 25 to adjournment on March 26. Attendance by the public will be limited to space available. Topics for discussion will include a review of the research programs relevant to the Cardiology area and consideration of future needs and opportunities.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Room 4A21, Building 31, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–4236, will provide summaries of the meeting and rosters of the Committee members.

Eugene R. Passamani, M.D., Associate Director for Cardiology, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, Room 320, Federal Building, Bethesda, Maryland 20205, telephone (301) 496–5421, will furnish substantive program information upon request.

Dated: February 4, 1985.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

**Betty J. Beveridge,**

*NIH Committee Management Officer.*

[FR Doc. 85–3186 Filed 2–7–85; 8:45 am]

BILLING CODE 4140–01–M

## National Institute of Neurological and Communicative Disorders and Stroke; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Neurological and Communicative Disorders and Stroke, on April 10–12, 1985, Conference Room 5C101, Building 10, Bethesda, Maryland.

This meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on April 11 to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 7:00 p.m. until 10:00 p.m. on April 10 and from 9:00 a.m. to adjournment on April 12 for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performances, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Freedom of Information Coordinator, Mr. Edward M. Donohue, Federal Building, Room 1004, 7550 Wisconsin Avenue, Bethesda, Maryland 20205, telephone (301) 496–9231, will furnish a summary of the meeting, a roster of committee members upon request.

The Executive Secretary from whom substantive program information may be obtained is Dr. Irwin J. Kopin, Director, Intramural Research Program, NINCDS, Building 10, Room 5N214, NIH, Bethesda, Maryland 20205, telephone (301) 496–4297.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: January 31, 1985.

**Betty J. Beveridge,**

*Committee Management Officer, NIH.*

[FR Doc. 85–3182 Filed 2–7–85; 8:45 am]

BILLING CODE 4140–01–M

## Recombinant DNA Advisory Committee Working Group on Biotechnology Coordination; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee Working Group on Biotechnology Coordination at the National Institutes of Health, Building 1, Wilson Hall, 9000 Rockville Pike, Bethesda, Maryland 20205, on March 1, 1985, from approximately 9:00 a.m. to adjournment at approximately 5:00 p.m. to discuss the December 31, 1984, **Federal Register** notice entitled "Proposal for a Coordinated Framework for Regulation of Biotechnology: Notice." This meeting will be open to the public. Attendance by the public will be limited to space available.

Further information may be obtained from Dr. William J. Gartland, Executive Secretary, Recombinant DNA Advisory Committee Working Group on Biotechnology Coordination, National Institutes of Health, Building 31, Room 3B10, Bethesda, Maryland, telephone (301) 496–6051.

Dated: February 4, 1985.

**Betty J. Beveridge,**

*Committee Management Officer, NIH.*

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

[FR Doc. 85–3184 Filed 2–7–85; 8:45 am]

BILLING CODE 4140–01–M

## Recombinant DNA Advisory Committee Working Group on Human Gene Therapy; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee Working Group on Human Gene Therapy at the National Institutes of Health, Building 31C, Conference Room 9, 9000 Rockville Pike, Bethesda, Maryland 20205, on April 1, 1985, from approximately 9:00 a.m. to adjournment at approximately 5:00 p.m. to discuss submission guidelines for proposals involving human gene therapy and review procedures. This meeting will be open to the public. Attendance by the public will be limited to space available.

Further information may be obtained from Dr. William J. Gartland Executive Secretary, Recombinant DNA Advisory Committee Working Group on Human Gene Therapy, National Institutes of Health, Building 31, Room 3B10,

Bethesda, Maryland, telephone (301) 496–6051.

Dated: February 4, 1985.

**Betty J. Beveridge,**

*Committee Management Officer, NIH.*

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance.* Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

[FR Doc. 85–3187 Filed 2–7–85; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. D–85–792; FR–2049]**

### Office of the Manager; Buffalo Office; Designation

**AGENCY:** Department of Housing and Urban Development, HUD.

**ACTION:** Designation of Order of Succession.

**SUMMARY:** The Manager is designating officials who may serve as Acting Manager during the absence, disability, or vacancy in the position of Manager.

**EFFECTIVE DATE:** This designation is effective July 11, 1984.

**FOR FURTHER INFORMATION CONTACT:** Frederick C. Kuehn, Acting Director, Administrative and Management Services Division, Office of Administration, New York Regional Office, Department of Housing and Urban Development, 26 Federal Plaza, New York, N.Y. 10278, telephone (212) 264–2761. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:**

**Designation**

Each of the officials appointed to the following positions is designated to serve as Acting Manager during the absence, disability, or vacancy in the position of the Manager, with all the powers, functions, and duties redelegated or assigned to the Manager: Provided, that no official is authorized to serve as Acting Manager unless all preceding listed officials in this designation are unavailable to act by reason of absence, disability, or vacancy in the position:

1. Deputy Manager;
2. Chief Counsel;
3. Director, Community Planning and Development Division;
4. Director, Housing Management Division;
5. Director, Housing Development Division; and
6. Director, Fair Housing & Equal Opportunity Division.

This designation supersedes the designation effective April 19, 1979.

**Authority:** Delegation of Authority by the Secretary effective October 1, 1970; 36 FR 3389, February 23, 1971.

**Joseph D. Monticciolo,**

*Regional Administrator/ Regional Housing Commissioner, Region II.*

[FR Doc. 85–3211 Filed 2–7–85; 8:45 am]

BILLING CODE 4210–32–M

**[Docket No. D–85–791; FR–2061]**

### Office of the Regional Administrator; Regional Housing Commissioner, Region II, New York Regional Office; Designation of Order of Succession

**AGENCY:** Department of Housing and Urban Development, HUD.

**ACTION:** Designation of Order of Succession.

**SUMMARY:** This designation updates the designation of officials who may serve as Acting Regional Administrator—Regional Housing Commissioner during the absence, disability, or vacancy in the position of the Regional Administrator—Regional Housing Commissioner.

**EFFECTIVE DATE:** This designation is effective October 31, 1984.

**FOR FURTHER INFORMATION CONTACT:** Mr. Frederick C. Kuehn, Acting Director, Administrative and Management Services Division, New York Regional Office, Department of Housing and Urban Development, 26 Federal Plaza, New York, New York 10278, Telephone (212) 264–2761 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Designation**

Each of the officials appointed to the following positions is designated to serve as Acting Regional Administrator—Regional Housing Commissioner during the absence, disability, or vacancy in the position of the Regional Administrator—Regional Housing Commissioner, with all the powers, functions, and duties redelegated or assigned to the Regional Administrator—Regional Housing Commissioner. No official is authorized to serve as Acting Regional Administrator—Regional Housing Commissioner unless all preceding listed officials in this designation are unavailable to act by reason of absence, disability, or vacancy in the position:

1. Deputy Regional Amdinistrator;
2. Director, Office of Public Housing;
3. Director, Office of Housing;
4. Director, Office of Community Planning and Development;
5. Director, Operational Support;
6. Director, Office of Fair Housing and Equal Opportunity;
7. Director, Office of Administration; and
8. Regional Counsel.

**Authority:** Delegation of Authority, 27 FR 4319 (1962); section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); and Interim Order II, 31 FR 815 (1966).

Dated: January 8, 1985.

**Joseph D. Monticciolo,**

*Regional Administrator—Regional Housing Commissioner, Region II.*

[FR Doc. 85–3212 Filed 2–7–85; 8:45 am]

BILLING CODE 4210–32–M

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

### Alaska Land Use Council; Meeting

The quarterly meeting of the Alaska Land Use Council scheduled for February 14, 1985 in Juneau, Alaska, was postponed. The Council's meeting has been rescheduled for Friday, March 8, 1985, at 9:00 a.m., in the Governor's conference room, Juneau, Alaska. For further information contact:

Bill Sheffield, Governor, State CoChairman

Vernon R. Wiggins, Federal Cochairman,

Alaska Land Use Council, P.O. Box 100120, Anchorage, Alaska 99510–0120; (907) 272–3422; (FTS) 271–5485.

**William P. Horn,**

*Deputy Under Secretary.*

February 5, 1985.

[FR Doc. 85–3188 Filed 2–7–85; 8:45 am]

BILLING CODE 4310–10–M

## Bureau of Land Management

[F-14944-A]

### Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1611 (1976), will be issued to Tozitna, Limited for approximately 9.33 acres. The lands involved are a portion of lot 1, U.S. Survey No. 5958, located in sections 17 and 18, T. 4 N., R. 22 W., Fairbanks Meridian, Alaska.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. A copy of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, (907) 271–5960.

Any party claiming a property interest which is adversely affected by the decision shall have until March 11, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E (1983) (as amended, 49 FR 6371, February 21, 1984) shall be deemed to have waived their rights.

**Helen Burleson,**

*Section Chief, Branch of ANCSA Adjudication.*

[FR Doc. 85–3156 Filed 2–7–85; 8:45 am]

BILLING CODE 4310-JA-M

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[AA-6692-A2]

### Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 12(b) of the Alaska Native Claims Settlement Act of December 18, 1971 ANCSA, 43 U.S.C. 1601, 1611, will be issued to Pilot Point Native Corporation for approximately 2,110.71 acres. The lands involved are:

**Seward Meridian, Alaska (Surveyed)**

T. 32 S., R. 50 W.
Secs. 3, 4, 5, and 6, excluding Dog Salmon River.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Anchorage Daily News. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decisions shall have until March 11, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Apeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E (1983) (as amended, 49 FR 6371, February 21, 1984) shall be deemed to have waived their rights.

**Barbara A. Lange,**

*Section Chief, Branch of ANCSA Adjudication.*

[FR Doc. 85–3157 Filed 2–7–85; 8:45 am]

BILLING CODE 4310-JA-M

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[F-14858-A; F-14858-B]

### Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1611 (1976), will be issued to Gana-a 'Yoo, Limited for the Native village of Galena for approximately 4,183 acres. The lands involved are within T. 8 S., R. 9 E., Kateel River Meridian, Alaska.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Fairbanks Daily New-Miner. A copy of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, (907) 271–5960.

Any party claiming a property interest which is adversely affected by the decision shall have until March 11, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E (1983) (as amended, 49 FR 6371, February 21, 1984) shall be deemed to have waived their rights.

**Helen Burleson,**

*Section Chief, Branch of ANCSA Adjudication.*

[FR Doc. 85–3158 Filed 2–7–85; 8:45 am]

BILLING CODE 4310-JA-M

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[ORE-05575]

### Order Providing for Opening of Land; Oregon

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** This action will open 3.75 acres of land reconveyed to the United States to surface entry and mining. The land has been and continues to be open to mineral leasing.

**EFFECTIVE DATE:** March 18, 1985.

**FOR FURTHER INFORMATION CONTACT:** Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208 (Telephone (503) 231–6905).

**SUPPLEMENTARY INFORMATION:** 1. Pursuant to the Recreation and Public Purposes Act of June 14, 1926 (44 Stat. 74), as amended and supplemented (43 U.S.C. 869, et seq.), the following described land has been voluntarily reconveyed to the United States:

**Willamette Meridian**

T. 17 S., R. 12 E.,
Sec. 7, lot 5.

The area described contains 3.75 acres in Deschutes County, Oregon.

2. At 8:30 a.m., on March 18, 1985, the land will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on March 18, 1985, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

3. At 8:30 a.m., on March 18, 1985, the land will be open to location under the United States mining laws. Appropriation of land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with

Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

4. The land has been and continues to be open to applications and offers under the mineral leasing laws.

Dated: January 31, 1985.

**Harold A. Berends,**

*Chief, Branch of Lands and Minerals Operations.*

[FR Doc. 85-3242 Filed 2-7-85; 8:45 am]

BILLING CODE 4310-33-M

## Fish and Wildlife Service

## Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Fifth Regular Meeting

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Service publishes summaries of its proposed negotiating positions for the fifth regular meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora and requests information and comments on them. The Service also announces a public meeting with regard to the proposed negotiating positions and with regard to proposals to amend the lists of species in Appendices I and II of the Convention.

**ADDRESS:** Information and comments should be communicated to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, 1000 N. Glebe Road, Arlington, Virginia 22201, telephone: 703/235-2418. Information and comments are open to public inspection at the office from 8:00 a.m. to 4:15 p.m., Monday through Friday, except holidays.

**DATES:** A public meeting will be held on February 13, 1985, from 1:00 p.m. to 4:00 p.m., in rooms 7000 A and B of the Main Interior Building, 18th and C Streets, N.W., Washington, D.C. 20240.

The Service will consider information and comments received by March 15, 1985, concerning proposed negotiating positions.

**FOR FURTHER INFORMATION CONTACT:** Thomas J. Parisot, Chief, Federal Wildlife Permit Office, 1000 North Glebe Road, room 611, Arlington, Virginia 22201, telephone: (703) 235-1937.

**SUPPLEMENTARY INFORMATION:**

### Background

The United States is a Party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (hereinafter referred to as CITES or the Convention), an international agreement designed to control international trade in certain listed animal and plant species that are or may become threatened with extinction. CITES provides for biennial (regular) meetings of the Conference of the Parties (COP) to review its implementation. This notice is the second in a series of notices to inform the public of preparations for the fifth regular meeting (COP 5) to be held in Buenos Aires, Argentina, on April 22 through May 3, 1985. In the first notice published on August 13, 1984 (49 FR 32263), the Service provided the provisional agenda for COP 5 and an explantion of most of the items on the agenda. The Service invited the public to provide information and comments on the provisional agenda and also announced a public meeting to receive information and comments. This meeting was held on August 29, 1984.

### Proposed Negotiating Positions

In this notice the Service is publishing, in summary form, summary negotiating positions for COP 5. The numbers next to each summary correspond to the numbers used in the first notice to denote provisional agenda items. Some additional agenda items not treated in the August 29 notice will be addressed under the heading "Additional Issues." A summary of any information and comments received at the public meeting or submitted in writing to the Service, and a summary of the basis of the proposed position follow each proposed negotiating position. In some instances, no proposed negotiating position is stated, but an explanation is given for not developing one.

If necessary, one should consult the August 29 notice cited above to understand the issues to which these proposed negotiating positions are directed.

### I. Opening Ceremony by the Authorities of Argentina

Proposed Negotiating Position: No position necessary.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Normally, no issues are raised under this agenda item, or if raised, would be treated under other agenda items.

### II. Welcoming Addresses

Proposed Negotiating Position: No position necessary.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Normally no issues are raised under this agenda item, or if raised, would be treated under other agenda items.

### III. Establishment of Credentials and Other Committees

Proposed Negotiating Position: The United States should seek membership on the Credentials Committee and other committees.

Information and Comments: None received.

Basis of Proposed Negotiating Position: It is U.S. policy to ensure that the principle of universality is carried out with regard to representation at international meetings. The other committees will deal with matters of substance involving issues addressed in proposed negotiating positions set forth below.

### IV. Adoption of Agenda and Working Programme

Proposed Negotiating Position: Support the adoption of the Agenda (provisional) (Doc. 5.1 Rev.) and Working Programme (Doc. 5.2).

Information and Comments: See "Requests for Additional Agenda items" below.

Basis for Proposed Negotiating Position: Usually, adoption of the Agenda and Working Programme is "*pro forma.*

### V. Report of the Credentials Committee

Proposed Negotiating Position: Support adoption of the report of the Credentials Committee if it does not recommend the exclusion of legitimate representatives of States party to CITES. Representatives whose credentials are not in order should be afforded observer status under Article XI.7(a) of CITES. If credentials have been delayed, representatives should be allowed to vote on a provisional basis. A liberal interpretation of the rules of procedure on credentials should be adhered to in order to permit clearly legitimate representatives of Parties to participate.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Adoption of the report is usually *pro forma.* Exclusion of representatives whose credentials are in order could undermine cooperation among the Parties which is essential to the effective implementation of CITES.

**VI. Adoption of the Rules of Procedure**

Proposed Negotiating Position: Support adoption of the rules.
Information and Comments: None received.

Basis of Proposed Negotiating Position: The rules are expected to be identical to the ones adopted and used satisfactorily for COP 4.

**VII. Admission of Observers**

Proposed Negotiating Position: The United States supports the admission as observers of all representatives of agencies or bodies technically qualified in protection, conservation or management of wild fauna and flora.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Participation of nongovernmental organizations at COP's is on the whole beneficial. CITES makes formal provision for such participation.

**VIII. Matters related to the Standing Committee**

*1. Report by the Chairman*

Proposed Negotiating Position: None necessary.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Any issues raised in the report will probably be addressed under other agenda items.

*2. Revision of the Membership of the Standing Committee*

Proposed Negotiating Position: Support the division of the Central and South American Region into two regions (South America; and Central America and the Caribbean).

Information and Comments: None received.

Basis of Proposed Negotiating Position: Most of the South American countries have stated support for the division. Division might induce more Central American and Caribbean countries to join CITES and stimulate regional interest in CITES matters.

*3. Election of New Members of the Standing Committee*

Proposed Negotiating Position: The United States should stand for election to the Standing Committee.

Information and Comments: None received.

Basis of Proposed Negotiating Position: The United States believes that the role of the Standing Committee in advising the Secretariat and coordinating the work of other committees is important for the proper implementation of CITES.

**IX. Report of the Secretariat**

Proposed Negotiating Position: The United States supports the recent changes in the relationship between the Secretariat, the International Union for the Conservation of Nature and Natural Resources (IUCN), and the United Nations Environment Programme (UNEP) by which (1) the Secretariat now controls the CITES financial account under the supervision of the Executive Director of UNEP and within the financial decisions of the COP; (2) the Secretariat is located in Lausanne, Switzerland, having moved from the World Wildlife Fund (WWF)/IUCN building in Gland, Switzerland; and (3) the Secretariat staff is a functional unit of UNEP. IUCN should be encouraged to continue its professional relationship with CITES.

Information and Comments: None received.

Basis of Proposed Negotiating Position: The United States believes that the organizational and fiscal separation of the Secretariat from IUCN and a more direct relationship with UNEP's Executive Director, who is charged by Article XII of CITES to provide the Secretariat, will promote a more efficient Secretariat. IUCN should be encouraged to continue to work closely with the Secretariat and the Parties in providing them with assistance in the implementation of CITES.

**X. Financing and Budgeting of the Secretariat and of Meetings of the Conference of the Parties**

*1. Financial Report for 1983–84*

Proposed Negotiating Position: The United States commends the Secretariat for economies achieved in 1983 and 1984, and supports ratification by other Parties of the Bonn Financial Amendment. Parties that have never made financial contributions should be persuaded to do so.

Information and Comments: None received.

Basis of Proposed Negotiating Position: The Secretariat has realized economies by carefully monitoring expenditures, generating external funding, using staff for budgeted contract work and a favorable U.S.-Swiss currency exchange rate. The Article XI financial amendment is necessary to accommodate some Parties' domestic law to enable them to make financial contributions. All Parties should meet their financial responsibilities to CITES.

*2. Budget for 1986–87 and Medium Term Plan for 1988–89*

Proposed Negotiating Position: The United States can accept a nominal 8 percent increase over the 1984–85 budget proposed by the Secretariat, but questions the 10.6 percent increase for the 1988–89 biennium.

Information and Comments: None received.

Basis of Proposed Negotiating Position: The 4 percent annual increase in the 1986–87 budget is accounted for by nominal inflationary increases, rent (now required as a result of the shift of the Secretariat's quarters from the WWF/IUCN building), and the need for a messenger/photocopier and an additional secretary. The justification for the 5.3 percent average annual increase for 1988–89 is not clear.

*3. External Funding*

Proposed Negotiating Position: Support the use of external funding to supplement the regular CITES budget and for specific projects so long as uses are approved by the Standing Committee or the COP.

Information and Comments: None received.

Basis of Proposed Negotiating Position: External funding enables much wider ranging activities than could be funded by the regular CITES budget. It has been used to fund the Identification Manual, Standardized Nomenclature, Seminars on CITES Implementation and the proposed study on South American caiman. Resolution Conf. 4.7 also calls for reimbursement of travel expenses to meetings of the Standing Committee to be made from external funding to the extent possible.

*4. Headquarters Matters*

Proposed Negotiating Position: Support the recently altered headquarters arrangements for the Secretariat. Agree to fair rental payment to IUCN for 1984 if a consensus of Parties supports it.

Information and Comments: None received.

Basis of Proposed Negotiating Position: It is not clear what is intended for discussion under this item. In the past, alternative locations for the Secretariat and conclusion of a Headquarters Agreement with Switzerland that would provide for tax exemptions were taken up at this point in the agenda. The latter is no longer an issue now that the Secretariat is administered directly by UNEP. The current headquarters agreement with UNEP was recommended by the Standing Committee on the basis of a

report prepared by the United States. Present indications are that it is satisfactory and, in fact, a significant improvement over the arrangement with IUCN.

**XI. Relationship With Other International Organizations**

Proposed Negotiating Position: Support efforts by the Secretariat to arrange a meeting with the appropriate Food and Agriculture Organization (FAO) group to obtain FAO consent to use of the International Plant Protection Convention's (IPPC) Model Phytosanitary Certificate, containing appropriate CITES information, as an optional alternative to CITES certificates of artificial propagation for some CITES controlled specimens. The Secretariat should continue to work closely with other international organizations to improve CITES implementation.

Information and Comments: None received. (For discussion of whether Phytosanitary certificates should be used in lieu of Article IV permits and certificates for Appendix I artificially propagated plants, see item XIII.3, "Trade in Plant Specimens.")

Basis of Proposed Negotiating Position: Although some countries have adapted their phytosanitary certificate to CITES uses for trade in Appendix II artificially propagated plants in accordance with Resolution Conf. 4.16, the United States believes that it could not adapt such certificates for export or reexport from the United States unless the appropriate FAO/IPPC group consented. Such international organizations as FAO, the International Air Transport Association (IATA), the International Whaling Commission (IWC) and the International Criminal Police Organization (INTERPOL) have interests which correspond, in part, with those of CITES. Exchange of information between the CITES Secretariat and these organizations can benefit the implementation of CITES.

**XII. Committee Reports and Recommendations**

*1. Technical Committee Report*

Proposed Negotiating Position: None.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Issues raised in the report of the Technical Committee will be addressed under other agenda items.

*2. Identification Manual Committee Report*

Proposed Negotiating Position: Support continued development of an identification manual useful to port and border enforcement officials and urge all countries and organizations to do likewise.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Additional U.S. contributions to the Manual are being prepared by the World Wildlife Fund-U.S. for 10 plant species, by Dr. Wayne King of the Florida State Museum for the Iguanidae and by Dr. Donald Bruning of the New York Zoological Society for the genus *Amazona*. Basis of Proposed Negotiating Position: Species identification material for port and border enforcement officials is limited. Accurate and expeditious identification of species is important for the successful enforcement of CITES. The Plant Working Group (PWG), a subcommittee of the CITES Technical Committee, has recognized a high priority need for nontechnical plant identification materials for use by port inspectors. Voluntary contributions to the development of the manual are greatly appreciated. Interested persons should contact Mr. Thomas J. Parisot (see **"FOR FURTHER INFORMATION CONTACT,"** above).

*3. Nomenclature Committee Report*

Proposed Negotiating Position: Support the continuation of work by the Nomenclature Committee, and support a request by the Committee chairman for clarification of the committee's role in consulting on nomenclature issues.

Information and Comments: None received.

Basis of Proposed Negotiating Position: The Conference of the Parties established the Nomenclature Committee to develop a standardized list of scientific names for species subject to CITES. The United States originally called for establishment of this committee and subsequently supported its work on checklists. Questions about nomenclature arising between biennial meetings of the Parties present a problem because the committee convenes only at such meetings. At present, the committee has no instructions from the Conference of the Parties on how to handle questions of this type, so the committee chairman is expected to propose a mechanism for handling them on an advisory basis.

**XIII. Interpretation and Implementation of the Convention**

*1. Report on National Reports Under Article VIII, paragraph 7 of the Convention*

Proposed Negotiating Position: Support Secretariat assistance to and queries of (through diplomatic channels, if necessary) Parties which fail to provide annual reports of trade data. Support consideration by the Technical Committee of sanctions against nonreporting countries, such sanctions to be carefully selected so as to achieve the desired results and not cause the sanctioned country to take actions detrimental to the purposes of CITES. Support a Secretariat review of deficiencies of annual reports and report results to the Technical Committee. Support a Technical Committee review of the Wildlife Trade Monitoring Unit's (WTMU) workload and, if necessary, an increase in financial support. If it is determined that European Community countries are not obligated to provide national reports, support voluntary submission of annual reports by individual European Community member states.

Information and Comments: Three commenters opposed the tentative position of the European Community countries that are CITES parties that they do not have to submit reports on intracommunity trade because CITES Article XIV, paragraph 3 relieves them of their Article VIII, paragraph 7 duty to make such submission. One commenter presented reasons why this article of CITES does not relieve them.

Basis of Proposed Negotiating Position: Secretariat queries of and assistance to nonreporting Parties and some sanctions (e.g., treatment as nonparty, prohibition of imports) may stimulate them to produce annual reports. A Secretariat review of annual reports is necessary because many are incomplete or do not follow recommended guidelines. Present funding and staff levels of WTMU appear to be inadequate for the work requested. Reports of European Community intracommunity trade are necessary for determining which European Community Party is the ultimate consumer of particular species. The European Community is not a Party to CITES and any problems related to shipments to European Community countries can only be formally addressed to the Party concerned.

*2. Trade in Ivory From African Elephants*

Proposed Negotiating Position: Support the adoption of an export quota system for tusks, administered by the Secretariat, with quotas to be monitored by the Technical Committee to help assure that export will not be detrimental to the species. Support continued trade with nonparties provided they conform to the terms of

the system, including marking of tusks and submission of trade data to the Secretariat. Oppose any further attempt to define which ivory is readily recognizable and which is not.

Information and Comments: One commenter stated that inability to readily recognize raw ivory weighing less than 1.1 pounds should be reason for controlling it, since it looks like the raw ivory weighing 1.1 pounds or more.

Basis of Proposed Negotiating Position: Quotas set at levels to assure nondetriment are a potentially useful way of managing exports of African elephant tusks. Technical Committee review of quotas set by the exporting countries is consistent with resolutions of the COP dealing with Appendix II species. The Parties have consistently accepted trade with nonparties, if it is conducted on the same basis (and sometimes with additional safeguards) as trade between Parties. This is consistent with CITES Article X. Although some nonparties have in the past voluntarily submitted annual reports, this would be the first time that submission of trade data (albeit limited to a particular species) would be required of nonparties. A proposal would deem raw ivory weighing less than 1.1 pounds to be not readily recognizable and, therefore, not subject to CITES controls. Raw ivory weighing less than 1.1 pounds isn't, *per se*, more difficult to recognize than ivory weighing 1.1 pounds or more.

*3. Trade in Plant Specimens*

Proposed Negotiating Position: The Service proposes to support the first of two resolutions on this subject fully (see Basis of Proposed Negotiating Position for details); its recommendations should strengthen the effectiveness of CITES for plants and are consistent with current U.S. practices. The Service also proposes to support the second resolution, at least with regard to licensing, provided it is made clear that licenses are to be certified by Management Authorities. The United States cannot now implement the recommendation concerning the use of phytosanitary certificates, but may accept such certificates as CITES documents from other Parties if they fulfill all CITES requirements.

Information and Comments: Comments were received on this subject from two organizations in support of the CITES working group's recommendations generally, but opposed to the use of phytosanitary certificates for trade in artificially propagated Apendix I plants under CITES. Their concern was that this might reduce the level of control on trade in such plants and allow wild-collected plants to enter trade unlawfully.

Basis of Proposed Negotiating Position: COP 4 established a working group to develop recommendations on improving the implementation of CITES for plants included in the appendices. The working group's recommendations were reviewed by the Technical Committee and resulted in two draft resolutions.

The first resolution addresses a range of issues:

a. The need to regulate trade in certain plant species, which requires greater efforts by all Parties.

b. Refinement of the list of plants in the appendices, including a provision that problems associated with higher taxon listings should be addressed by supplying traders with information on why and how to comply with CITES requirements, simplifying procedures for administering the permit system, and developing identification materials to distinguish threatened species from those that are not at risk;

c. Development of a standardized list of scientific names for plants included in the appendices, in order to address problems in the control of trade due to use of synonyms;

d. Identification of plant specimens, with emphasis on preparation of nontechnical identification guides for use by port inspectors;

e. Trade in salvaged plant specimens, which should be permitted for care and propagation of the species when it is not possible to protect them *in situ*, and in the case of Appendix I species, when import is by a bona fide botanic garden or scientific institution and is not for primarily commercial purposes;

f. Return to country of export or placement of confiscated plants in rescue centers, as required by CITES, in order to ensure that the maximum conservation value is derived from them.

g. Reporting on trade in plants in annual reports of the Parties; at the species level where practicable, with separate figures for specimens of wild and of artificially propagated origin;

h. Enforcement of CITES for plants, including a request that Parties inform the Secretariat about agencies responsible for such enforcement and that Parties undertake steps to enable their enforcement officers to operate effectively; and

i. Education about plant conservation through CITES, with emphasis on providing information to traders (including commercial dealers, tourists, and scientists) affected by CITES.

The second resolution concerns measures to improve and simplify the regulation of trade in artificially propagated plants. It recommends the following:

a. that Parties consider licensing individual traders in artificially propagated plants, where they do not also deal in wild-collected plants, and that licenses might authorize export of any quantity of Appendix II or III artificially propagated plants for a specified period of time, provided that a certified copy of the license and a schedule recording details of the plants accompany each consignment; and

b. that with proper safeguards, either the above system or appropriately modified phytosanitary certificates may be used to authorize trade in artificially propagated Appendix I plants.

The United States helped develop the working group recommendations, and is committed to improving the effectiveness of CITES for plants worldwide. The only issue that does not appear to be clearly supportable is the use of phytosanitary certificates for Appendix I plants. However, if such documents are used in a way that fully meets CITES requirements, the United States proposes to support this recommendation too. Management Authority certification of copies of licenses would help assure the legality of shipments.

*4. Significant Trade in Appendix II Species*

Proposed Negotiating Position: Support recommendations of a working group that was established by the Technical Committee to develop a procedure for identifying species in Appendix II traded in volumes that might be detrimental to their survival.

Information and Comments: None received.

Basis of Proposed Negotiating Position: COP 4 directed the Technical Committee to identify species in Appendix II that are excessively traded, and to develop and negotiate corrective measures at the request of at least one of the countries involved, and in collaboration with range countries, importing countries, and wildlife management organizations (see resolution Conf. 4.7). In response, the Technical Committee organized a working group to develop a procedure for identifying cases where Appendix II species might be traded excessively. The working group has recommended a procedure that involves a sequence of reviews, first by the group and then by experts in particular species. The United States encouraged the Technical

Committee to address this problem initially, and it participated in the working group. Further, support for the recommendations of the group might lead to a better basis for Scientific Authority decisions on export by those countries that currently appear to lack biological data needed to determine the effect of trade on the species involved.

*5. Control of Readily Recognizable Parts and Derivatives*

Proposed Negotiating Position: Oppose the adoption of any list of readily recognizable parts and derivatives.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Any list may lead to evasion by altering the specimen or by interpretation of the list. Any list would be subject to change for reasons other than recognizability.

*6. Control of Specimens That Are "Personal or Household Effects"*

Proposed Negotiating Position: None necessary.

Information and Comments: None received.

Basis of Proposed Negotiating Position: This issue was removed from the provisional agenda, because the proponent, the Federal Republic of Germany, withdrew the document it had drafted from further consideration.

*7. Captive Breeding and Long Maturing Species*

Proposed Negotiating Position: None necessary.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Item withdrawn from the provisional agenda.

*8. Definition of "Primarily Commercial Purposes"*

Proposed Negotiating Position: Support adoption of a recommendation that would define the term "primarily commercial purposes" in such a manner that unless noncommercial uses clearly predominate, the specimen will be said to be used for primarily commercial purposes; and that, under the test, are would exclude from consideration the economic nature of the transaction between the countries of export and import and focus instead on the intended use of the specimen in the country of import.

Information and Comment: None received.

Basis of Proposed Negotiating Position: A presumption in favor of finding commercialism where there are mixed commercial and noncommercial uses is consistent with the General Principles of Article II of CITES which provide that trade in Appendix I species must be subject to particularly strict regulation and be authorized only in exceptional circumstances. The trade of specimens from a country of export to a country of import often involve primarily commercial purposes. The history of the Convention and the language of Article III, paragraph 3.c indicate that what was of concern was the intended use of the specimen in the country of import and not the economic nature of the transaction between the countries of export and import. As requested by Denmark and the Technical Committee, the United States provided some drafting assistance to Denmark on a resolution it submitted for circulation to the Parties.

*9. Time Validity of Import Permits*

Proposed Negotiating Position: Time validity of import permits should not be limited to 6 months from the date granted. If any limit is necessary, it should be 1 year from the date granted.

Basis of Proposed Negotiating Position: Appendix I export permits may only be issued when an import permit has been issued. Since export permits have a 6-month time validity, the import permit would always expire before the export permit if a 6-month time validity were adopted for import permits. The effect would be to reduce the time validity of the export permit, since both must be presented on import.

*10. Definition of Pre-Convention Specimens*

Proposed Negotiating Position: Oppose the revocation of Resolution Conf. 4.11 which provides, in part, that a change in the control status of species from Appendix II to Appendix I is neither the occasion for establishing a new applicable date nor allowing trade as Appendix II specimens if in possession as of the effective date of the change in status. Oppose any recommendation that would allow the country of import to refuse another country's preconvention exemption certificates if the specimen was acquired after the importing country's applicable date. Favor a recommendation that would have all Parties choose one of the Conf. 4.11 applicable dates and so inform the Secretariat.

Information and Comments: None received.

Basis of Proposed Negotiating Position: An uplisting from Appendix II to Appendix I should not be the occasion for creating new eligibility for the preconvention exemption by establishing a new applicable date. If the date of uplisting could be used as the applicable date, the result would be to convert Appendix II specimens in possession to preconvention specimens at the time they were listed as Appendix I. The provisions of Article VII, paragraph 2, do not provide for the Management Authority of the country of import to invalidate preconvention certificates issued by the country of export or reexport on the basis of its own applicable date. The Parties should choose one or the other of the Conf. 4.11 applicable dates so that persons holding or wishing to acquire specimens would more readily know whether they were eligible for the exemption. Conf. 4.11 should be given a fair chance to work.

*11. A CITES Register of Traders in Live Specimens of Wild Fauna*

Proposed Negotiating Position: While understanding the concerns which form the basis of a proposal to register wildlife traders, oppose any resolution recommending such registration.

Information and Comments: None received.

Basis of Proposed Negotiating Position: The permit system should be sufficient to screen out applicants for living specimens who would illegally trade, misuse or neglect them. The cost and workload on the CITES Secretariat and the Parties in administering an international registry of traders in live wildlife specimens would not be justified by the limited benefits of such registry. Countries with particular problems could institute a national licensing system. The United States has a limited licensing system administered by the Service under the Endangered Species Act.

*12. Interpretation of Article VII, Paragraphs 4 and 5 (Exemption for Captive-Bred and Artificially Propagated Specimens)*

Proposed Negotiating Position: None necessary.

Information and Comments: None received.

Basis of Proposed Negotiating Position: This item was eliminated from the provisional agenda.

*13. Relationship between CITES Transport Guidelines for Live Animals and IATA Live Animals Regulations*

Proposed Negotiating Position: Support the establishment of an effective liaison between the Technical Committee and the IATA Live Animals Board in order to assure that the IATA Live Animals Regulations are consistent

with the humane transport concerns of CITES.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Resolution Conf. 4.20 provides that a continuing dialogue shall be developed between the CITES Secretariat/Technical Committee (with appropriate expert advice) and IATA. Subsequent to the adoption of Conf. 4.20, several meetings with IATA's Live Animals Board were held. A proposed framework for the dialogue will be presented to the Technical Committee at COP 5.

**XIV. General Matters of Principle Relating to the Appendices**

*1. Ten Year Review of the Appendices*

Proposed Negotiating Position: Support completion of the Ten Year Review.

Information and Comments: None received.

Basis of Proposed Negotiating Position: The Latin American Region has yet to complete its portion of the Ten Year Review of CITES Appendices I and II. COP 4 urged completion in time for COP 5.

*2. Criteria for the Inclusion of Species in Appendix III*

Proposed Negotiating Position: Support a recommendation which provides that only species resident in a Party country can be listed by that Party in Appendix III and which provides for development of a list of species included in higher taxa Appendix III listings. Oppose any attempt to limit the right of the listing Party to restrict export of parts and derivatives of species it has listed in Appendix III to a greater degree than provided by CITES.

Information and Comments: None received.

Basis of Proposed Negotiating Position: The United States believes that the language of CITES strongly indicates that only resident species are appropriate for listing on Appendix III. Several listings appear in Appendix III which are taxa higher than species level. Article XVI, paragraph 1 requires an Appendix III listing Party to provide the Secretariat with a list of *species* to be listed for Appendix III. Thus far no official list of species included within higher taxa listings have been developed making implementation difficult. Article XIV, paragraph 1.a allows Parties to impose, without limitation, stricter domestic measures regarding the conditions for trade, taking, possession or transport of species included in Appendices I, II, and III, or the complete prohibition thereof.

**XV. Consideration of Proposals for Amendment of Appendices I and II**

This item is not a substantive subject of this notice. The Service has published separate **Federal Register** notices concerning preparation of United States positions on proposals to amend Appendices I and II. One such notice concerning United States proposals was published on Friday, December 14, 1984 (49 FR 48775). Another, dealing with proposed United States positions on proposals of other Parties will be published in the **Federal Register** around the time this notice is published.

**XVI. Conclusion of the Meeting**

*1. Determination of the Time and Venue of the Next Regular Meeting of the Conference of the Parties*

Proposed Negotiating Position: Favor holding COP 6 in the Pacific area (provided no significant incremental charge on the CITES budget is entailed and all Parties will be admitted to the country without political difficulties.)

Information and Comments: None received.

Basis of Proposed Negotiating Position: As yet the Pacific area has not hosted a COP. It is an important wildlife and plant area with significant trade problems. Holding the COP there would help focus attention on CITES and stimulate interest in its goals and work.

*2. Closing Remarks*

Proposed Negotiating Position: None necessary.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Normally, this agenda item consists of expressions of appreciation directed at the host government.

**Additional Issues**

The Service has received information from the Secretariat indicating that COP 5 will also be considering the following issues. Where possible, the Service will indicate its proposed negotiating position:

1. Canada has requested that an extraordinary meeting be held in conjunction with COP 5 to amend CITES by providing that the COP has legal personality, thereby enhancing the COP's right to enjoy privileges and immunities similar to other international organizations. Currently, the Executive Director of UNEP provides the Secretariat; further amendments would enable the Conference of the Parties, if it so decided, to make other provisions for the Secretariat, and would require the Secretariat to "receive policy guidance" from the COP and such other committees established for that purpose by the COP. The United States has submitted to the Secretariat a written request for an extraordinary meeting to consider the Canadian proposed amendments.

An extraordinary meeting has also been requested by Peru concerning Article III, but at this time, the Service has no information concerning the nature of any amendments proposed by Peru.

2. At the Brussels Technical Committee meeting, several African countries proposed to relax the Berne Criteria for downlisting species from Appendix I to Appendix II if available information warranted it and the species had originally been listed without the application of the Berne criteria for inclusion of species in Appendix I. Subsequent to the meeting, a resolution was drafted that conditioned relaxation on the establishment of an export quota by the country of origin and its approval by the COP. The proposed negotiating position favors the resolution provided it is amended to require that: (i) there is sufficient information under the Berne listing criteria to assure that the species should be downlisted to Appendix II; (ii) specimens of downlisted populations will be allowed to enter trade only under conditions that will not reduce the effectiveness of CITES controls on other populations of the subject species; and (iii) the state of export has an effective management program for the species including measures for (a) monitoring population status and take, (b) regulating take at sustainable levels, and (c) controlling exportation.

3. Resolution Conf. 3.15 provides for trade, with certain safeguards, of ranched specimens of populations downlisted to Appendix II. Among the safeguards, the products of the operation must be adequately identified and documented to assure that they can be readily distinguished from products of Appendix I populations. COP 5 will deal with several sea turtle and crocodile ranching proposals. The Service believes that there is a need for the Parties to adopt a uniform marking system for ranched specimens to facilitate enforcement and administration. The Service has proposed that COP 5 adopt a system that would require marking of each product unit or primary container. Product units whose marks were physically eliminated in a country of reexport would have to be similarly marked in that country. Nonparties would have to use a satisfactory

marking system. The United States proposal calls for development of standardized reporting and monitoring procedures to determine whether ranching operations continue to meet the terms of Conf. 3.15.

4. St. Lucia has forwarded a proposal to the Secretariat that urges the Technical Committee to review infractions and report on violations.

5. The Secretariat has drafted a paper on the issue of whether a paper or document meets a submission deadline if necessary supporting information is not submitted until after the deadline.

6. Israel will ask COP 5 to endorse a draft convention on the humane capture and treatment of wildlife.

7. Changes in the names of species listed in the appendices to CITES might be debated at COP 5. This issue probably relates to the recommendations of the Nomenclature Committee.

8. Trade in Leopard Skins.

Proposed Negotiating Position: Indicate to the Parties that the United States does not allow importation of leopard skins purchased as tourist souvenirs, and that U.S. imports of sport-hunted leopard trophies may account for large portions of export quotas set by African countries. Seek information from other countries about the effectiveness of the quota system adopted at COP 4 in order to assess the merits of their approach and to consider changes in the Endangered Species Act regulations to allow limited import of tourist souvenirs.

Information and Comments: None received. The Service has asked the concerned African countries for information concerning the status of populations, management programs, the quota system and some economics. Thus far, no responses have been received. Discussions will be held with such countries at COP 5.

Basis of Proposed Negotiating Position: The fourth meeting of the Conference of the Parties agreed to allow trade in leopard skins purchased as tourist souvenirs, provided that they were exported from certain African countries under quotas accepted by the Conference (resolution Conf. 4.13). This approach was adopted as an alternative to transferring the species from Appendix I to Appendix II. The United States has not allowed the importation of such skins because a special rule issued under authority of the Endangered Species Act allows personally sport-hunted trophies, but not purchased souvenirs, to be imported. Under the rule, the United States has authorized importation of leopard trophies in numbers approaching or exceeding the export quotas of several of the African countries involved. The experiences of exporting and importing countries with trade under the resolution need to be discussed in order to determine if the system it established should be continued.

9. Some African countries have submitted a paper that would attempt to limit importing countries' use of stricter domestic measures. See relevant portions of item XIII, paragraph 10, Definition of "pre-Convention specimens," above.

10. A Canadian proposal would have the Secretariat disclose the sources of information upon which it based its recommendations on proposals to amend Appendices I and II.

11. In addition to its Cayman Turtle Farm (CTF) ranching proposal under resolution Conf. 3.15, and at the request of the Secretariat, the United Kingdom has prepared a draft resolution that would, with certain marking and recordkeeping safeguards, treat products of CTF derived from specimens acquired before March 1979 (or the offspring of these specimens) as Appendix II specimens. The Service favors an exemption within the terms of CITES for commercial trade in CTF products and is considering allowing such trade with certain safeguards, provided COP 5 approves such trade. The United States believes that treatment of CTF as a ranch under Conf. 3.15 is the most appropriate approach to this issue.

**Requests for Additional Agenda Items**

1. One commenter suggested that implementationof CITES as it concerns Scientific Authorities needs to be addressed as a separate agenda item. The CITES Secretariat sponsored three regional seminars in 1983–84 to improve implementation by Party countries. The role of Scientific Authorities and the decisions they make was discussed at these seminars. Item XIII, paragraph 4, Significant Trade in Appendix II Species, deals with a system for improving the basis for Scientific Authority decisions on exports. The Service sees no need to have a separate agenda item.

2. The commenter suggested an additional agenda item dealing with the need for technical assistance to the countries needing to develop adequate domestic legislation to implement the Convention. This issue was raised at the Kuala Lumpur Seminar on CITES Implementation in Asia and Oceania last October. The Seminar produced a resolution calling for technical assistance from IUCN's Environmental Law Centre and for funding assistance from UNEP and other concerned agencies and organizations. It also requested the Secretariat to develop a project to formulate guidelines that would assist Parties in developing legislation and measures to implement and enforce the Convention and report the results of this project to COP 6. The Service believes that at this time there is no need to have a separate COP 5 agenda item for this issue, because it will be an element of the Report of the Secretariat.

3. The commenter suggested an additional item dealing with "stockpiled specimens" in countries of reexport posing an enforcement problem because specimens smuggled out of countries of origin are being "laundered" through the reexporting countries as stockpiled specimens. The Service believes that this issue can be raised under St. Lucia's proposal that urges the Technical Committee to review infractions and violations. Further, particular problems can be brought to the attention of the Secretariat which, at any time in consultation with the Technical Committee, can treat with the problem under its Article XIII authority (see Conf. 3.5, paragraph (c)).

4. Another commenter suggested that an additional agenda item be added dealing with the negative effects of noncompliance by Party countries, reservations taken by Parties to species listings, nonmembership in CITES by other countries and trade with such nonmember countries. The CITES Secretariat sponsored three regional seminars in 1983–84 to improve implementation by Party countries. Several European Community countries have removed all their species reservations and several more apparently will do likewise. Japan has promised to seriously consider removing some of its reservations. COP 4 recommended that Parties reserving to Appendix I listings treat them as Appendix II species and maintain and report statistical records on their trade. Membership in CITES has steadily increased from 33 Parties at COP 1 to a likely 88 at COP 5. Rather than ban trade with nonparties, the Parties have recommended that if a Party failed to meet CITES requirements, under the options of Article X trade can be further restricted or prohibited. COP 5 will probably consider proposals requiring nonparties to mark and report trade in elephant tusks, mark and control trade in ranched specimens and annually report trade in CITES specimens. COP 5 will also consider a St. Lucia proposal that the Technical Committee review infractions and violations and will also

consider adopting a procedure to review significant trade in Appendix II species.

The Service believes that most of the concerns expressed by the commenter have been addressed by the Parties or will be addressed at COP 5.

**Request for Information and Comments**

The Service invites information and comments on the proposed negotiating positions and the additional issues summarized above. Address written information and comments as set forth in "ADDRESS" above.

**Announcement of Public Meeting**

The Service announces that it will hold a public meeting on Wednesday, February 13, 1985, from 1:00 p.m. to 4:00 p.m., in rooms 7000 A and B, U.S. Department of the Interior (Main Building), 18th and C Streets, NW., Washington, D.C., for purposes of receiving information and comments with regard to the proposed negotiating positions summarized above, and with regard to proposals to amend the list of species in Appendices I and II of CITES. Written statements may be submitted to the Service before or at the meeting. Appointments to speak may be made with the Fish and Wildlife Service, Federal Wildlife Permit Office (see "ADDRESS" above), 703/235-2418. Participants without prior appointments will be given an opportunity to speak to the extent time allows following speakers with appointments.

**Observers**

For information concerning how to become an officer observer at COP 5, see the Service's notice published in the Federal Register of August 13, 1984 (49 FR 32263). Persons interested in becoming official observers should, as soon as possible, submit the required information to the Federal Wildlife Permit Office (see "ADDRESS", above). If approved, the observer will be notified by the Service in writing at which time the observer should send a copy of such written notification, a registration form, and a $50.00 registration fee (per approved organization) to the CITES Secretariat. A hotel booking form should also be sent to the Argentine Management Authority. These forms will be enclosed in the Service's letter approving observer status. It should be noted that U.S. citizens wishing to attend COP 5 must hold an entry visa which should be requested from the Consulate of Argentina.

So that observers may better schedule their attendance at COP 5, the Working Programme (provisional) is here reproduced:

[Doc. 5.2]

**Convention on International Trade in Endangered Species of Wild Fauna and Flora**

*Fifth Meeting of the Conference of the Parties*

Buenos Aires (Argentina), 22 April to 3 May 1985

**Working Programme (Provisional)**

*21 April 1985*

Morning: 10h00–12h00 and afternoon: 14h30–17h30: Registration of the participants at the Centro Cultural San Martin

*22 April 1985*

Morning: 8h00–10h00: Registration (continued)
10h00–12h00: Opening by the Authorities of Argentina
Welcoming addresses
Establishment of the Credentials Committee and other committees
Adoption of the Agenda and Working Programme
Afternoon: 14h30–17h30
Report of the Credentials Committee
Adoption of the Rules of Procedure
Admission of observers
Matters related to the Standing Committee
1. Report by the Chairman
Report of the Secretariat

*23 April 1985*

Morning: 9h00–12h00: Meetings of the Technical Committee and other committees
Afternoon: 14h30–17h30: Meetings of Parties on a regional basis

*24–25 April 1985*

Morning: 9h00–12h00 and afternoon: 14h30–17h30: Meetings of the Technical Committee and other committees (continued)

*26 April 1985*

Morning: 9h00–12h00: Meetings of the Technical Committee and other committees (continued)
Afternoon: 14h30–17h30: Matters related to the Standing Committee (continued)
2. Revision of the membership of the Standing Committee
3. Election of new members of the Standing Committee
4. Relationship UNEP–IUCN–CITES
Financing and budgeting of the Secretariat and of meetings of the Conference of the Parties
1. Financial report for 1983–1984
2. Budget for 1986–1987 and Medium Term Plan for 1988–1989
3. External funding
4. Headquarters matters

*27 April 1985*

Morning: 9h00–12h00: Relationship with other international agreements and organizations
Committee reports and recommendations
1. Technical Committee
2. Identification Manual Committee
3. Nomenclature Committee
Afternoon: 14h30–17h30: Interpretation and implementation of the Convention
1. Report on national reports under Article VIII, paragraph 7, of the Convention
2. Trade in ivory from African elephants
3. Trade in leopard skins
4. Trade in plant specimens

*28 April 1985*

Rest and free time, excursions

*29 April 1985*

Morning: 9h00–12h00 and afternoon: 14h30–17h30: Interpretation and implementation of the Convention (continued)
5. Trade in ranched specimens
6. Significant trade in Appendix II species
7. Control of "readily recognizable" parts and derivatives
8. Definition of "primarily commercial purposes"
9. Time validity of import permits
10. Certificate of origin for Appendix III specimens
11. Definition of "pre-Convention specimen"
12. Cayman Turtle Farm
13. Regular review of alleged infractions

*30 April 1985*

Morning: 9h00–12h00: Interpretation and implementation of the Convention (continued)
14. Interpretation of Article XIV, paragraph 1
15. Interpretation of "the text of the proposed amendment"
16. A CITES Register of traders in live specimens of wild fauna
17. Relationship between CITES Transport Guidelines for Live Animals and IATA Live Animals Regulations
18. Endorsement in principle of a convention for the protection of animals
Afternoon: 14h30–17h30: General matters of principle relating to the appendices
1. Ten Year Review of the Appendices
2. Consideration of the criteria for

amendment of Appendices I and II
3 Guidelines for the Secretariat when making recommendations in accordance with Article XV
4. Criteria for the inclusion of species in Appendix III
5. Nomenclature and taxonomy used in the appendices

*1 May 1985*

Rest and free time, excursions

*2 May 1985*

Morning: 9h00–12h00 and afternoon: 14h30–17h30: Consideration of proposals for amendment of Appendices I and II
1. Proposals submitted pursuant to Resolution on Ranching
2. Other proposals

*3 May 1985*

Morning: 9h00–12h00: Consideration of proposals for amendment of Appendices I and II (continued)
2. Other proposals (continued)
Afternoon: 14h30–17h30: Conclusion of the meeting
1. Determination of the time and venue of the next regular meeting of the Conference of the Parties
2. Closing remarks

This notice was prepared by Arthur W. Lazarowitz, Federal Wildlife Permit Office.

Dated: February 5, 1985.

**Robert A. Jantzen,**

*Director, U.S. Fish and Wildlife Service.*

[FR Doc. 85-3318 Filed 2-7-85; 8:45 am]

BILLING CODE 4310-55-M

## Minerals Management Service

### Development Operations Coordination Document

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

**SUMMARY:** Notice is hereby given that Exxon Company, U.S.A. has submitted a DOCD describing the activities it proposes to conduct on Lease OSC–G 1084, Block 74, West Delta Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Grand Isle, Louisiana.

**DATE:** The subject DOCD was deemed submitted on February 1, 1985.

**ADDRESSES:** A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

**FOR FURTHER INFORMATION CONTACT:** Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0876.

**SUPPLEMENTARY INFORMATION:** The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: February 1, 1985.

**John L. Rankin,**

*Regional Director, Gulf of Mexico OSC Region.*

[FR Doc. 85-3244 Filed 2-7-85; 8:45 am]

BILLING CODE 4310-MR-M

### Outer Continental Shelf Advisory Board; Gulf of Mexico Regional Technical Working Group; Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92–463. A meeting of the Outer Continental Shelf Advisory Board's Gulf of Mexico Regional Technical Working Group will be held on March 12–14, 1985, in Metairie, Louisiana. The agenda of the meeting is as follows:

March 12:

8:30 a.m.–4:30p.m.: Gulf of Mexico Ternary Studies Meeting

March 13:

8:30 a.m.–4:30 p.m.: Regional Technical Working Group Business Meeting
A. Current Regional Activities
B. Louisiana Wetlands Mapping System
C. 5-Year Outer Continental Shelf Leasing Program
D. Election of the 1985 State Co-Chairman
E. Artificial Reefs Program Status
F. Review of the Draft Regional Studies Plan, Fiscal Year 1987

March 14:

8:30 a.m.–12:00 noon: Continuation of Business Meeting

The meeting will be held in Room 437 of the Gulf of Mexico OCS Regional Office, 3301 North Causeway Boulevard, Metairie, Louisiana. All sessions are open to the public, and interested persons may make oral or written presentations at the Business Meeting upon request. Such requests should be made not later than March 6, 1985, to Mr. Sydney H. Verinder, Gulf of Mexico OCS Region, Minerals Management Service, P.O. Box 7944, Metairie, Louisiana 70010, or telephone (504) 838–0627.

A taped cassette transcript and complete summary minutes of the Business Meeting will be available for public inspection in the Office of the Regional Director at the above address not later than 60 days after the meeting.

Dated: January 31, 1985.

**John L. Rankin,**

*Regional Director, Gulf of Mexico OCS Region, Minerals Management Service.*

[FR Doc. 85-3245 Filed 2-7-85; 8:45 am]

BILLING CODE 4310-MR-M

## Bureau of Reclamation

### Riverton Unit, Pick-Sloan Missouri Basin Program, WY; Proposed Federal Land Sale

*Summary:* A 365-acre parcel of Riverton Unit, Pick-Sloan Missouri Basin Program, Fremont County, Wyoming, land acquired by the United States, under the authority of the Act of August 15, 1953 (67 Stat. 592), and administered under the jurisdiction of the Bureau of Reclamation will be disposed of in accordance with the Act of September 25, 1970 (84 Stat. 861). The legal description of the land to be sold is:

S½ NW¼, SW¼, S½ SE¼, S½ N½ SE¼, E½ NE¼ NE¼ SE¼,
Section 25, T2N., R. 2 E., W.R.M., Wyoming.

A map designated Exhibit "A," showing the location of the parcel, can be obtained from the Project Manager, Bureau of Reclamation, P.O. Box 31, Riverton, Wyoming 82501, or the Regional Director, Bureau of Reclamation, 316 North 26th Street, Billings, Montana 59103.

*For Information Contact:* Mr. Richard E. Brohl, Project Manager, Riverton Project Office, Bureau of Reclamation, Riverton, Wyoming 82501. Telephone (307) 856–4853.

*Date, Time, and Location:* The land will be offered for sale on April 17, 1985. The time of the sale will be from 10 a.m. to 11 a.m. The sale will be held in the

Riverton Project Office of the Bureau of Reclamation, 601 North 12th Street, Riverton, Wyoming.

*Sale Procedure:* The parcel will be offered for sale by sealed bid to qualified resident landowners, contact purchasers, or entrymen on the Unit who have a prior right of purchase, as provided in section 5 of the Act of September 25, 1970. The land will be sold to the highest bidder at not less than the appraised fair market value. If an acceptable bid is not received from an individual having a prior right of purchase, the land will be immediately offered for sale to the general public at not less than the appraised fair market value.

Supplementary Information:

A. *Definitions:* 1. Qualified resident landowner: A qualified resident landowner is defined as an individual who:

(a) Owns farmland on the Riverton Unit, Pick-Sloan Missouri Basin Program, Wyoming, in fee simple; is the contract purchaser of such farmland; or is an entryman who has entered land in the Riverton Unit under the Homestead or Desert Land Acts, administered by the Bureau of Land Management and is still the holder thereof;

(b) Did not obtain relief under the Act of March 10, 1964, as amended;

(c) Is a citizen of the United States; and

(d) Actually resides on farmland on the Riverton Unit on the date of the first publication of the notice of this sale in the local newspaper.

2. Relief under the Act of March 10, 1964, as amended: The sale of lands by owners or entrymen on the Third Division, Riverton Project, Wyoming, to the United States under the Act of March 10, 1964, as amended.

3. Superintendent: A representative of the office of the Bureau of Reclamation, 601 North 12th Street, Riverton, Wyoming, will be designated as the Superintendent of the sale.

4. Minimum acceptable bids: The parcel may not be sold at less than the fair market value at the time of sale. This value will be established by qualified professional appraisers. The appraised value will be made available in advance of the sale to any interested prospective bidder upon inquiry at the office of the Project Manager, Bureau of Reclamation, 601 North 12th Street, Riverton, Wyoming.

B. *Authority of Superintendent:* The Superintendent conducting the sale is authorized to refuse any and all bids for the parcel and to suspend, adjourn, and postpone the sale of the parcel to such time and placed as he may deem proper. Provided, however, that prior to conducting the sale, it must be advertised locally as provided in Part I of this notice. The Superintendent will offer the parcel for sale to the general public in accordance with Article 2 of this notice. If, following such offer for sale to the general public, the parcel remains unsold, it will be subject to private sale or other disposal at the discretion of, and at any time determined by the Regional Director, Bureau of Reclamation, Billings, Montana, or his delegated representative, in accordance with existing law.

C. *Terms and conditions of sale:* 1. *Down Payment:* The successful bidder will pay to the United States in cash or check at the time of execution of the land sale contract one of the following at his or her discretion: (1) Five percent of the sale price or $2,000, whichever is the greatest; (2) the entire sale price.

2. *Sale agreement:* A land sale contract will be executed by the successful bidder within fifteen (15) days of the sale. A copy of a sample sales contract is designated as Exhibit "B" and can be obtained from the Riverton Project or Upper Missouri Regional Office, Bureau of Reclamation.

3. *Balance:* The balance of the sale price will be paid in full on or before December 31, 1985 together with interest accumulated from the date of execution of the sale contract at the Department of the Treasury rate of interest in effect on said date (the present interest rate is three-quarters of one percent per month).

4. *Forfeiture:* If the successful bidder fails to comply with Articles 6(B) and 6(C) above, he or she will forfeit his or her down payment made in accordance with 6(A) above. He or she will have 60 days to remove any improvements which he or she has made and must leave the premises in like condition as when entered.

D. *Title:* Upon receipt of full payment for the parcel of land sold under these regulations, a patent will be issued to the purchaser.

E. *Restrictions and Covenants to Title:* The patent will be subject to the following reservations, limitations, and conditions:

1. Reservation of right-of-way for ditches or canals constructed by authority of the United States.

2. Reservation of coal, oil, gas, and other minerals to the United States for the benefit of the Shoshone and Arapahoe Tribes of the Wind River Reservation, Wyoming, pursuant to 72 Stat. 935, August 27, 1958.

3. Subject to existing rights of third persons, including but not limited to public utilities, drains, roads, oil pipelines, or other rights of record or in use, including reasonable access for purposes of operation and maintenance.

F. *Affidavit of Eligibility:* No person will be eligible to bid unless he or she has obtained a bidder's identification number by signing and delivering to the office of the Bureau of Reclamation, 601 North 12th Street, Riverton, Wyoming, on or before April 16, 1985, the following documents:

(a) Affidavit of Eligibility: Every purchaser must affirm that:

i. He or she is a citizen of the United States;

ii. The parcel is being purchased for his or her own benefit and use; and

iii. No one else, except his or her immediate family, is acquiring an interest therein.

(b) Affidavit of qualification for prior rights of purchase: In addition to signing the Affidavit of Eligibility, an individual claiming prior right of purchase under the Act of September 25, 1970, must meet the qualifications set forth in Article 3(a) above and sign an affidavit thereto.

(c) Both forms will be furnished by the Bureau of Reclamation and will be available at the office of the Bureau of Reclamation, 601 North 12th Street, Riverton, Wyoming, or the regional office, Bureau of Reclamation, Billings, Montana. Copies of both forms are attached to Exhibit "B" which is a land sale contract and which may be obtained from the Riverton office or the regional office, Bureau of Reclamation, Billings, Montana.

G. *Assignments:* No assignment of the sale agreement or of any right arising out of the sale procedure shall be effective without the written approval of the Regional Director of the Bureau of Reclamation or his delegated representative.

H. *Ineligible Bidders:* Employees of the Department of the Interior, persons who are not citizens of the United States, and stockholding corporations other than family farming corporations are not eligible to bid for or to acquire land offered in this sale.

I. *Local Advertising of Sale:* 1. A notice of sale will be published at least once a week for at least five (5) consecutive weeks prior to the sale in a newspaper of general distribution published in Fremont County. Such notice will also be posted in at least three (3) public places within such county, posted upon the land, and also posted at Midvale Irrigation District Headquarters and the Riverton Project Office, United States Bureau of Reclamation. The same notice will also

be released to all appropriate newspapers in press releases and may be posted elsewhere as the Regional Public Affairs Officer sees fit.

2. The notice will contain the time and place of the sale, authority for sale, general location of the parcel to be sold, and terms of the sale.

3. A copy this notice, Exhibits "A" and "B," and such other information as may be deemed necessary or desirable by the Bureau of Reclamation will be made available to any interested prospective bidders.

J. *Warning:* All persons are warned against forming any combination or entering into an agreement which will prevent the parcel from selling advantageously or which will in any way may hinder or embarrass the sale. Any person so offending will be prosecuted under 18 U.S.C. 1860.

*Principle Author:* Principle Author of this notice is Mr. Lieland Tigges, Chief, Land Resources Branch, Upper Missouri regional office, Bureau of Relamation, Billings, Montana, 59130. Telephone (406) 657–6412.

Dated: December 26, 1984.

**Jed D. Christensen,**

*Assistant Secretary for Water and Science, Department of the Interior.*

[FR Doc. 85–3167 Filed 2–7–85; 8:45 am]

BILLING CODE 4310–09–M

## Bureau of Land Management

**[INRT–DES–85–5]**

### Federal Coal Management Program; Environmental Impact Statement; Availability of Draft

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Availability of a Draft Environmental Impact Statement Supplementing the 1979 Final Environmental Statement: Federal Coal Management Program.

**SUMMARY:** Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a Draft Environmental Impact Statement for the Federal coal management program.

**DATE:** Comments on the Draft Environmental Impact Statement will be accepted until April 9, 1985.

**ADDRESS:** Comments should be sent to: Division of Environmental Impact Statement Services, Bureau of Land Management, 555 Zang Street, First Floor East, Denver, Colorado 80228.

**FOR FURTHER INFORMATION CONTACT:** Jack D. Edwards, Project Leader, Bureau of Land Management, Division of EIS Services, 555 Zang Street, First Floor East, Denver, Colorado 80228, (303) 236–1080 or FTS 776–1080.

**SUPPLEMENTARY INFORMATION:** This supplement DEIS assesses the environmental consequences of continuing the Federal coal management program and three alternatives to this existing program: No New Federal Leasing, Preference Right and Emergency Leasing, and Leasing by Application. The analysis involves six Federal coal production regions: Fort Union (Montana, North Dakota); Powder River (Montana, Wyoming); Green River-Hams Fork (Colorado, Wyoming); Uinta-Southwestern Utah (Utah, Colorado); San Juan River (New Mexico, Colorado); and the Southern Appalachian, Alabama Subregion (Alabama).

This DEIS supplements the 1979 Federal Coal Management Program Final Environmental Statement. The DEIS analyzes the impacts of high, medium, and low levels of coal production associated with Federal leasing measures against the same levels of coal production associated with No New Federal Leasing in 1990, 1995, and 2000 for each region.

Copies of the DEIS may be inspected at the following locations:

Bureau of Land Management, Public Affairs, Interior Building, 18th and C Streets, NW., Washington, DC 20240

Bureau of Land Management, Divison of EIS Services, 555 Zang Street, First Floor East, Denver, Colorado 80228

BLM Utah State Office, Consolidated Financial Center, 324 South State Street, Salt Lake City, Utah 84111–2303

BLM Montana State Office, 222 N. 32nd Street, P.O. Box 36800, Billings, Montana 59107

BLM Eastern States Office, 350 S. Picket Street, Alexandria, Virginia 22304

BLM New Mexico State Office, Joseph M. Montoya Federal Building, South Federal Place, P.O. Box 1449, Santa Fe, New Mexico 87501

BLM Wyoming State Office, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001

BLM Colorado State Office, 2020 Arapahoe Street, Denver Colorado 80205

Copies of the DEIS may be obatined from the BLM's Division of EIS Services at the address listed above, and a limited number of single copies may be available at the BLM State Offices listed above.

**Arnold E. Petty,**

*Acting Associate Director.*

February 5, 1985.

**Bruce Blanchard,**

*Director, Office of Environmental Project Review, Department of the Interior.*

[FR Doc. 85–3391 Filed 2–7–85; 9:50 am]

BILLING CODE 4310–84–M

## INTERSTATE COMMERCE COMMISSION

**[Docket No. AB–6 (Sub-210)]**

### Burlington Northern Railroad Co.—Abandonment—in LaSalle, Bureau and Whiteside Counties, IL; Findings

The Commission has issued a certificate authorizing Burlington Northern Railroad Company to abandon its 47.10-mile rail line between Mendota (milepost 1.0) and Denrock (milepost 48.10) in LaSalle, Bureau and Whiteside Counties, IL. 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 on 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. 85–3027 Filed 2–7–85; 8:45 am]

BILLING CODE 7035–01–M

**[Docket No. AB–55; Sub-117]**

### Rail Carriers; Seaboard System Railroad, Inc.; Abandonment in Calhoun and Talladega Counties, AL; Notice of Findings

The Commission has found that the public convenience and necessity permit Seaboard System Railroad, Inc. to abandon its 10.38 mile rail line near Coldwater, AL (milepost AM 497.46) and

Anniston, AL (milepost AM 507.84) in Calhoun and Talladega Counties, AL.

A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27(b).

**James H. Bayne,**

*Secretary.*

[FR Doc. 85-3264 Filed 2-7-85; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### National Cooperative Research Act of 1984; Adirondack Lakes Survey Corp.

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. 98-462 ("the Act"), written notification has been filed simultaneously with the Attorney General and the Federal Trade Commission for Adirondack Lakes Survey Corporation ("Adirondack") disclosing (1) the identities of the parties to Adirondack and (2) the nature and objectives of Adirondack. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to single damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to Adirondack, and its general areas of planned activity, are given below.

Adirondack is a joint venture corporation comprised of the following parties:

New York State Department of Environmental Conservation
Empire State Electric Energy Research Corporation (ESEERCO)

ESEERCO is a joint venture corporation formed by the following entities:

Central Hudson Gas & Electric Corporation
Consolidated Edison Co. of New York, Inc.
Long Island Lighting Co.
New York State Electric & Gas Corporation
Niagara Mohawk Power Corporation
Orange and Rockland Utilities, Inc.
Rochester Gas and Electric Corporation.

Adirondack will engage in research and development activities directed toward improvement of the environmental status of certain waters located in the Adirondack Mountains in the following general areas:

(a) Implementation of a cooperative study evaluating fish communities and water chemistry through scientific investigation and comprehensive biological and chemical surveys.

(b) Provision of a collaborative mechanism between public and private entities, and execution of contracts with others, whose purposes are compatible with those of Adirondack.

(c) Participation in discussions and exchanges of information with others on matters of mutual concern, dissemination of information on findings of Adirondack and the receipt and administration of funds from others in support of or in connection with the research activities of Adirondack.

**Joseph H. Widmar,**

*Director of Operations, Antitrust Division.*

[FR Doc. 85-3275 Filed 2-7-85; 8:45 am]

BILLING CODE 4410-01-M

### National Cooperative Research Act of 1984; Agrigenetics Corp.

Notice is hereby given that pursuant to Section 6(a) of the National Cooperative Research Act of 1984, Pub. L. No. 98-462 ("the Act"), Agrigenetics Corporation has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notification was filed for the purpose of invoking the Act's provision limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to the venture and its general areas of planned activities are given below.

Agrigenetics Research Associates Limited, A Colorado limited partnership (the "Partnership"), was formed in 1981 by Agrigenetics Corporation to undertake a research program by funding research efforts at various major research institutions and by independent researchers in the field of plant genetics. Agrigenetics Research Corporation, and 80%-owned subsidiary of Agrigenetics Corporation, is the general partner of the Partnership. The notification does not identify any limited partner of the Partnership as a party to the venture. Pursuant to a Merger that became effective on January 10, 1985, Agrigenetics Corporation became a wholly-owned indirect subsidiary of the Lubrizol Corporation, through its wholly-owned subsidiary Lubrizol Enterprises, Inc.

The principal nature of the research efforts undertaken by the venture is to improve and differentiate, through the application of cellular and molecular genetic techniques, as well as traditional plant breeding, Agrigenetics Corporation's existing proprietary seed and bacterial product lines. The overall objective of these research programs is to develop effective techniques for identifying, manipulating and transferring agronomically valuable genetic traits through cell and tissue culture and recombinant DNA technology and having the desired traits expressed or function at the correct stage of the plant's development. Research programs are directed toward a number of economically important crops, including corn, sorghum, soybeans, cotton and various vegetable species.

**Joseph H. Widmar,**

*Director of Operations, Antitrust Division.*

[FR Doc. 85-3276 Filed 2-7-85; 8:45 am]

BILLING CODE 4410-01-M

### National Cooperative Research Act of 1984; Empire State Electric Energy Research Corp.

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. No. 98-462 ("the Act"), Empire State Electric Energy Research Corporation ("ESEERCO") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to ESEERCO and (2) the nature and objectives of ESEERCO. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to single damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to ESEERCO, and its general areas of planned activity, are given below.

ESEERCO is a joint venture corporation, consisting of the following parties:

Central Hudson Gas & Electric Corporation
Consolidated Edison Co. of New York, Inc.
Long Island Lighting Co.
New York State Electric & Gas Corporation
Niagara Mohawk Power Corporation
Orange and Rockland Utilities, Inc.
Rochester Gas and Electric Corporation

ESEERCO will engage in advanced, long-term research and development activities in the following general areas of energy technology:

a. *Fossil Fuel Research:* precombustion coal processes, combustion methods, post-combustion control processes, combustion of municipal wastes and power plant waste utilization and disposal.

b. *Nuclear Power Research:* improvements in the maintenance and availability of light water reactor systems and equipment including research into corrosion, fuel and core materials and nuclear waste disposal.

c. *Electrical Systems & Equipment:* development of more efficient transmission and distribution of electric power, including improved transformer design and construction, and increased energy utilization.

d. *Environmental Research:* studies of air quality, land use, water quality and geology-seismology, directed toward understanding of the environment and ability to mitigate negative effects in such areas as acid rain, right of way management and fish protection.

**Joseph H. Widmar,**

*Director of Operations, Antitrust Division.*

[FR Doc. 85-3274 Filed 2-7-85; 8:45 am]

BILLING CODE 4410-01-M

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## The National Cooperative Research Act of 1984—Motor Vehicle Manufacturers Association of the United States, Inc., American Petroleum Institute, and Coordinating Research Council, Inc.

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. No. 98-462 ("the Act"), the Motor Vehicle Manufacturers Association of the United States, Inc. ("MVMA") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission of a project entitled: CRC-APRAC CAPE-30, Test Methods For Unregulated Exhaust Emissions. The notification discloses (1) the identities of the parties to the project, and (2) the nature and objectives of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plantiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general areas of planned activities are given below.

The parties to this project are:

Motor Vehicle Manufacturers Association of the United States, Inc., 300 New Center Building, Detroit, Michigan 48202;

American Petroleum Institute, 1220 L Street NW., Washington, D.C. 20005; and

Coordinating Research Council, Inc., 219 Perimeter Center Parkway, Atlanta, Georgia 30346.

MVMA is a trade association, consisting of the following members:

AM General Corporation, LTV Aerospace & Defense Company, AM General Division, 1725 Jefferson Davis Highway, Suite 900, Arlington, Virginia 22202;

American Motors Corporation, 27777 Franklin Road, Southfield, Michigan 48034;

Chrysler Corporation, P.O. Box 1919, 21000 Oakland, Detroit, Michigan 48288;

Ford Motor Company, The American Road, Dearborn, Michigan 48121;

General Motors Corporation, General Motor Building, Detroit, Michigan 48202;

International Harvester Company, 401 N. Michigan Avenue, Chicago, Illinois 60611;

M.A.N. Truck & Bus Corporation, 201 South College Street, Charlotte, North Carolina 28244;

PACCAR Inc., Business Center Building, P.O. Box 1518, Bellevue, Washington 98009;

Volkswagen of America, Inc., 888 W. Big Beaver Road, Troy, Michigan 48007-3951; and

Volvo North America Corporation, One Volvo Drive, Rockleigh, New Jersey 07647.

The purpose of the project is to conduct research activities to develop, validate, and apply methods for measurement of motor vehicle exhaust emissions currently not subject to federal regulation. The project emphasizes the development and validation of analytical techniques for measuring gaseous emissions and the organic fraction associated with diesel engine particulates, such as aldehydes and polynuclear aromatic hydrocarbons, and methods of measuring emissions from alternative fuels, such as alcohols.

**Joseph H. Widmar,**

*Director of Operations Antitrust Division.*

[FR Doc. 85-3290 Filed 2-7-85; 8:45 am]

BILLING CODE 4410-01-M

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## The National Cooperative Research Act of 1984—Motor Vehicle Manufacturers Association of the United States, Inc., Coordinating Research Council, Inc., American Petroleum Institute, Michigan Technological University, Cummins Engine Company, Inc., John Deere Product Engineering Center, Caterpillar Tractor Company, and National Institute for Petroleum and Energy Research

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. No. 98-462 ("the Act"), the Motor Vehicle Manufacturers Association of the United States, Inc. ("MVMA") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission of a project entitled: CRC-APRAC CAPI-1, Composition of Diesel Exhaust. The notification discloses (1) the identities of the parties to the project, and (2) the nature and objectives of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general areas of planned activities are given below.

The parties to this project are:

Motor Vehicle Manufacturers Association of the United States, Inc., 300 New Center Building, Detroit, Michigan 48202;

Coordinating Research Council, Inc., 219 Perimeter Center Parkway, Atlanta, Georgia 30346;

American Petroleum Institute, 1220 L Street NW., Washington, D.C. 20005;

Michigan Technological University, Houghton, Michigan 49931;

Cummins Engine Company, Inc., MC 50180, Box 3005, Columbus, Indiana 47202;

John Deere Product Engineering Center, P.O. Box 8000, Waterloo, Iowa 50704;

Caterpillar Tractor Company, 100 N.E. Adams Street, Peoria, Illinois 61629; and

National Institute for Petroleum and Energy Research, P.O. Box 2128, Bartlesville, Oklahoma 74005.

MVMA is a trade association, consisting of the following members:

AM General Corporation, LTV Aerospace & Defense Company, AM General Division, 1725 Jefferson Davis Highway, Suite 900, Arlington, Virginia 22202;

American Motors Corporation, 27777 Franklin Road, Southfield, Michigan 48034;

Chrysler Corporation, P.O. Box 1919, 21000 Oakland, Detroit, Michigan 48288;

Ford Motor Company, The American Road, Dearborn, Michigan 48121;

General Motors Corporation, General Motors Building, Detroit, Michigan 48202;

International Harvester Company, 401 N. Michigan Avenue, Chicago, Illinois 60611;

M.A.N. Truck & Bus Corporation, 201 South College Street, Charlotte, North Carolina 28244;

PACCAR Inc., Business Center Building, P.O. Box 1518, Bellevue, Washington 98009;

Volkswagen of America, Inc., 888 W. Big Beaver Road, Troy, Michigan 48007–3951; and

Volvo North America Corporation, One Volvo Drive, Rockleigh, New Jersey 07647.

The purpose of the project is to conduct research activities directed to making available to all participants the most up-to-date information about the nature and composition of exhaust emissions from diesel engines; to developing research techniques for sampling, measuring and evaluating exhaust emissions and smoke from diesel engines; and to conducting or sponsoring appropriate programs and surveys to measure and evaluate the amount, composition, and character of diesel exhaust emissions and smoke.

This program has played a continuous technical role in assuring that emission measurement methods and instrumentation are as precise and accurate as possible, while maintaining practicability from an engineering viewpoint. Present activities include: A round-robin study to evaluate the tapered element oscillating microbalance (TEOM) technique for measuring diesel exhaust particulate; monitoring of research programs relating to various aspects of diesel exhaust measurement techniques; and establishment of a task force working with the United States Environmental Protection Agency on the design and oversight of a study of the origins of nitroaromatic hydrocarbons in diesel exhaust particles.

**Joseph H. Widmar,**

*Director of Operations Antitrust Division.*

[FR Doc. 85–3291 Filed 2–7–85; 8:45 am]

BILLING CODE 4410–01–M

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## The National Cooperative Research Act of 1984—Motor Vehicle Manufacturers Association of the United States, Inc.

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. No. 98–462 ("the Act"), the Motor Vehicle Manufacturers Association of the United States, Inc. ("MVMA") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission of a project entitled: National Gasoline and Diesel Fuel Survey. The notification discloses (1) the identities of the parties to the project, and (2) the nature and objectives of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general areas of planned activities are given below.

MVMA, the party of the project, is a trade association, consisting of the following members:

AM General Corporation, LTV Aerospace & Defense Company, AM General Division, 1725 Jefferson Davis Highway, Suite 900, Arlington, Virginia 22202;

American Motors Corporation, 27777 Franklin Road, Southfield, Michigan 48034;

Chrysler Corporation, P.O. Box 1919, 21000 Oakland, Detroit, Michigan 48288;

Ford Motor Company, The American Road, Dearborn, Michigan 48121;

General Motors Corporation, General Motors Building, Detroit, Michigan 48202;

International Harvester Company, 401 N. Michigan Avenue, Chicago, Illinois 60611;

M.A.N. Truck & Bus Corporation, 201 South College Street, Charlotte, North Carolina 28244;

PACCAR Inc., Business Center Building, P.O. Box 1518, Bellevue, Washington 98009;

Volkswagen of America, Inc., 888 W. Big Beaver Road, Troy, Michigan 48007–3951; and

Volvo North America Corporation, One Volvo Drive, Rockleigh, New Jersey 07647.

The purpose of the project is to conduct research activities to determine the variation in certain physical and chemical parameters of gasoline and diesel fuels purchased at retail outlets of major petroleum marketers in selected representative areas of the United States. The project samples commercially available gasoline and diesel fuels to determine specific physical and chemical properties that might affect the operation or performance of motor vehicles.

**Joseph H. Widmar,**

*Director of Operations Antitrust Division.*

[FR Doc. 85–3284 Filed 2–7–85; 8:45 am]

BILLING CODE 4410–01–M

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## The National Cooperative Research Act of 1984—Motor Vehicle Manufacturers Association of the United States, Inc., American Petroleum Institute, and Coordinating Research Council, Inc.

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. No. 98–462 ("the Act"), the Motor Vehicle Manufacturers Association of the United States, Inc. ("MVMA") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission of a project entitled: CRC–APRAC CAPE–32, Effects of Fuel and Engine Variables on Diesel Engine Emissions. The notification discloses (1) the identities of the parties to the project, and (2) the nature and objectives of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general areas of planned activities are given below.

The parties to this project are:

Motor Vehicle Manufacturers Association of the United States, Inc., 300 New Center Building, Detroit, Michigan 48202;

American Petroleum Institute, 1220 L Street NW., Washington, D.C. 20005; and

Coordinating Research Council, Inc., 219 Perimeter Center Parkway, Atlanta, Georgia 30346.

MVMA is a trade association, consisting of the following members:

AM General Corporation, LTV Aerospace & Defense Company, AM General Division, 1725 Jefferson Davis Highway, Suite 900, Arlington, Virginia 22202;
American Motors Corporation, 27777 Franklin Road, Southfield, Michigan 48034;
Chrysler Corporation, P.O. Box 1919, 21000 Oakland, Detroit, Michigan 48288;
Ford Motor Company, The American Road, Dearborn, Michigan 48121;
General Motors Corporation, General Motors Building, Detroit, Michigan 48202;
International Harvester Company, 401 N. Michigan Avenue, Chicago, Illinois 60611;
M.A.N. Truck & Bus Corporation, 201 South College Street, Charlotte, North Carolina 28244;
PACCAR Inc., Business Center Building, P.O. Box 1518, Bellevue, Washington 98009;
Volkswagen of America, Inc., 888 W. Big Beaver Road, Troy, Michigan 48007–3951; and
Volvo North America Corporation, One Volvo Drive, Rockleigh, New Jersey 07646.

The purpose of the project is to conduct research activities to determine the effects of fuel and engine variables upon diesel exhaust emissions, with an emphasis on particulate emissions. The project generates quantitative results showing how fuel composition and light-duty diesel injection and combustion system types affect gaseous and particulate exhaust emissions. The exhaust pollutants measured with each fuel/system/mode combination are total particulates, total hydrocarbons, nitrogen oxides, and carbon monoxide. In addition, exhaust stream opacity and fuel consumption are measured, as well as Ames activity of organic extracts.

**Joseph H. Widmar,**

*Director of Operations Antitrust Division.*

[FR Doc. 85–3285 Filed 2–7–85; 8:45 am]

BILLING CODE 4410–01–M

## The National Cooperative Research Act of 1984—Motor Vehicle Manufacturers Association of the United States, Inc. and United States Department of Energy

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. 98–462 ("the Act"), the Motor Vehicle Manufacturers Association of the United States, Inc. ("MVMA") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission of a project entitled: MVMA/DOE Combustion Research. The notification discloses (1) the identities of the parties to the project, and (2) the nature and objectives of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general areas of planned activities are given below.

The parties to this project are:

Motor Vehicle Manufacturers Association of the United States, Inc., 300 New Center Building, Detroit, Michigan 48202; and
United States Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, New Mexico 87115.

MVMA is a trade association, consisting of the following members:

AM General Corporation, LTV Aerospace & Defense Company, AM General Division, 1725 Jefferson Davis Highway, Suite 900, Arlington, Virginia 22202;
American Motors Corporation, 27777 Franklin Road, Southfield, Michigan 48034;
Chrysler Corporation, P.O. Box 1919, 21000 Oakland, Detroit, Michigan 48288;
Ford Motor Company, The American Road, Dearborn, Michigan 48121;
General Motors Corporation, General Motors Building, Detroit, Michigan 48202;
International Harvester Company, 401 N. Michigan Avenue, Chicago, Illinois 60611;
M.A.N. Truck & Bus Corporation, 201 South College Street, Charlotte, North Carolina 28244;
PACCAR Inc., Business Center Building, P.O. Box 1518, Bellevue, Washington 98009;
Volkswagen of America, Inc., 888 W. Big Beaver Road, Troy, Michigan 48007–3951; and
Volvo North America Corporation, One Volvo Drive, Rockleigh, New Jersey 07647.

The purpose of the project is to conduct research activities to develop an understanding of the intake fluid flow and fuel spray phenomena in engines and how these processes control combustion and emission formation.

The project emphasizes the development of laser-based optical diagnostics for determination of temperatures, species concentrations, equivalence ratios, particulate concentrations, flow velocities and turbulence levels, and the development of flow visualization methods. Motored and combusting engines and combustion bombs are utilized.

**Joseph H. Widmar,**

*Director of Operations, Antitrust Division.*

[FR Doc. 85–3286 Filed 2–7–85; 8:45 am]

BILLING CODE 4410–01–M

## National Cooperative Research Act of 1984; Moror Vehicle Manufacturers Association of the United States, Inc.

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. No. 98–462 ("the Act"), the Motor Vehicle Manufacturers Association of the United States, Inc. ("MVMA") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission of a project entitled: Vehicle Side Impact Test Procedure. The notification discloses (1) the identities of the parties to the project, and (2) the nature and objectives of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general areas of planned activities are given below.

MVMA, the party to the project, is a trade association, consisting of the following members:

AM General Corporation, LTV Aerospace & Defense Company, AM General Division, 1725 Jefferson Davis Highway, Suite 900, Arlington, Virginia 22202;
American Motors Corporation, 27777 Franklin Road, Southfield, Michigan 48034;
Chrysler Corporation, P.O. Box 1919, 21000 Oakland, Detroit, Michigan 48288;
Ford Motor Company, The American Road, Dearborn, Michigan 48121;
General Motors Corporation, General Motors Building, Detroit, Michigan 48002;
International Harvester Company, 401 N. Michigan Avenue, Chicago, Illinois 60611;
M.A.N. Truck & Bus Corporation, 201 South College Street, Charlotte, North Carolina 28244;
PACCAR Inc., Business Center Building, P.O. Box 1518, Bellevue, Washington 98009;
Volkswagen of America, Inc., 888 W. Big Beaver Road, Troy, Michigan 48007–3951; and
Volvo North America Corporation One Volvo Drive Rockleigh, New Jersey 07647.

The purpose of the project is to conduct research activities concerning vehicle side impact test procedures. The nature and objectives of the project are as follows:

1. Accident data analysis;
2. Evaluation of possible test methods to determine significant tests which, if incorporated in a performance standard, would be likely to promote vehicle design to reduce injuries and fatalities in side impact accidents;
3. Investigation of biomedical response and injury criteria of the head, neck, torso and pelvis;
4. Development of test procedures appropriate for both component and complete vehicle testing, including suitable manikins;
5. Construction of test equipment;
6. Evaluation of test procedures; and
7. Development of a benefit analysis methodology.

**Joseph H. Widmar,**

*Director of Operations, Antitrust Division.*

[FR Doc. 85-3288 Filed 2-7-85; 8:45 am]

BILLING CODE 4410-01-M

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## National Cooperative Research Act of 1984; Motor Vehicle Manufacturers Association of the United States, Inc., et al.

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. No. 98-462 ("the Act"), the Motor Vehicle Manufacturers Association of the United States, Inc. ("MVMA") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission of a project entitled: CRC Motor Fuels Testing. The notification discloses (1) the identities of the parties to the project, and (2) the nature and objectives of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general areas of planned activities are given below.

The parties to this project are:

Motor Vehicle Manufacturers Association of the United States, Inc. 300 New Center Building, Detroit, Michigan 48202;

American Petroleum Institute, 1220 L Street NW., Washington, D.C. 20005; and

Coordinating Research Council, Inc., 219 Perimeter Center Parkway, Atlanta, Georgia 30346.

MVMA is a trade association, consisting of the following members:

AM General Corporation, LTV Aerospace & Defense Company, AM General Division, 1725 Jefferson Davis Highway, Suite 900, Arlington, Virginia 22202;

American Motors Corporation, 27777 Franklin Road, Southfield, Michigan 48034;

Chrysler Corporation, P.O. Box 1919, 21000 Oakland, Detroit Michigan 48288;

Ford Motor Company, The American Road, Dearborn, Michigan 48121;

General Motors Corporation, General Motors Building, Detroit Michigan 48202;

International Harvester Company, 401 N. Michigan Avenue, Chicago, Illinois 60611;

M.A.N. Truck & Bus Corporation, 201 South College Street, Charlotte, North Carolina 28244;

PACCAR Inc., Business Center Building, P.O. Box 1518, Bellevue, Washington 98009;

Volkswagen of America, Inc., 888 W. Big Beaver Road, Troy, Michigan 48007-3951; and

Volvo North America Corporation, One Volvo Drive, Rockleigh, New Jersey 07647.

The purpose of the project is to conduct research activities directed at motor fuels testing by conducting a series of tests to ensure that a high degree of compatibility is maintained between vehicle engines and available fuels. The tests include measurements of the octane number requirements and road ratings of new engines and the effect of mileage accumulation on these values, the effect of fuel volatility on performance of these engines, and the effect of altitude and altitude compensating devices on octane requirement. The results of the research activities will be provided to petroleum engineers, automotive engineers, and service engineers from both industries to ensure a high degree of compatibility between engines and fuels.

**Joseph H. Widmar,**

*Director of Operations, Antitrust Division.*

[FR Doc. 85-3287 Filed 2-7-85; 8:45 am]

BILLING CODE 4410-01-M

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## National Cooperative Research Act of 1984; Motor Vehicle Manufacturers Association of the United States, Inc., et al.

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. No. 98-462 ("the Act"), the Motor Vehicle Manufacturers Association of the United States, Inc. ("MVMA") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission of a project entitled: CFC-APRAC CAPE-33, Fate of Polynuclear Aromatic Hydrocarbons in Exhaust Dilution Sampling Systems. The notification discloses (1) the identities of the parties to the project, and (2) the nature and objectives of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general areas of planned activities are given below.

The parties to this project are:

Motor Vehicle Manufacturers Association of the United States, Inc., 300 New Center Building, Detroit, Michigan 48202;

American Petroleum Institute, 1220 L Street NW., Washington, D.C 20005; and

Coordinating Research Council, Inc., 219 Perimeter Center Parkway, Atlanta, Georgia 30346.

MVMA is a trade association, consisting of the following members:

AM General Corporation, LTV Aerospace & Defense Company, AM General Division, 1725 Jefferson Davis Highway, Suite 900, Arlington, Virginia 22202;

American Motors Corporation, 27777 Franklin Road, Southfield, Michigan 48034;

Chrysler Corporation, P.O. Box 1919, 21000 Oakland, Detroit, Michigan 48288;

Ford Motor Company, The American Road, Dearborn, Michigan 48121;

General Motors Corporation, General Motors Building, Detroit, Michigan 48202;

International Harvester Company, 401 N. Michigan Avenue, Chicago, Illinois 60611;

M.A.N. Truck & Bus Corporation, 201 South College Street, Charlotte, North Carolina 28244;

PACCAR Inc., Business Center Building, P.O. Box 1518, Bellevue, Washington 98009;

Volkswagen of America, Inc., 888 W. Big Beaver Road, Troy, Michigan 48007-3951; and

Volvo North America Corporation, One Volvo Drive, Rockleigh, New Jersey 07647.

The purpose of the project is to conduct research activities to establish the fate of polynuclear aromatic hydrocarbons in diesel exhaust by determining the rates of chemical reactions and products formed in the

exhaust and particulate sampling systems. The project is to determine the amount and type of polynuclear aromatic compounds emitted into the atmosphere from diesel engines by determining the reaction rates and products of chemical interactions in the exhaust and sampling systems, which may alter the amount and type of polynuclear aromatic compounds actually emitted to the atmosphere, compared with those emitted by the engine.

**Joseph H. Widmar,**

*Director of Operations, Antitrust Division.*

[FR Doc. 85-3289 Filed 2-7-85; 8:45 am]

BILLING CODE 4410-01-M

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**National Cooperative Research Act of 1984; Motor Vehicle Manufacturers Association of the United States, Inc., et al.**

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. No. 98-462 ("the Act"), the Motor Vehicle Manufacturers Association of the United States, Inc. ("MVMA") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission of a project entitled: CRC-APRAC CAPE-35, Benzene Emissions. The notification discloses (1) the identities of the parties to the project, and (2) the nature and objectives of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general areas of planned activities are given below.

The parties to this project are:

Motor Vehicle Manufacturers Association of the United States, Inc., 300 New Center Building, Detroit, Michigan 48202;

American Petroleum Institute, 1220 L Street NW., Washington, D.C. 20005; and

Coordinating Research Council, Inc., 219 Perimeter Center Parkway, Atlanta, Georgia 30346.

MVMA is a trade association, consisting of the following members:

AM General Corporation, LTV Aerospace & Defense Company, AM General Division, 1725 Jefferson Davis Highway, Suite 900 Arlington, Virginia 22202;

American Motors Corporation, 27777 Franklin Road, Southfield, Michigan 48034;

Chrysler Corporation, P.O. Box 1919, 21000 Oakland, Detroit, Michigan 48288;

Ford Motor Company, The American Road, Dearborn, Michigan 48121;

General Motors Corporation, General Motors Building, Detroit, Michigan 48202;

International Harvester Company, 401 N. Michigan Avenue, Chicago, Illinois 60611;

M.A.N. Truck & Bus Corporation, 201 South College Street, Charlotte, North Carolina 28244;

PACCAR Inc., Business Center Building, P.O. Box 1518, Bellevue, Washington 98009;

Volkswagen of America, Inc., 888 W. Big Beaver Road, Troy, Michigan 48007-3951; and

Volvo North America Corporation, One Volvo Drive, Rockleigh, New Jersey 07647.

The purpose of the project is to conduct research activities to determine the effect of fuel benzene and aromatic hydrocarbon content and emission control systems on exhaust and evaporative emissions of benzene in late model cars. Fuels of varying benzene and aromatic hydrocarbon content will be used in several late model passenger cars equipped with a variety of fuel/emission control systems to obtain a quantitative relationship between fuel benzene and aromatic content and tailpipe emissions of benzene. Evaporative emissions will be analyzed, as well as the composition of fuel vapor in the tank.

**Joseph H. Widmar,**

*Director of Operations, Antitrust Division.*

[FR Doc. 85-3278 Filed 2-7-85; 8:45 am]

BILLING CODE 4410-01-M

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**National Cooperative Research Act of 1984; Motor Vehicle Manufacturers Association of the United States, Inc., et al.**

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. No. 98-462 ("the Act"), the Motor Vehicle Manufacturers Association of the Untied States, Inc. ("MVMA") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission of a project entitled: CRC-APRAC CAPA-13, Fate of Diesel Particulates in the Atmosphere. The notification discloses (1) the identities of the parties to the project, and (2) the nature and objectives of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general areas of planned activities are given below.

The parties to this project are:

Motor Vehicle Manufacturers Association of the United States, Inc., 300 New Center Building, Detroit, Michigan 48202;

American Petroleum Institute, 1220 L Street NW., Washington, D.C. 20005; and

Coordinating Research Council, Inc., 219 Perimeter Center Parkway, Atlanta, Georgia 30346.

MVMA is a trade association, consisting of the following members:

AM General Corporation, LTV Aerospace & Defense Company, AM General Division, 1725 Jefferson Davis Highway, Suite 900, Arlington, Virginia 22202;

American Motors Corporation, 27777 Franklin Road, Southfield, Michigan 48034;

Chrysler Corporation, P.O. Box 1919, 21000 Oakland, Detroit, Michigan 48288;

Ford Motor Company, The American Road, Dearborn, Michigan 48121;

General Motors Corporation, General Motors Building, Detroit, Michigan 48202;

International Harvester Company, 401 N. Michigan Avenue, Chicago, Illinois 60611;

M.A.N. Truck & Bus Corporation, 201 South College Street, Charlotte, North Carolina 28244;

PACCAR Inc., Business Center Building, P.O. Box 1518, Bellevue, Washington, 98009;

Volkswagen of American, Inc., 888 W. Big Beaver Road, Troy, Michigan 48007-3951; and

Volvo North American Corporation, One Volvo Drive, Rockleigh, New Jersey 07647.

The purpose of the project is to conduct research activities to investigate the chemical and physical changes that diesel particulate emissions undergo upon their initial dilution in the atmosphere and during their lifetime in the atmosphere. In this continuing project, the chemical and physical characteristics of diesel exhaust particulates are studied after dilution and aging in a large smog chamber.

**Joseph H. Widmar,**

*Director of Operations Antitrust Division.*

[FR Doc. 85-3279 Filed 2-7-85; 8:45 am]

BILLING CODE 4410-01-M

**National Cooperative Research Act of 1984; Motor Vehicle Manufacturers Association of the United States, Inc., et al.**

Notice is hereby given that pursuant to section 6(a) of the Nationl Cooperative Research Act of 1984, Pub. L. No. 98-462 ("the Act"), the Motor Vehicle Manufacturers Association of the United States, Inc. ("MVMA") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission of a project entitled: CRC-APRAC CAPA-20, Aerosol Formtion in the Atmosphere. The notification discloses (1) the identities of the parties to the project, and (2) the nature and objectives of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general areas of planned activities are given below.

The parties to this project are:

Motor Vehicle manufacturers Association of the United States, Inc., 300 New Center Building, Detroit, Michigan 48202;

American Petroleum Institute, 1220 L Street NW., Washington, D.C. 20005; and

Coordinating Research Council, Inc., 219 Perimeter Center Parkway, Atlanta, Georgia 30346.

MVMA is a trade association, consisting of the following members:

AM General Corporation, LTV Aerospace & Defense Company, AM General Division, 1725 Jefferson Davis Highway, Suite 900, Arlington, Virginia 22202;

American Motors Corporation, 27777 Franklin Road, Southfield, Michigan 48034;

Chrysler Corporation, P.O. Box 1919, 21000 Oakland, Detroit, Michigan 48288;

Ford Motor Company, The American Road, Dearborn, Michigan 48121;

General Motors Corportaion, General Motors Building, Detroit, Michigan 48202;

International Harvester Company, 401 N. Michigan Avenue, Chicago, Illinois 60611;

M.A.N. Truck & Bus Corporation, 201 South College Street, Charlotte, North Carolina 28244;

PACCAR Inc., Business Center Building, P.O. Box 1518, Bellevue, Washington 98009;

Volkswagen of Americ, Inc., 888 W. Big Beaver Road, Troy, Michigan 48007-3951; and

Volvo North America Corporation, One Volvo Drive, Rockleigh, New Jersey 07647.

The purpose of the project is to conduct research activities to elucidate the reaction pathways of the conversion from gaseous to particulate pollutants. The project studies reaction pathways leading from gaseous emissions to aerosols in the atmosphere. Photochemical aerosols are generated in an outdoor smog chamber, and particle size distributions measured as a function of several parameters, using newly developed measurement techniques. An effort is being made to link the chemistry of aerosol formation to the physics of aerosol growth. Field studies of smog episodes are conducted for comparison with smog chamber results.

**Joseph H. Widmar,**

*Director of Operations, Antitrust Division.*

[FR Doc. 85-3280 Filed 2-7-85; 8:45 am]

BILLING CODE 4410-01-M

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**National Cooperative Research Act of 1984; Motor Vehicle Manufacturers Association of the United States, Inc., et al.**

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. No. 98-462 ("the Act"), the Motor Vehicle Manufacturers Association of the United States, Inc. ("MVMA") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission of a project entitled: CRC-APRAC CAPA-21, Acid Rain. The notification discloses (1) the identities of the parties to the project, and (2) the nature and objectives of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general areas of planned activities are given below.

The parties to this project are:

Motor Vehicle Manufacturers Association of the United States, Inc., 300 New Center Building, Detroit, Michigan 48202;

American Petroleum Institute, 1220 L Street NW, Washington, D.C. 20005; and

Coordinating Research Council, Inc., 219 Perimeter Center Parkway, Atlanta, Georgia 30346.

MVMA is a trade association, consisting of the following members:

AM General Corporation, LTV Aerospace & Defense Company, AM General Division, 1725 Jefferson Davis Highway, Suite 900, Arlington, Virginia 22202;

American Motors Corporation, 27777 Franklin Road, Southfield, Michigan 48034;

Chrysler Corporation, P.O. Box 1919, 21000 Oakland, Detroit, Michigan 48288;

Ford Motor Company, The American Road, Dearborn, Michigan 48121;

General Motors Corporations, General Motors Building, Detroit, Michigan 48202;

International Harvester Company, 401 N. Michigan Avenue, Chicago, Illinois 60611;

M.A.N. Truck & Bus Corporation, 201 South College Street, Charlotte, North Carolina 28244;

PACCAR Inc., Business Center Building, P.O. Box 1518, Bellevue, Washington 98009;

Volkswagen of America, Inc., 888 W. Big Beaver Road, Troy, Michigan 48007-3951; and

Volvo North America Corporation, One Volvo Drive, Rockleigh, New Jersey 07647.

The purpose of the project is to conduct research activities to determine the source of chemical constituents that affect the acidity of precipitation considering relative contributions from mobile, stationary and natural sources; to assess the ecological impacts of acid deposition; and to attempt a determination of the factors that control those impacts. Continuing experiments are investigating the chemical kinetics of the reactions of nitrogen oxide gases in clouds that lead to the formation of nitrates in precipitation. Field work is being carried out to test cloud water collectors. Direct measurement of reactions of nitrogen oxides in clouds will be attempted.

**Joseph H. Widmar,**

*Director of Operations, Antitrust Division.*

[FR Doc. 85-3281 Filed 2-7-85; 8:45 am]

BILLING CODE 4410-01-M

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**National Cooperative Research Act of 1984; Motor Vehicle Manufacturers Association of the United States, Inc., et al.**

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. No. 98-462 ("the Act"), the Motor Vehicle Manufacturers Association of the United States, Inc. ("MVMA") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission of a project entitled: CRC-

APRAC CAPA–22, Long-Range Transport of Air Pollutants. The notification discloses (1) the identities of the parties to the project, and (2) the nature and objectives of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general areas of planned activities are given below.

The parties to this project are:

Motor Vehicle Manufacturers Association of the United States, Inc., 300 New Center Building, Detroit, Michigan 48202;

American Petroleum Institute, 1220 L Street NW., Washington, D.C. 20005; and

Coordinating Research Council, Inc., 219 Perimeter Center Parkway, Atlanta, Georgia 30346.

MVMA is a trade association, consisting of the following members:

AM General Corporation, LTV Aerospace & Defense Company, AM General Division, 1725 Jefferson Davis Highway, Suite 900, Arlington, Virginia 22202;

American Motors Corporation, 27777 Franklin Road, Southfield, Michigan 48023;

Chrysler Corporation, P.O. Box 1919, 21000 Oakland, Detroit, Michigan 48288;

Ford Motor Company, The American Road, Dearborn, Michigan 48121;

General Motors Corporation, General Motors Building, Detroit, Michigan 48202;

International Harvester Company, 401 N. Michigan Avenue, Chicago, Illinois 60611;

M.A.N Truck & Bus Corporation, 201 South College Street, Charlotte, North Carolina 28244;

PACCAR Inc., Business Center Building, P.O. Box 1518, Bellevue, Washington 98009;

Volkswagen of America, Inc., 888 W. Big Beaver Road, Troy, Michigan 48007–3951; and

Volvo North America Corporation, One Volvo Drive, Rockleigh, New Jersey 07647.

The purpose of the project is to conduct research activities to determine the impact of long-range transport of air pollutants on air quality. The project will evaluate the credibility and usefulness of atmospheric transport and dispersion models which are being used extensively to simulate the behavior of air pollutants and to estimate local air pollutants concentrations.

**Joseph H. Widmar,**

*Director of Operations, Antitrust Division.*

[FR Doc. 85–3282 Filed 2–7–85; 8:45 am]

BILLING CODE 4410–01–M

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## National Cooperative Research Act of 1984; Motor Vehicle Manufacturers Association of the United States, Inc., et al.

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. No. 98–462 ("the Act"), the Motor Vehicle Manufacturers Association of the United States, Inc. ("MVMA") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission of a project entitled: CRC–APRAC CAPA–23, Atmospheric Transformation of Nitrogenous, Oxidant, and Organic Compounds. The notification discloses (1) the identities of the parties to the project, and (2) the nature and objectives of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the projects and its general areas of planned activities are given below.

The parties to this project are:

Motor Vehicle Manufacturers Association of the United States, Inc., 300 New Center Building Detroit, Michigan 48202;

American Petroleum Institute, 1220 L Street NW., Washington, D.C. 20005; and

Coordinating Research Council, Inc., 219 Perimeter Center Parkway, Atlanta, Georgia 30346.

MVMA is a trade association, consisting of the following members:

AM General Corporation, LTV Aerospace & Defense Company, AM General Division, 1725 Jefferson Davis Highway, Suite 900, Arlington, Virginia 22202;

American Motors Corporation, 27777 Franklin Road, Southfield, Michigan 48034;

Chrysler Corporation, P.O. Box 1919, 21000 Oakland, Detroit, Michigan 48288;

Ford Motor Company, The American Road, Dearborn, Michigan 48121;

International Harvester Company, 401 N. Michigan Avenue, Chicago, Illinois 60611;

M.A.N. Truck & Bus Corporation, 201 South College Street, Charlotte, North Carolina 28244;

PACCAR Inc., Business Center Building, P.O. Box 1518, Bellevue, Washington 98009;

Volkswagen of America, Inc., 888 W. Big Beaver Road, Troy, Michigan 48007–3951; and

Volvo North American Corporation, One Volvo Drive, Rockleigh, New Jersey 07647.

The purpose of the project is to conduct research activities to obtain data necessary for an improved understanding of the atmospheric transformation of nitrogenous, oxidant and organic compounds. This project will obtain data required for understanding and modeling the atmospheric pathways for reactions of nitrogenous, oxidant and organic compounds in the atmosphere, using improved instrumental techniques. Both the gas and liquid phases will be evaluated.

**Joseph H. Widnar,**

*Director of Operations, Antitrust Division.*

[FR Doc. 85–3283 Filed 2–7–85; 8:45 am]

BILLING CODE 4410–01–M

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## National Cooperative Research Act of 1984; Motor Vehicle Manufacturers Association of the United States, Inc., et al.

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. No. 98–462 ("the Act"), the Motor Vehicle Manufacturers Association of the United States, Inc. ("MVMA") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission of a project entitled: Truck/Trailer Brake Research. The notification discloses (1) the identities of the project, and (2) the nature and objectives of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general areas of planned activities are given below.

The parties to this project are:

Motor Vehicle Manufacturers Association of the United States, Inc., 300 New Center Building, Detroit, Michigan 48202;

American Trucking Associations, Inc., 2200 Mill Road, Alexandria, Virginia 22314;

Canadian Trucking Association, 130 Albert Street, Suite 300, Ottawa, Ontario, Canada K1P5G4; and

Truck/Trailer Manufacturers Association, Inc., 1020 Princess Street, Alexandria, Virginia 22314.

MVMA is a trade association, consisting of the following members:

AM General Corporation , LTV Aerospace & Defense Company, AM General Division, 1725 Jefferson Davis Highway, Suite 900, Arlington, Virginia 22202;

American Motors Corporation, 27777 Franklin Road, Southfield, Michigan 48034;

Chrysler Corporation, P.O. Box 1919, 21000 Oakland, Detroit, Michigan 48288;

Ford Motor Company, The American Road, Dearborn, Michigan 48121;

General Motors Corporation, General Motors Building, Detroit, Michigan 48202;

International Harvester Company, 401 N. Michigan Avenue, Chicago, Illinois 60611;

M.A.N. Truck & Bus Corporation, 201 South College Street, Charlotte, North Carolina 28244;

PACCAR Inc., Business Center Building, P.O. Box 1518, Bellevue, Washington 98009;

Volkswagen of America, Inc., 888 W. Big Beaver Road, Troy, Michigan 48007–3951; and

Volvo North American Corporation, One Volvo Drive, Rockleigh, New Jersey 07647.

The purpose of the project is to conduct a study of the effect of vehicle design, component performance and usage and maintenance practices on the performance of combination vehicles—i.e., tractor/trailer combinations—in braking maneuvers; identification and stimulation of reseach to find solutions to compatibility problems, and dissemination of findings.

The scope of investigation extends to any vehicle, system or component performance characteristic, and any operational maintenance factor which can affect the compatibility of trucks, trailers and converter dollies in combination vehicles during maneuvers involving brake applications.

**Joseph H. Widmar,**

*Director of Operations, Antitrust Division.*

[FR Doc. 85-3277 Filed 2-7-85 8:45 am]

BILLING CODE 4410-01-M

## DEPARTMENT OF LABOR

### Office of the Secetary

### Agency Forms Under Review by the Office of Management and Budget (OMB)

**Background**

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

**List of Forms Under Review**

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

**Comments and Questions**

Copies of the proposed forms and supporting documents may be obtained by calling the Department Clearance Officer, Paul E. Larson, Telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S–5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

**Extension**

Mine Safety and Health Administration
Respirator Program Records
1219–0048
Annually
Businesses and other for profit; small businesses or organzations
800 respondents; 5,000 hours
Requires operators of metal and nonmetal mines to establish a program which consists of written standard operating procedures governing the selection, use and care of respirators. Respirator programs are required to be established when engineering controls fail to reduce airborne contaminants to permissible levels. The standard, also, requires the mine operator to conduct fit testing of respirator devices and to keep a record of the results.

Signed at Washington, D.C., this 5th day of February, 1985.

**Paul E. Larson,**

*Departmental Clearance Officer.*

[FR Doc. 85-3295 Filed 2-7-85; 8:45 am]

BILLING CODE 4510-43-M

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### Employment and Training Administration

**[TA-W-15,527]**

### Cycles Apparel, New York, New York; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 31, 1984 in response to a worker petition received on October 25, 1984 which was filed on behalf of workers at Cycles Apparel, New York, New York.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 29th day of January 1985.

**Marvin M. Fooks,**

*Director, Office of Trade Adjustment Assistance.*

[FR Doc. 85-3293 Filed 2-7-85; 8:45 am]

BILLING CODE 4510-30-M

### Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 19, 1985.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 19, 1985.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 28th day of January 1985.

**Marvin M. Fooks,**

*Director, Office of Trade Adjustment Assistance.*

APPENDIX

| Petitioner: Union/workers or former workers of— | Location | Date received | Date of petition | Petition No. | Articles produced |
|---|---|---|---|---|---|
| American Hoechst Corp., Baton Rouge Works (Int'l Chemical Wkrs). | Baton Rouge, LA | 1/9/85 | 1/4/85 | TA-W-15, 699 | Mono chloracetic acid. |
| Gateway Coal Co. (UMWA) | Prosperity, PA | 1/17/85 | 1/11/85 | TA-W-15, 700 | Metallurgical coal. |
| General Electric Co., Consumer Electronics Business Operation (company). | Portsmouth, VA | 1/22/85 | 1/16/85 | TA-W-15, 701 | Color television receivers. |
| (The) Harwood Companies Inc., Holston Plant and Marion Plant (workers). | Marion, VA | 1/22/85 | 1/16/85 | TA-W-15, 702 | Pajamas and sportswear, men's and children's. |
| J & A Young, Inc. (ILGWU) | Lindenhurst, NY | 1/16/85 | 1/11/85 | TA-W-15, 703 | Swimwear and sport togs, women's. |
| Kagan-Lown & Co. (workers) | Oldtown, ME | 1/18/85 | 1/15/85 | TA-W-15, 704 | Loafer style shoes, women's. |
| Lansford Fashions Mfg. Corp. (wkrs) | Lansford, PA | 1/9/85 | 1/5/85 | TA-W-15, 705 | Blouses, ladies. |
| LTV Steel Corp. (USWA) | E. Hartford, CT | 1/22/85 | 1/16/85 | TA-W-15, 706 | Steel round bars. |
| Ohio Ferro Alloys Corp. (USWA) | Philo, OH | 1/11/85 | 1/5/85 | TA-W-15, 707 | Ferro silicon. |
| Phelps Dodge Corp., Morenci Branch (company) | Morenci, AZ | 1/15/85 | 1/11/85 | TA-W-15, 708 | Blister copper. |
| Amcast Industrial Corp., Ironton Div. (workers) | Ironton, OH | 1/16/85 | 1/10/85 | TA-W-15, 709 | Ductile iron castings. |
| Crown Zellerbach Corp., Chimacum Creek Div., Northwest Managed Forest (IWA). | Port Angeles, WA | 1/11/85 | 12/27/84 | TA-W-15, 710 | Logs. |
| Extracorporeal, Inc., Valley Forge Plant (company) | Norristown, PA | 12/27/84 | 12/18/85 | TA-W-15, 711 | Arterial Venous blood tubing sets. |
| Foster Grant, Inc. (RWDSU) | Leominster, MA | 1/15/85 | 1/10/85 | TA-W-15, 712 | Sunglasses. |
| Hercules Shoe Mfg. Corp. (ACTWU) | Brooklyn, NY | 1/15/85 | 1/9/85 | TA-W-15, 713 | Shoes, children's, men's. |
| ITT Rayonier, Peninsula Plywood Div. (IWA) | Port Angeles, WA | 1/11/85 | 12/27/84 | TA-W-15, 714 | Plywood. |
| LTV Steel Corp., Greenwich Sales Office (workers) | Greenwich, CT | 1/15/85 | 1/11/85 | TA-W-15, 715 | Sales office. |
| Mayr Brothers Logging Co., Inc. (Int'l Woodworkers) | Hoquiam, WA | 1/2/85 | 12/28/84 | TA-W-15, 716 | Headquarters and sawmill. |
| Traverly, Inc. (company) | New York, NY | 1/11/85 | 12/28/84 | TA-W-15, 717 | Tailored men's suits and sport jackets. |

[FR Doc. 85-3292 Filed 2-7-85; 8:45 am]

BILLING CODE 4510-30

## Mine Safety and Health Administration

**[Docket No. M-84-263-C]**

### Empire Energy Corp.; Petition for Modification of Application of Mandatory Safety Standard

Empire Energy Corporation, P.O. 68, Craig, Colorado 81626 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolly wires, trolley feeder wires, high-voltage cables and transformers) to its Eagle No. 5 Mine (I.D. No. 05-01370) located in Moffat County, Colorado. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirements that trolley wires and trolley feeder wires, high-voltage cables and transformers not be located by the last open crosscut and be kept at least 150 feet from pillar workings.

2. Petitioner plans to install a longwall mining unit; an 800-horsepower shearing machine and 700-horsepower face conveyor will be used.

3. As an alternate method, petitioner proposes to use 4160 V.A.C. high-voltage cables to interconnect the transformer/controller with the shearer and each face conveyor motor with specific conditions in or inby the last open crosscut or within 150 feet of pillar workings.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 11, 1985. Copies of the petition are available for inspection at that address.

Date: January 31, 1985.

**Patricia W. Silvey,**

*Director, Office of Standards, Regulations and Variances*

[FR Doc. 85-3794 Filed 2-7-85; 8:45]

BILLING CODE 4510-43-M

## NATIONAL COMMUNICATIONS SYSTEM

### Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee; Meeting

A meeting of the Industry Executive Subcommittee (IES) of the National Security Telecommunications Advisory

Committee (NSTAC) will be held beginning at 9 a.m., Thursday, February 21, 1985. The meeting will be held at the Mitre Corporation, 1820 Dolly Madison Boulevard, McLean, VA 22102. The agenda is as follows:

A. Opening remarks.

B. Administrative remarks.

C. Briefings from task force leaders.

Any person desiring information about the meeting may telephone (202) 692-9274 or write the Manager, National Communications System, Washington, D.C. 20305.

D.C. Brown,

*Captain, USN, NCS Joint Secretariat.*

[FR Doc. 85-3209 Filed 2-7-85; 8:45 am]

BILLING CODE 3610-05-M

## NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

### Literature Advisory Panel (Audience Development Section); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L 92-463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel (Audience Development Section) to the National Council on the Arts will be held on February 21-22, 1985, from 9:00 a.m.-5:30 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

A portion of this meeting will be open to the public on February 22, 1985, from 4:30-5:30 p.m. to discuss policy.

The remaining sessions of this meeting on February 21, 1985, from 9:00 a.m.-5:30 p.m.; and on February 22, 1985, from 9:00 a.m.-4:30 p.m. are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

Dated: January 29, 1985.

John H. Clark,

*Director, Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 85-3243 Filed 2-7-85; 8:45 am]

BILLING CODE 7537-01-M

## NATIONAL SCIENCE FOUNDATION

### Advisory Committee for Chemistry; Cancellation of Meeting

The Advisory Committee for Chemistry has scheduled a meeting for February 15 and 16, 1985. This meeting has been cancelled. The notice for the February meeting appeared in the Federal Register on Wednesday, January 30, 1985 (50 FR 4284).

M. Rebecca Winkler,

*Committee Management Officer.*

February 5, 1985.

[FR Doc. 85-3239 Filed 2-7-85; 8:45 am]

BILLING CODE 7555-01-M

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards, Subcommittee on Waste Management; Revised Notice of Meeting

This notice is a revision of and supersedes the previous notice of this meeting which appeared in the Federal Register published February 4, 1985, 50 FR 4932.

The ACRS Subcommittee on Waste Management will hold a meeting on February 15 and 16, 1985, in Room 1046, 1717 H Street, NW, Washington, DC.

Although the meeting will be primarily an Executive Session, it will be open to public attendance.

The agenda for the subject meeting will be as follows:

*Friday, February 15, 1985—8:30 a.m. until the conclusion of business*

*Saturday, February 16, 1985—8:30 a.m. until 12:00 Noon*

The Subcommittee will review:

(1) Proposed Amendments to Licensing Procedures, 10 CFR Part 60, Disposal of High-Level Radioactive Waste in Geologic Repositories, 50 FR 2579, January 17, 1985,

(2) NRC's Quality Assurance Review Plan for Site Characterization, and

(3) Three NRC generic Technical Positions, viz.,

(a) Documentation of Computer Codes for High-Level Waste Management, NUREG-0856, dated June, 1983.

(b) Waste Package Performance After Repository Closure, NUREG/CR-3219, Vol. 1, dated August, 1983.

(c) Post Emplacement Monitoring, NUREG/CR-3219, Vol. 2, dated May, 1983.

Oral statements may be presented by members of the public with concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member name below as far in advance as practicable so that appropriate arrangements can be made.

The Subcommittee and its consultants will discuss the subject topics; representatives of the NRC and DOE Staffs and other interested persons may also be invited to participate in these discussions.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Owen S. Merrill, (telephone 202/634-1413) between 8:15 a.m. and 5:00 p.m., e.s.t.

Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: February 5, 1985.

Morton W. Libarkin,

*Assistant Executive Director for Project Review.*

[FR Doc. 85-3270 Filed 2-7-85; 8:45 am]

BILLING CODE 7590-01-M

### Documents Containing Reporting or Record Keeping Requirements; Office of Management and Budget Review

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of the Office of Management and Budget review of information collection.

**SUMMARY:** The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under

the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Revision.

2. The title of the information collection: "Decommissioning Criteria for Nuclear Facilities," 10 CFR Parts 30, 40, 50, 51, 70, and 72.

3. The form number of applicable: Not applicable.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: Applicants for, and holders of, NRC licenses for nuclear facilities.

6. An estimate of the number of responses: 17,890.

7. An estimate of the total number of hours needed annually to complete the requirement or request: 68,000 hours per year.

8. An indication of whether Section 3504(h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: The NRC is proposing technical and financial criteria for the safe and timely decommissioning of all licensed nuclear facilities. Proposed amendments to 10 CFR Parts 30, 40, 50, 51, 70, and 72 include recordkeeping and reporting requirements for applicants and licensees concerning decommissioning planning needs, timing, funding mechanisms, and environmental review requirements.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street NW, Washington, DC. 20555.

Comments and questions should be directed to the OMB reviewer Jefferson B. Hill, (202) 395-7340.

NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland this 1st day of February 1985.

For the Nuclear Regulatory Commission.

**Patricia G. Norry,**

*Director, Office of Administration.*

[FR Doc. 85-3271 Filed 2-7-85; 8:45 am]

BILLING CODE 7590-01-M

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**[Docket Nos. 50-424 and 50-425]**

## Georgia Power Co., et al. (Vogtle Electric Generating Plant, Units 1 and 2); Exemption

I

On August 1, 1972, the Georgia Power Company, the Municipal Electric Authority of Georgia, the Oglethorpe Power Corporation, and the City of Dalton, Georgia (the licensees) tendered an application for licenses to construct Vogtle Electric Generating Plant, Units 1 and 2 (Vogtle or the facility) with the Atomic Energy Commission (currently the Nuclear Regulatory Commission or the Commission). Following a public hearing before the Atomic Safety and Licensing Board, the Commission issued Construction Permits Nos. CPPR-108 and CPPR-109 permitting the construction of Units 1 and 2, respectively, on June 28, 1974. Each unit of the facility is a pressurized water reactor, containing a Westinghouse Electric Company nuclear steam supply system, located at the licensee's site in Burke County, Georgia.

On June 30, 1983, the licensees tendered an application for Operating Licenses for each unit of the facility, currently in the licensing review process.

II

The Construction Permits issued for constructing the facility provide, in pertinent part, that the facility units are subject to all rules, regulations and Orders of the Commission. This includes General Design Criterion (GDC) 4 of Appendix A to 10 CFR Part 50. GDC 4 requires that structures, systems and components important to safety shall be designed to accommodate the effects of, and to be compatible with, the environmental conditions associated with the normal operation, maintenance, testing and postulated accidents, including loss-of-coolant accidents. These structures, systems and components shall be appropriately protected against dynamic effects, including the effects of missiles, pipe whipping, discharging fluids that may result from equipment failures, and from events and conditions outside the nuclear power unit.

In a submittal dated October 25, 1983, the applicants enclosed Westinghouse Report MT-SME-3082 (Reference 1) containing the technical basis for their request to: (1) Eliminate the need to postulate circumferential and longitudinal pipe breaks in the Reactor Coolant System (RCS) primary loop (hot leg, cold leg and cross-over leg piping); (2) eliminate the need to install pipe whip restraints and jet impingement shields associated with previously postulated breaks in the RCS primary loops and; (3) eliminate the need to consider dynamic effects and loading conditions specifically associated with previously postulated pipe breaks in the RCS primary loop, including jet impingement loads, cavity pressure loads, blowdown loads in the RCS and attached piping, and subcompartment pressure loads. By a subsequent submittal dated April 2, 1984, the applicants requested an exemption from a portion of the requirements of GDC 4 related to the above, in support of the prior request. The applicants also stated in their submittals that the exemption request does not apply to the design bases for the containment including the design basis for structural loading of subcompartment walls and floors, the emergency core cooling system, or environmental qualification. The applicants also stated that the design of their reactor coolant system supports would remain unchanged.

Based on its review of the applicants' October 25th submittal, the NRC staff requested additional information and provided comments on the reports (References 1 and 9) which were transmitted to the applicant in the form of questions by NRC letter dated March 19, 1984 (Reference 2).

By a submittal dated May 17, 1984, the applicants responded to the staff's questions, providing a new report identified as Westinghouse Report WCAP-10551 (Reference 3). In a separate submittal, dated April 2, 1984, the applicants provided a value-impact analysis which, together with the technical information contained in the Reference 3 report, provided a comprehensive justification for requesting a partial exemption from the requirements of GDC 4.

By letter dated December 21, 1984, the applicants described their present installation status of the pipe whip restraints and jet impingement shields for both Unit 1 and Unit 2. For Unit 1, of the twenty-four (24) pipe whip restraints per unit, only support structures for sixteen (16) are installed. No bearing bars or attachments have been installed and no shimming has begun. For Unit 2, eight (8) are similarly partially installed. Installation has not begun for the remainder of the Unit 1 and Unit 2 restraints. Additionally, none of the jet impingement shields for either unit have been installed.

From the deterministic fracture mechanics analysis contained in the technical information furnished, the applicants concluded that the postulated double-ended guillotine breaks (DEGB) of the primary loop coolant piping in Vogtle, Units 1 and 2, need not be considered as a design basis for installing protective structures, such as pipe whip restraints and jet impingement shields, to guard against the dynamic effects associated with such postulated breaks. However, the applicant proposes to continue to postulate the DEGB as the design basis for the containment subcompartments, for the ECCS and for environmental qualification.

III

The Commission's regulations require that applicants provide protective measures against the dynamic effects of postulated pipe breaks in high energy fluid system piping. Protective measures include physical isolation from postulated pipe rupture locations if feasible or the installation of pipe whip restraints, jet impingement shields or compartments. In 1975, concerns arose as to the asymmetric loads on pressurized water reactor (PWR) vessels and their internals which could result from these large postulated breaks at discrete locations in the main primary coolant loop piping. This led to the establishment of Unresolved Safety Issue (USI) A–2, "Asymmetric Blowdown Loads on PWR Primary Systems."

The NRC staff, after several review meetings with the Advisory Committee on Reactor Safeguards (ACRS) and a meeting with the NRC Committee to Review Generic Requirements (CRGR), concluded that an exemption from the regulations would be acceptable as an alternative for resolution of USI A–2 for sixteen facilities owned by eleven licensees in the Westinghouse Owner's Group (one of these facilities, Fort Calhoun has a Combustion Engineering nuclear steam supply system). This NRC staff position was stated in Generic Letter 84–04, published on February 1, 1984 (Reference 4). The generic letter states that the affected licensees must justify an exemption to GDC 4 on a plant-specific basis. Other PWR applicants or licensees may request similar exemptions from the requirements of GDC 4 provided that they submit an acceptable technical basis for eliminating the need to postulate pipe breaks.

The acceptance of an exemption was made possible by the development of advanced fracture mechanics technology. These advanced fracture mechanics techniques deal with relatively small flaws in piping components (either postulated or real) and examine their behavior under various pipe loads. The objective is to demonstrate by deterministic analyses that the detection of small flaws by either inservice inspection or leakage monitoring systems is assured long before the flaws can grow to critical or unstable sizes which could lead to large break areas such as the DEGB or its equivalent. The concept underlying such analyses is referred to as "leak-before-break" (LBB). There is no implication that piping failures cannot occur, but rather that improved knowledge of the failure modes of piping systems and the application of appropriate remedial measures, if indicated, can reduce the probability of catastrophic failure to insignificant values.

Advanced fracture mechanics technology was applied to topical reports (References 5, 6 and 7) submitted to the staff by Westinghouse on behalf of the licensees belonging to the USI A–2 Owners Group. Although the topical reports were intended to resolve the issue of asymmetric blowdown loads that resulted from a limited number of discrete break locations, the technology advanced in these topical reports demonstrated that the probability of breaks occurring in the primary coolant system main loop piping is sufficiently low such that these breaks need not be considered as a design basis for requiring installation of pipe whip restraints or jet impingement shields. The staff's Topical Report Evaluation is included as part of Reference 4.

Probabilistic fracture mechanics studies conducted by the Lawrence Livermore National Laboratories (LLNL) on both Westinghouse and Combustion Engineering nuclear steam supply main loop piping (Reference 8) confirm that both the probability of leakage (e.g., undetected flaw growth through the pipe wall by fatigue) and the probability of a DEGB are very low. The results given in Reference 8 are that the best-estimate leak probabilities for Westinghouse nuclear steam supply system main loop piping range from $1.2 \times 10^{-6}$ to $1.5 \times 10^{-7}$ per plant year and the best-estimate DEGB probabilities range from $1 \times 10^{-12}$ to $7 \times 10^{-12}$ per plant year. Similarly, the best-esimate leak probabilities for Combustion Engineering nuclear steam supply system main loop piping range from $1 \times 10^{-6}$ per plant year to $3 \times 10^{-8}$ per plant year, and the best-estimate DEGB probabilities range from $5 \times 10^{-14}$ to $5 \times 10^{-13}$ per plant year. These results do not affect core melt probabilities in any significant way.

During the past few years it has also become apparent that the requirement for installation of large, massive pipe whip restraints and jet impingement shields is not necessarily the most cost effective way to achieve the desired level of safety, as indicated in Enclosure 2, Regulatory Analysis, to Reference 4. Even for new plants, these devices tend to restrict access for future inservice inspection of piping; or if they are removed and reinstalled for inspection, there is a potential risk of damaging the piping and other safety-related components in this process. If installed in operating plants, high occupational radiation exposure (ORE) would be incurred while public risk reduction would be very low. Removal and reinstallation for inservice inspection also entail significant ORE over the life of a plant.

The primary coolant system of Vogtile, Units 1 and 2, described in Reference 3, has four main loops each comprising a 33.9 inch diameter hot leg, a 36.2 inch diameter crossover leg and 32.14 inch diameter cold leg piping. The material in the primary loop piping is cast stainless steel (SA 351 CF8A). In its review of Reference 3, the staff evaluated the Westinghouse analyses with regard to:

—The location of maximum stresses in the piping, associated with the combined loads from normal operation and the SSE;
—Potential cracking mechanisms;
—Size of through-wall cracks that would leak a detectable amount under normal loads and pressure;
—Stability of a "leakage-size crack" under normal plus SSE loads and the expected margin in terms of load;
—Margin based on crack size; and
—The fracture toughness properties of thermally-aged cast stainless steel piping and weld material.

The NRC staff's criteria for evaluation of the above parameters are delineated in its Topical Report Evaluation, Enclosure 1 to Reference 4, Section 4.1, "NRC Evaluation Criteria", and are as follows:

(1) The loading conditions should include the static forces and moments (pressure, deadweight and thermal expansion) due to normal operation, and the forces and moments associated with the safe shutdown earthquake (SSE). These forces and moments should be located where the highest stresses and the lowest material toughness are coincident for base materials, weldments and safe-ends.

(2) For the piping run/systems under evaluation, all pertinent information which demonstrates that degradation or failure of the piping resulting from stress corrosion cracking, fatigue or water hammer is not likely, should be provided. Relevant operating history should be cited, which includes system operational procedures; system or component modification; water chemistry parameters, limits and controls; resistance of material to various forms of stress corrosion, and performance under cyclic loadings.

(3) A through-wall crack should be postulated at the highest stressed locations determined from (1) above. The size of the crack should be large enough so that the leakage is assured of

detection with adequate margin using the minimum installed leak detection capability when the pipe is subjected to normal operational loads.

(4) It should be demonstrated that the postulated leakage crack is stable under normal plus SSE loads for long periods of time; that is, crack growth, if any, is minimal during an earthquake. The margin, in terms of applied loads, should be determined by a crack stability analysis, i.e., that the leakage-size crack will not experience unstable crack growth even if larger loads (larger than design loads) are applied. This analysis should demonstrate that crack growth is stable and the final crack size is limited, such that a double-ended pipe break will not occur.

(5) The crack size should be determined by comparing the leakage-size crack to critical-size cracks. Under normal plus SSE loads, it should be demonstrated that there is adequate margin between the leakage-size crack and the critical-size crack to account for the uncertainties inherent in the analyses, and leakage detection capability. A limit-load analysis may suffice for this purpose, however, an elastic-plastic fracture mechanics (tearing instability) analysis is preferable.

(6) The materials data provided should include types of materials and materials specifications used for base metal, weldments and safe-ends, the materials properties including the J–R curve used in the analyses, and long-term effects such as thermal aging and other limitations to valid data (e.g. J maximum, maximum crack growth).

V

Based on its evaluation of the analysis contained in Westinghouse Report WCAP–10551 (Reference 3), the staff finds that the applicants have presented an acceptable technical justification, addressing the above criteria, for not installing protective devices to deal with the dynamic effects of large pipe ruptures in the main loop primary coolant system piping of Vogtle, Units 1 and 2. This finding is predicated on the fact that each of the parameters evaluated for Vogtle is *enveloped* by the generic analysis performed by Westinghouse in Reference 5, and accepted by the staff in Enclosure 1 to Reference 4. Specifically:

(1) The loads associated with the highest stressed location in the main loop primary system piping are 1,962 kips (axial), 28,810 in-kips (bending moment) and result in maximum stresses of about 75% of the bounding stress used by Westinghouse in Reference 5. Further, these loads are approximately 70% of those established by the staff as limits (e.g. a moment of 42,000 in-kips in Enclosure 1 to Reference 4).

(2) For Westinghouse plants, there is no history of cracking failure in reactor primary coolant system loop piping. The Westinghouse reactor coolant system primary loop has an operating history which demonstrates its inherent stability. This includes a low susceptibility to cracking failure from the effects of corrosion (e.g. intergranular stress corrosion cracking), water hammer, or fatigue (low and high cycle). This operating history totals over 400 reactor-years, including five (5) plants each having 15 years of operation and 15 other plants with over 10 years of operation.

(3) The results of the leak rate calculations performed for Vogtle, using an initial through-wall crack of 7.5 inches, are identical to those of Enclosure 1 to Reference 4. The Vogtler plant has an RCS pressure boundary leak detection system which is consistent with the guidelines of Regulatory Guide 1.45, and it can detect leakage of one (1) gpm in one hour. The calculated leak rate through the postulated flaw results in a factor of at least 10 relative to the sensitivity of the Vogtle plant leak detection system.

(4) The margin in terms of load based on fracture mechanics analyses for the leakage-size crack under normal plus SSE loads is within the bounds calculated by the staff in Section 4.2.3 of Enclosure 1 to Reference 4. Based on a limit-load analysis, the load margin is about 2.9 and based on the J limit discussed in (6) below, the margin is at least 1.5.

(5) The margin between the leakage-size crack and the critical-size crack was calculated by a limit load analysis. Again, the results demonstrated that a margin of at least 3 on crack size exists and is within the bounds of section 4.2.3. of Enclosure 1 to Reference 4.

(6) As an integral part of its review, the staff's evaluation of the material properties data of Reference 9 is enclosed as Appendix 1 to this exemption. In Reference 9, data for ten (10) plants, including the Vogtle units, are presented, and lower bound or "worst case" materials properties were identified and used in the analysis performed in the Reference 3 report by Westinghouse. The applied J for Vogtle in Reference 3 was substantially less than 3000 in-lb/in $^2$. Hence, the staff's upper bound of 3000 in-lb/in $^2$ on the applied J (refer to Appendix 1, page 6) was not exceeded.

In view of the analytical results presented in the Westinghouse Report for Vogtle (Reference 3) and the staff's evaluation findings related above, the staff concludes that the probability or likelihood of large pipe breaks occurring at the eight (8) locations in each primary coolant system loop of Vogtle, Units 1 and 2 is sufficiently low that such pipe breaks and their associated dynamic loads as indicated in the applicants' October 25 letter need not be considered as a design basis for requiring pipe whip restraints and jet impingement shields. Eliminating the need to consider these dynamic loads for this particular application does not in any way affect the design bases for the containment, the emergency core cooling system, or the environmental qualification for Vogtle.

The staff also reviewed the value-impact analysis provided by the applicant in their April 2, 1984, submittal for not providing protective structures against postulated reactor coolant system loop pipe breaks to assure as low as reasonably achievable (ALARA) exposure to plant personnel. Consideration was given to design features for reducing doses to personnel who must operate, service and maintain the Vogtle instrumentation, controls, equipment, etc. The Vogtle value-impact analysis shows that the elimination of protective devices for RCS pipe breaks will save an occupational dose for plant personnel of approximately 700 person-rem for both units over their operating lifetime. The staff review of the analysis shows it to be a reasonable estimate of dose savings. Therefore, with respect to occupational exposure, the staff finds that their is a radiological benefit to be gained by eliminating the need for the protective structures.

VI

In view of the staff's evaluation findings, conclusions, and recommendations above, the Commission has determined that, pursuant to 10 CFR 50.12(a), this exemption is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. The Commission hereby approves the limited exemption from GDC 4 of Appendix A to 10 CFR Part 50, to permit the applicants not to further install pipe whip restraints and jet impingement shields and not to consider dynamic effects and loading conditions as detailed in part II of this exemption associated with postulated pipe breaks of the eight (8) locations per loop in the Vogtle, Units 1 and 2 primary coolant system, as specified in Enclosure D of

the applicants' letter dated October 25, 1983.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the exemption will have no significant impact on the environment (50 FR 4605).

The exemption will become effective upon date of issuance.

Dated at Bethesda, Maryland this 5th day of February 1985.

For the Nuclear Regulatory Commission.

**Darrell G. Risenhut,**

*Director, Division of Licensing, Office of Nuclear Reactor Regulation.*

**References**

(1) Westinghouse Report MT-SME-3082, "Technical Bases for Eliminating Large Primary Loop Pipe Ruptures as the Structural Design Basis for Vogtle, Units 1 and 2," September 1983, Westinghouse Class 2 proprietary.

(2) Letter to D.O. Foster of Georgia Power Company, "Request for Additional Information Concerning Leak-Before-Break Analysis for Vogtle Electric Generating Plants, (Units 1 and 2)," dated March 19, 1984.

(3) Westinghouse Report WCAP-10551, "Technical Bases for Eliminating Large Primary Loop Pipe Rupture as the Structural Design Basis for Vogtle, Units 1 and 2," May 1984, Westinghouse Class 2 proprietary.

(4) NRC Generic Letter 84-04, "Safety Evaluation of Westinghouse Topical Reports Dealing with Elimination of Postulated Breaks in PWR Primary Main Loops," February 1, 1984.

(5) Mechanistic Fracture Evaluation of Reactor Coolant Pipe Containing a Postulated Circumferential Throughwall Crack, WCAP-9558, Rev. 2, May 1981, Westinghouse Class 2 proprietary.

(6) Tensile and Toughness Properties of Primary Piping Weld Metal for Use in Mechanistic Fracture Evaluation, WCAP-9787, May 1981, Westinghouse Class 2 proprietary.

(7) Westinghouse Response to Questions and Comments Raised by Members of ACRS Subcommittee on Metal Components During the Westinghouse Presentation on September 25, 1981, Letter Report NS-EPR-2519, E.P. Rahe to Darrell G. Eisenhut, November 10, 1981, Westinghouse Class 2 proprietary.

(8) Lawrence Livermore National Laboratory Report, UCRL-86249, "Failure Probability of PWR Reactor Coolant Loop Piping," by T. Lo, H.H. Woo, G.S. Holman and C.K. Chou, February 1984 (Preprint of a paper intended for publication).

(9) Westinghouse Report WCAP-10456, "The Effects of Thermal Aging on the Structural Integrity of Cast Stainless Steel Piping for Westinghouse Nuclear Steam Supply Systems," November 1983, Westinghouse Class 2 proprietary.

(10) Georgia Power Company letter, "Alternative Pipe Break Design Considerations" (D.O. Foster to H.R. Denton) dated April 2, 1984.

**Note.**—Non-proprietary versions of References 1, 3, 5, 6, 7 and 9 are available in the NRC Public Document Room as follows:

(1) MT-SME-3082, non-proprietary.
(3) WCAP 10552.
(5) WCAP 9570.
(6) WCAP 9788.
(7) Non-proprietary version attached to the Letter Report.
(9) WCAP 10457.

## Appendix 1.—Evaluation of Westinghouse Report WCAP 10456, "The Effects of Thermal Aging on the Structural Integrity of Cast Stainless Steel Piping for Westinghouse Nuclear Steam Supply Systems"

*Introduction*

The primary coolant piping in some Westinghouse Nuclear Steam Supply Systems (NSSS) contain cast stainless steel base metal and weld metal. The base metal and weld metal are fabricated to produce a duplex structure of delta ($\delta$) ferrite in an austenitic matrix. The duplex structure produces a material that has a higher yield strength, improved weldability and greater resistance to intergranular stress-corrosion cracking than a single phase austenitic material. However, as early as 1965 (Ref. 1), it was recognized that long time thermal aging at primary loop water temperatures (550 °F–650 °F) could significantly affect the Charpy impact toughness of the duplex structured alloys. Since the Charpy impact test is a measure of a material's resistance to fracture, a loss in Charpy impact toughness could result in reduced structural stability in the piping system.

The purpose of Report WCAP 10456 is to evaluate whether cast stainless steel base metal and weld metal containing postulated cracks will be sensitive to unstable fracture during the 40 year life of a nuclear power plant. In order to determine whether a piping system will behave in such a fashion, the pipe materials' mechanical properties, design criteria and method of predicting failure must be established. In this evaluation, we will assess the mechanical properties of thermally aged cast stainless steel pipe materials, which are reported in Report WCAP 10456.

*Discussion*

1. Weld Metal.

Report WCAP 10456 refers to test results reported in a paper by Slama, et. al. (Ref. 2) to conclude that the weld metal in primary loop piping would not be overly sensitive to aging and that the aged cast pipe base metal material would be structurally limiting. In the Slama report eight (8) welds were evaluated. The tensile properties were only slightly affected by aging. The Charpy U-notch impact energy in the most highly sensitive weld decreased from 7daJ/cm² (40 ft-lbs) to near 4daJ/cm² (24 ft-lbs) after aging for 10,000 hours at 400 °C (752 °F). This change was not considered significant. The relatively small effect of aging on the weld, as compared to cast pipe material was reported to be caused by a difference in microstructure and lower levels of ferrite in the weld than in the cast pipe material.

2. Cast Stainless Steel Pipe Base Metal.

Report WCAP 10456 contains mechanical property test results from a number of heats of aged cast stainless steel material and a metallurgical study, which was performed by Westinghouse, to support a statistically based model for predicting the effect of thermal aging on the Charpy impact test properties of cast stainless steel. As a result of these tests and the proposed model, Westinghouse concludes that the fracture toughness test results from one heat of material tested represents end-of-life conditions for the ten (10) plants surveyed. The (10) plants surveyed are identified as Plants A through J.

a. *Mechanical Property Test Results Reported in WCAP 10456.* Mechanical property test results on aged and unaged cast stainless steel materials which were reported in a paper by Landerman and Bamford (Ref. 3), Bamford, Landerman and Diaz (Ref. 4), Slama et. al. (Ref. 2) were discussed in Report 10456. In addition, Westinghouse performed confirmatory Charpy V notch and J-integral tests on aged cast stainless steel material, which was tested and evaluated by Slama et al.

The results of these tests indicate that:

(1) The fatigue crack growth rates of aged or unaged material in air and pressurized water reactor environments were equivalent.

(2) Tensile properties were essentially unaffected except for a slight increase in tensile strength and a decrease in ductility.

(3) J-integral test results indicate that the $J_{1C}$ and tearing modulus, T, are affected by aging.

b. *Mechanism Study in WCAP 10456.* The tests and literature survey conducted by Westinghouse indicate that the proposed mechanism of aging occurs in the range of operating temperatures for pressurized water reactors and the data from accelerated aging studies can be used to predict the behavior at operating temperatures.

c. *Cast Stainless Steel Pipe Test.* The materials data discussed in the previous section of this evaluation were obtained from small specimens. As a consequence, the J–R results are limited to relatively short crack extensions. To investigate the behavior of cast stainless

steel in actual piping geometry. Westinghouse performed two experiments, one of which was with thermally aged cast stainless steel and the other test was identical except that the steel was not thermally aged.

Each pipe tested contained a throughwall circumferential crack to the extent specified in WCAP 10456. The pipe sections were closed at the ends, pressurized to nominal PWR operating pressure and then bending loads were applied.

The results of the tests were very similar, in that both pipes displayed extensive ductility, and stable crack extension. There was no observed unstable crack extension or fast fracture.

The results of the Westinghouse pipe experiments indicate that cast stainless steel, both aged and unaged, can withstand crack extensions well beyond the range of the J–R results with small specimens. However, if crack extension is predicted in an actual application of thermally aged cast stainless steel in a piping system, we believe that it is prudent to limit the applied J to 3000 in-lbs/in$^2$ or less unless further studies and/or experiments demonstrate that higher values are tolerable. Loss of initial toughness due to thermal aging of cast stainless steels at normal nuclear facility operating temperatures occurs slowly over the course of many years; therefore, continuing study of the aging phenomenon may lead to a relaxation of this position. Conversely, in the unlikely event that the total loss of toughness and the rate of toughness are greater than those projected in this evaluation, the staff will take appropriate action to limit the values to what which can be justified by experimental data. Because the aging is a slow process, the staff believes there would be sufficient time for the staff to recognize the problem and to rectify the situation. However, the staff believes this situation is highly unlikely because the staff has accepted only the lower bounds of data that were gathered among ten plants encompassing the range of materials in use.

d. *Effects of Thermal Aging on Westinghouse Supplied Centrifugally Cast Reactor Coolant Piping Reported in WCAP 10456.* The reactor coolant cast stainless steel piping materials in the plants identified in WCAP 10456 as A through J, were produced to the specification SA–351, Class CF8A as outlined in ASME Code Section II, Part A and also to Westinghouse Equipment Specification G–678864, as revised. For these materials, Westinghouse has calculated the predicted end-of-life Charpy U-notch properties, based on their proposed model. The two (2) standard deviation end-of-life lower limit value for all the plants surveyed was greater than the Charpy U notch properties of the aged reference materials, which Westinghouse indicates represents end-of-life properties for all the plants. As a result, Westinghouse concluded that the amount of embrittlement in the aged reference material exceed the amount projected at end-of-life for all cast stainless steel pipe materials in Plants A through J.

**Conclusions**

Based on our review of the information and data contained in Westinghouse Report WCAP 10456, we conclude that:

1. Weld metal that is used in cast stainless steel piping system is initially less fracture resistant than the cast stainless steel based metal. However, the weld metal is less susceptible to thermal aging than the cast stainless steel base metal. Hence, at end-of-life the cast stainless steel base metal is anticipated to be the least fracture resistant material.

2. The Westinghouse proposed model may be used to predict the relative amount of embrittlement on a heat of cast stainless steel material. The two standard deviation lower confidence limit for this model will provide a useful engineering estimate of the predicted end-of-life Charpy impact properties for cast stainless steel base metal.

3. Since there is considerable scatter in J-integral test data for the heats of material tested, lower bound values for $J_{1c}$ and T should be used as engineering estimates for the fracture resistance of the aged reference material. We believe these values should also provide a lower bound for the fracture resistance of aged and unaged weld metal. If crack extension is predicted in an actual application of cast stainless steel in a piping system, we conclude that the applied J should be limited to 3000 in-lbs/in$^2$ or less unless further studies and tests demonstrate that higher values are tolerable. The Westinghouse pipe tests demonstrate that this may be possible.

4. Since the predicted end-of-life Charpy impact values for the materials in Plants A through J are greater than the value measured for the aged reference material, the lower bound fracture properties for aged reference material may be used to determine the fracture resistance for the cast stainless steel material in Plants A through J.

**References**

(1) F. H. Beck, E. A. Schoefer, J. W. Flowers, M. E. Fontana, "New Cast High Strength Alloy Grades by Structural Control," ASTM STP 369 (1965)

(2) G. Slama, P. Petrequin, S. H. Masson, T. R. Mager, "Effect of Aging on Mechanical Properties of Austenitic Stainless Steel Casting and Welds," presented at SMIRT 7 Post Conference Seminar 6—Assuring Structural Integrity of Steel Reactor Pressure Boundary Components, August 29/30, 1983, Monterey, CA.

(3) E. I. Landerman and W. H. Bamford, "Fracture Toughness and Fatigue Characteristics of Centrifugally Cast Type 316 Stainless Steel After Simulated Thermal Service Conditions. Presented at the Winter Annual Meeting of the ASME, San Francisco, Ca., December 1978 (MPC–8 ASME)

(4) W. H. Bamford, E. I. Landerman and E. Diaz, "Thermal Aging of Cast Stainless Steel and Its Impact on Piping Integrity." Presented at ASME Pressure Vessel and Piping Conference, Portland, Oregon, June 1983. To be published in *ASME Trans.*

[FR Doc. 85–3273 Filed 2–7–85; 8:45 am]

BILLING CODE 7590-01-M

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**[Docket No. 50–54]**

## Union Carbide Subsidiary B, Inc.; Renewal of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 21 to Facility Operating License No. R–81 for Union Carbide Subsidiary B, Inc. (the licensee) which renews the license for operation of the research reactor through June 30, 2000. The facility, located in Sterling Forest, New York, is a research reactor that has been operating since 1961 at power levels not in excess of 5 megawatts (thermal).

The amended license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I. Those findings are set forth in the amended license. Notice of the proposed issuance of this action was published in the Federal Register on August 1, 1980 at 45 FR 51320. No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared a Safety Evaluation Report (NUREG–1059) regarding the renewal of the Facility Operating License and has concluded that the facility can continue to be operated by the licensee without endangering the health and safety of the public.

The Commission has also prepared an Environmental Assessment for the renewal of Facility Operating License No. R–81 and has determined not to

prepare an Environmental Impact Statement for this license renewal because there will be no significant environmental impact attributable to the action. The Notice of Final Finding of No Significant Environmental Impact was published in the **Federal Register** on September 21, 1984 at 49 FR 37196.

For further details with respect to this action, see (1) the application for amendment dated May 23, 1980, as supplemented, (2) Amendment No. 21 to License R–81, (3) the Commission's related Safety Evaluation Report (NUREG–1059) and (4) the Environmental Assessment. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. Copies of NUREG–1059 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.

Dated at Bethesda, Maryland, this 5th day of February 1985.

For the Nuclear Regulatory Commission.

**Cecil O. Thomas,**

*Chief, Standardization & Special Projects Branch, Division of Licensing.*

[FR Doc. 85–3272 Filed 2–7–85; 8:45 am]

BILLING CODE 7590–01–M

## PENSION BENEFIT GUARANTY CORPORATION

### Public Information Collection Request Submitted for OMB Review

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of information request submitted for OMB review.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act and its implementing regulations, agencies are required to submit information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public of such a submission. The effect of this notice is to advise the public that the PBGC has requested OMB approval of a collection of information from plan sponsors of multiemployer pension plans that are or may become insolvent under section 4245 of the Employee Retirement Income Security Act.

**ADDRESS:** All written comments should be addressed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Pension Benefit Guaranty Corporation, 3208 New Executive Office Building, Washington, D.C. 20503. The proposed information request will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, 2020 K Street, NW., Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** John Carter Foster, Attorney, Multiemployer Regulations Group, Corporate Policy and Regulations Department (611), 2020 K Street, NW., Washington, D.C. 20006; telephone 202–254–4860 (202–254–8010 for TTY and TDD). These are not toll-free numbers.

**SUPPLEMENTARY INFORMATION:** The Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) establishes policies and procedures for controlling the paperwork burdens imposed by Federal agencies on the public. The Act vests the Office of Management and Budget ("OMB") with regulatory responsibility over these burdens, and that agency has promulgated rules on the clearance of information requests by Federal agencies.

The PBGC has sought approval by OMB of the information request contained in a regulation that prescribes procedures for the issuance of certain notices to interested parties by insolvent or potentially insolvent miltiemployer pension plans under section 4245 of the Employee Retirement Income Security Act of 1974, as amended. This rule is designated, "Notice of Insolvency" and, when issued, will be located at 29 CFR Part 2674.

Issued at Washington, D.C., on this 31st day of January 1985.

**C.C. Tharp,**

*Executive Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 85–3159 Filed 2–7–85; 8:45 am]

BILLING CODE 7708–01–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–21707; File No. SR–CBOE–85–3]**

### Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Incorporated Relating to Expiration Cycles

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 January 24, 1985 the Chicago Board Options Exchange, Incorporated 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. Text of the Proposed Rule Change

For a period of one year, the Exchange will conduct a pilot program for a new series of expiration cycles in equity options. The pilot program will mantain the existing expiration cycles of three, six and nine months, and add a two-month option where none exists. The pilot will take place in the following options classes: IBM, Teledyne (TDY) Eastman Kodak (EK), General Motors (GM), General Electric (GE), and Standard Oil of Indiana (SN). IBM, TDY, and EK are on the January cycle, SN is on the February cycle, and GM and GE are on the March cycle.

As an example, assuming the pilot were to go into effect on November 1, IBM would then have options listed for trading which expire in January, April and July. No new cycle would be added at November expiration because the January cycle is the second month. At the December expiration, February expiration options would be added. At January expiration, October would be added as usual. In addition, the second month cycle, March, would be added. The chart below shows the available expiration cycles for IBM, TDY and GM under the pilot.

EXPIRATION MONTHS

| Calendar month | January | February | March | April | May | June | July | August | September | October | November | December |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| November (start month) | X | | | X | | | X | | | | | |
| December | X | X | | X | | | X | | | | | |

EXPIRATION MONTHS—Continued

| Calendar month | January | February | March | April | May | June | July | August | September | October | November | December |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| January | | X | X | X | | | X | | | X | | |
| February | | | X | X | | | X | | | X | | |
| March | | | | X | X | | X | | | X | | |
| April | O | | | | X | X | X | | | X | | |
| May | O | | | | | X | X | | | X | | |
| June | O | | | | | | X | X | | X | | |
| July | O | | | O | | | | X | X | X | | |
| August | O | | | O | | | | | X | X | | |
| September | O | | | O | | | | | | X | X | |
| October | O | | | O | | | O | | | | X | X |

NOTE.—"O" indicates next calendar year.

**II. Self-Regulatory Organizational'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 and is set forth in sections (A), (B), and (C) below.

*Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

The Exchange's pilot program, described above, would offer the investing public an opportunity to be assured of having equity options of no more than two months until expiration at all times, while preserving the traditional structure of options expiring in three, six and nine months.

Traditionally, equity options have been listed for trading in three month intervals, as initially established by this Exchange when it created standardized options in 1973. The experience with index options, particularly S&P 100 index options (OEX), has demonstrated that consecutive monthly cycles can receive strong public investing interest.

The Exchange does not know whether the same would be true in equity options, and thus would like to experiment with this pilot program in six options classes for one year. The six options classes should give a good picture of the utility of always maintaining options series with two months until expiration since the selected options classes include each of the traditional expiration cycles with a variety of levels of activity. The selected options classes are all sufficiently active so that the additional available series should have sufficient depth and liquidity. Retention of the six month and nine month options series will afford investors the opportunity to make long-term investments in these options.

The statutory basis for this proposed rule change is Section 6(b)(5) of the Securities Exchange Act of 1934 in that the pilot program is designed to facilitate transactions in securities and remove impediments to and perfect the mechanism of a free and open market.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that this proposed rule change will impose any burden on competition.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Comments were neither selected nor received.

*III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action*

Within 35-days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institue proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, 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, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 1, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

**Shirley E. Hollis,**

*Assistant Secretary.*

[FR Doc. 85-3260 Filed 2-7-86; 8:45 am]

BILLING CODE 8010-01-M

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**[Release No. 34-21702; File No. SR-NYSE 85-2]**

## Self-Regulatory Organization; Proposed Rules Changes by New York Stock Exchange, Inc.; Surcharges Charged in Connection With Proxy Solicitations

Relating to proposed changes in Rules 451 and 465 establishing a surcharge, which may be charged by member organizations to issuers, in connection with proxy solicitations, for the purpose of recouping direct and indirect expenses associated with start-up costs incurred to comply with Rules 14b-1(c) and 17a-3(a)(9)(ii) under the Securities Exchange Act of 1934.

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 January 21, 1985 the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rules changes 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 rules changes from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rules Changes**

The proposed rules changes consist of an addition to the Supplementary Material to Rule 451 and to the Supplementary Material to Rule 465 of the Exchange Rules to establish a proxy solicitation surcharge payable by issuers in connection with Rules 14b–1(c) and 17a–3(a)(9)(ii) under the Securities Exchange Act of 1934 as a fair and reasonable rate of reimbursement of member organizations for direct and indirect expenses associated with start-up costs incurred to comply with such SEC Rules. The surcharge will be 20¢ for each set of proxy material, i.e., proxy statement and form of proxy (not including follow-up mailings), mailed in connection with each of the issuer's next two annual meetings for which proxy solicitation commences subsequent to the date of effectiveness of the proposed rules changes. This surcharge will be in addition to the appropriate charge(s) specified in Rules 451.90, "Schedule of approved charges by member organizations in connection with proxy solicitations" and Rule 465.20, "Mailing charges by member organizations".

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rules Changes**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rules changes and discussed any comments it received on the proposed rules changes. 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 statments.

*(A) Self-regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rules Changes*

(1) *Purpose.* On July 28, 1983, the Securities and Exchange Commission adopted rule amendments designed to implement a new system to improve the process by which issuers may identify and communicate with their security holders whose securities are held in nominee name through broker-dealers. Rule 17a–3(a)(9)(ii) requires that brokers determine and maintain a record as to whether or not a customer objects to disclosure of his name, address and securities positions to issuers. Rule 14b–1(c) requres brokers to provide issuers, upon request and assurance of reimbursement of reasonable expenses, with names, addresses and security positions of non-objecting beneficial shareholders of the issuer's securities.

SEC Release No. 34–20021 covering adoption of the rules noted concerns expressed by commentators as to the cost attendant to the new system. However, the release specified: "The Commission continues to believe that, because the self-regulatory organizations represent the interests of both issuers and brokers, they are in the best position to make a fair allocation of all the costs associated with the amendments, including start-up and overhead costs".

In this regard, the New York Stock Exchange formed an Ad Hoc Committee comprised of issuers, member organizations, transfer agents and proxy solicitors to consider the reimbursement question and other implementation factors. Many of the Committee members previously served as members of the SEC's Advisory Committee on Shareholder Communications.

Initially, the broker-dealer representatives, in conjunction with the Securities Industry Association, conducted a survey of representative firms to establish the approximate start-up costs that would be incurred by the brokerage industry. Based on a series of measurements, these were estimated to approximate $25,000,000. A significant portion of these costs was attributable to the postage expense of soliciting some 34 million shareowners as to whether the beneficial holders would object or not object to having their name, address and security position passed on to the issuer. The balance of the costs was related to system modifications required to collect this information as required by Rule 17a–3(a)(9)(ii).

Insufficient data was available to determine an allocation of start-up costs based upon the number of issuers who would request the data. In light of this, the Ad Hoc Committee dismissed the possibility that they would be recovered from the first company or several companies requesting the data, especially since one large firm estimated its start-up costs at almost $2.3 million. While that cost was about $.50 per account, other firms estimated their costs up to $1.00 per account with the industry average being almost $.70.

On August 17, 1984, the Securities and Exchange Commission, in consideration of the unresolved cost allocation question and certain other procedures necessary to implement the Rule most advantageously, deferred the effective date of Rule 14b–1(c) from January 1, 1985 until January 1, 1986. (See SEC Release 34–21339.) The Ad Hoc Committee was requested to continue its deliberations on these issues and to provide reports of its progress to the staff of the SEC.

After further deliberation, the Ad Hoc Committee proposed that the start-up costs be recouped through a surcharge, which would be part of the proxy solicitation rates charged issuers by broker-dealers. The rationale for this approach was that such a surcharge represented the fairest way to reimburse brokers' start-up costs. Since all issuers might reasonably be expected to benefit sooner or later, all issuers should share proportionately in the cost of initiating a new system which was aimed at improving shareholder communications.

It is anticipated that the ongoing maintenance cost of the rule will be minimal and supported by only those issuers requesting the shareholder information. (The ongoing maintenance fee is not the subject of this proposed rule change.)

The amount of the surcharge, necessary to raise the estimated start-up costs of $25,000,000, was estimated by Securities Industry Association representatives to be approximately $.40 per proxy based upon the number of annual meeting proxies processed during the 1984 proxy season. It is believed that the $.40 per proxy surcharge, if collected by all brokers, will reimburse the brokerage industry as a whole although no assurance can be given that each individual brokerage firm will necessarily receive all of its start-up costs. The Ad Hoc Committee further felt that the $.40 surcharge should be spread over an approximate two year period and therefore recommended that a surcharge of $.20 per proxy be applied to each of the two annual meeting proxy solicitations occurring subsequent to the approval of the surcharge.

Since proxy solicitation fees, charged by member organizations to issuers, are part of the respective self-regulatory organizations' rules, the Ad Hoc Committee urged the appropriate self-regulatory organizations to provide for the surcharge as part of their approved rates of reimbursement.

The recommended surcharge was proposed to the Exchange by the Ad Hoc Committee with the full endorsement of the Operations Committee of the Securities Industry

Association and the Securities Industry Committee of the American Society of Corporate Secretaries.

It is the New York Stock Exchange's understanding that other self-regulatory organizations are planning to or will be urged by the Ad Hoc Committee to adopt the surcharge as part of their proxy rules, where applicable.

(2) *Basis.* The statutory basis for the proposed rules changes is Section 6(b)(5) of the Securities Exchange Act of 1934 as amended ("the Act") which, among other things, requires Exchange rules to be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to move impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by this title matters not related to the purpose of this title or the administration of the Exchange.

In addition, the rules changes are intended to enhance the requirements of Rules 17a–3(a)(9)(ii) and 14b–1(c) under the Securities Exchange Act of 1934 concerning the reimbursement to brokers of costs associated with those rules, including start-up and overhead costs.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The proposed rules changes will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Any burden on competiton is offset by the benefits of making available information as to non-objecting beneficial owners in compliance with SEC Rules.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rules Changes Received From Members, Participants, or Others*

The American Society of Corporate Secretaries, through its Securities Industry Committee, has endorsed the change.

The Securities Industry Association, through its Operations Committee, also supported the change but noted that the surcharge will cover implementation costs only and that ongoing maintenance and direct costs of providing names of non-objecting beneficial owners must be separately established.

**III. Date of Effectiveness of the Proposed Rules Changes and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rules changes 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, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rules changes that are filed with the Commission, and all written communication relating to the proposed rules changes 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 Branch, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submission should refer to the file number in the caption above and should be submitted by March 1, 1985. For the Commission by the Division of Market Regulation pursuant to delegated authority.

**Shirley E. Hollis,**

*Assistant Secretary.*

February 1, 1985.

[FR Doc. 85–3262 Filed 2–7–85; 8:45 am]

BILLING CODE 8010–01–M

## Securities Immobilization Workshops

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Notice of division of market regulation's securities immobilization workshops.

**SUMMARY:** The Division of Market Regulation will host Securities Immobilization Workshops on February 25 and 26, 1985, and March 8, 1985, in Room 1C30 of the Securities and Exchange Commission's main offices, 450 Fifth Street NW., Washington, D.C., beginning at 9:30 a.m. The public is invited.

**FOR FURTHER INFORMATION CONTACT:** John Connolly (202) 272–2413 or Ester Saverson, Jr. (202) 272–2906, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549.

**SUPPLEMENTARY INFORMATION:** The Workshops are intended to provide financial industry representatives a forum to discuss increasing the issuance of securities in book-entry form and further immobilizing certificates for securities that continue to be certificated. The February 25 session will examine the advantages of book-entry systems and impediments to their use. The February 26 session will explore possibilities for certificate immobilization or book-entry issuance of securities exempt from registration under the federal securities laws, especially mortgage-backed securities, treasury receipts, municipal notes and commercial paper. The March 8 session will focus on problems faced by the insurance industry in using registered securities depositories, primarily State legal restrictions.

**Shirley E. Hollis,**

*Assistant Secretary.*

[FR Doc. 85–3261 Filed 2–7–85; 8:45 am]

BILLING CODE 8010–01–M

## DEPARTMENT OF STATE

### Office of the Secretary

**[Public Notice CM–8/803]**

## Shipping Coordinating Committee, Committee on Ocean Dumping; Meeting

The Committee on Ocean Dumping, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 2:00 p.m. on Monday, February 25, 1985, at the Environmental Protection Agency, Room 2409, Waterside Mall, 401 M Street, S.W., Washington, D.C.

The purpose of the meeting is to review and discuss the draft U.S. position documents for the eighth meeting of the London Dumping Convention Scientific Group on Dumping, to be held in London March 11–15, 1985. The Committee agenda will

also include a status report on the ongoing international efforts regarding ocean dumping of low-level radioactive wastes.

For further information contact Ms. Norma Hughes, Executive Secretary, Committee on Ocean Dumping (WH–556), Environmental Protection Agency, Washington, D.C. 20460, telephone (202) 755–2927.

The Chairman will entertain comments from the public as time permits.

Dated: January 22, 1985.

**Sam Smith,**

*Executive Secretary, Shipping Coordinator, Committee on Ocean Dumping.*

[FR Doc. 85–3253 Filed 2–7–85; 8:45 am]

BILLING CODE 4710–07–M

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[Public Notice CM–8/809]

### Study Group 4 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 4 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on February 28, 1985 at 9:30 a.m. in the first floor Theater, Communications Satellite Corporation, 950 L'Enfant Plaza, S.W., Washington, D.C.

Study Group 4 deals with matters relating to systems of radiocommunications for the fixed service using satellites. The purpose of the meeting will be to discuss preparations for the international meeting of Study Group 4 in September/October, 1985.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Requests for further information should be directed to Mr. Richard Shrum, State Department, Washington, D.C. 20520, telephone (202) 632–2592.

Dated: January 31, 1985.

**Richard E. Shrum,**

*Chairman, U.S. CCIR National Committee.*

[FR Doc. 85–3252 Filed 2–7–85; 8:45 am]

BILLING CODE 4710–07–M

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[Public Notice CM–8/810]

### Study Group CMTT of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group CMTT of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on February 27, 1985, in Conference Room B, 10th Floor, AT&T Building, 1120 20th Street, N.W., Washington, D.C. The meeting begins at 9:30 a.m.

Study Group CMTT deals with the specifications to be satisfied by telecommunication systems for transmission of radio and television programs over long distances. The purpose of the meeting will be to review preparations for the meeting of international Study Group CMTT in October 1985.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Requests for further information should be directed to Mr. Richard Shrum, State Department, Washington, D.C. 20520; telephone (202) 632–2592.

Dated: January 30, 1985.

**Richard E. Shrum,**

*Chairman, U.S. CCIR National Committee.*

[FR Doc. 85–3521 Filed 2–7–85; 8:45 am]

BILLING CODE 4710–07–M

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[Public Notice CM–8/812]

### Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Special MHS Working Party of Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on March 7 and 8, 1985 at 9:00 a.m. in Room 1103, Department of Commerce Building, 325 South Broadway, Boulder, Colorado.

This Study Group deals with matters in telecommunication relating to the development of international digital data transmission. Agenda for the meeting is as follows:

1. Preparation of contributions on directory systems;

2. Discussion of work on message handling systems.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Requests for further information may be directed to Mr. T. de Haas, Chairman of U.S. Study Group D, Department of Commerce, Boulder, Colorado, telephone (303) 497–3728.

Dated: February 4, 1985.

**Earl S. Barbely,**

*Chairman, U.S. CCITT National Committee.*

[FR Doc. 85–3520 Filed 2–7–85; 8:45 am]

BILLING CODE 4710–07–M

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## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Determination Modifying Sugar Import Allocations

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice.

**SUMMARY:** This notice adds the nations of Gabon and Papua New Guineau to the "Other Specified Countries" category of the quota allocations.

**EFFECTIVE DATE:** January 8, 1985.

**FOR FURTHER INFORMATION CONTACT:** Rollinde Prager (202) 395–3077.

**SUPPLEMENTARY INFORMATION:** Pursuant to Presidential Proclamation 4941 of May 5, 1982 (47 FR 19661), the United States Trade Representative, after appropriate consultations, modifies the sugar import quota system by adding the nations of Gabon and Papua New Guineau to the "Other Specified Countries" category of the quota allocations. The addition of these countries to this category was originally announced on September 14, 1984.

**Robert E. Lighthizer,**

*Deputy United States Trade Representative.*

[FR Doc. 85–3170 Filed 2–7–85; 8:45 am]

BILLING CODE 3190–01–M

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Air Traffic Control Tower; Commissioning

Notice is hereby given that on May 22, 1985, through October 30, 1985, the airport traffic control tower at the Martha's Vineyard Airport, Martha's Vineyard, Massachusetts, will be commissioned as a part-time Federal Aviation Administration (FAA) facility. Tower hours of operation will be established in advance by a Notice to Airmen, and thereafter published in the Airman's Information Manual. The designated facility identification for the FAA airport control tower will be: VINEYARD TOWER.

This information will be reflected in the FAA organization statement.

Communications to the tower should be directed to: Federal Aviation Administration, Airport Traffic Control

Tower, P.O. Box 369, Vineyard Haven, Massachusetts 02568.

(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 Burlington, Massachusetts, on January 25, 1985.

**Robert E. Whittington,**

*Director, New England Region.*

[FR Doc. 85-3205 Filed 2-7-85; 8:45 am]

BILLING CODE 4910-13-M

## Portland International Airport, Portland, OR; FAA Acceptance of Noise Exposure Map; Receipt of Noise Compatibility Program and Request for Review

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Federal Aviation Administration (FAA) announces its acceptance of the noise exposure map submitted by the Port of Portland, Portland International Airport (PIA) under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR Part 150. The FAA also announces that it is reviewing a proposed noise compatbility program that was submitted for PIA under Part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before July 16, 1985.

**DATES:** The effective date of the FAA's acceptance of the PIA noise exposure map and of the start of its review of the associated noise compatibiltiy program is January 18, 1985. The public comment period ends February 28, 1985.

**FOR FURTHER INFORMATION CONTACT:** Dennis Ossenkop, FAA, Airports Division, ANM-611, 17900 Pacific Hwy S., C-68966, Seattle, WA 98168.

Comments on the proposed noise compatibility program should also be submitted to the above office.

**SUPPLEMENTARY INFORMATION:** This notice announces that the FAA has accepted the noise exposure map for PIA, effective January 18, 1985, and is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before July 16, 1985. This notice also announces the availability of this program for public review and comment.

Under section 103 on Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted a noise exposure map that is accepted by FAA as meeting Federal Aviation Regulation Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the intorduction of additional noncompatible uses.

PIA submitted to the FAA on April 3, 1984, noise exposure maps, descriptions and other documentation which were produced during an airport Noise Abatement Plan study conducted at PIA from August 1982 to June 1983. It was requested that the FAA accept this material as a noise exposure map as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by PIA. The specific map under consideration is Exhibit B5 in the submission. The FAA has accepted these materials as the noise exposure maps for PIA effective on January 18, 1985.

FAA's acceptance of an airport operator's noise exposure map is limited to the determination that the map was developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such acceptance does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure map to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's acceptance of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Upon acceptance of the noise exposure maps, the FAA has formally received the noise compatibility program for PIA, also effective on January 18, 1985. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before July 16, 1985.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the accepted noise exposure may, the FAA's evaluation of the map, and the proposed noise conpatibility program are available for examination at the following locations:

Federal Aviation Administration, Independence Avenue, SW., Room 615, Washington, D.C.

Federal Aviation Administration, Airports Division, ANM-600, 17900 Pacific Hwy S., C-68966, Seattle, Washington 98168

Noise Abatement Office, Portland International Airport, Portland, Oregon

Questions may be directed to the individual name above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Seattle, Washington, January 18, 1985.

**Edward G. Tatum,**

*Manager, Airports Division, Northwest Mountain Region.*

[FR Doc. 85-3189 Filed 2-7-85; 8:45 am]

BILLING CODE 4910-13-M

## National Highway Traffic Safety Administration

**[Docket No. IP85- ; Notice 1]**

## BF Goodrich Co.; Receipt of Petition for Determination of Inconsequential Noncompliance

B.F. Goodrich Co., of Akron, Ohio, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for a noncompliance with 49 CFR 571.109, Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars.* The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition for a determination of inconsequentiality is published in accordance with section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Section S4.3(e) of FMVSS No. 109 requires that the actual number of plies in a tire be indicated on both sidewalls with the actual number of plies in the sidewall and the actual number of plies in the tread area. Goodrich has manufactured 7071 P195/80R13 Parkway radial ply tires branded "Tread—2 plies polyester, 2 plies steel; Sidewall—2 plies polyester." The correct labeling should read "Tread—1 ply polyester, 2 plies steel; Sidewall—1 ply polyester."

Goodrich argues that the noncompliance is inconsequential because the failure to label properly has no impact on safety, and the tires otherwise comply with FMVSS No. 109. Further, Goodrich states that the incorrect labeling is in letters 0.125-inch high near the bead of the tire, and it would not be practical to correct the labeling.

Interested persons are invited to submit written data, views, and arguments on the petition of B.F. Goodrich Co., described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW, Washington, DC 20590. It is requested but not required that five copies be submitted.

All comments received before the closing of business on the closing date indicated below will be considered. The application and supporting materials and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: March 11, 1985.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued: February 5, 1985.

**Barry Felrice,**

*Associate Administrator for Rulemaking.*

[FR Doc. 85-3179 Filed 2-7-85; 8:45 am]

BILLING CODE 4910-59-M

**[Docket No. IP84-14; Notice 2]**

## K mart Corp.; Denial of Petition for Determination of Inconsequential Noncompliance

This notice denies the petition by K mart Corp. of Troy, Michigan to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for noncompliances with two Federal motor vehicle safety standards. The standards are 49 CFR 571.119, Motor Vehicle Safety Standard No. 119, *New Pneumatic Tires for Vehicles Other Than Passenger Cars.* The basis of the petition is that the noncompliances are inconsequential as they relate to motor vehicle safety.

Notice of the petition was published on September 11, 1984, and an opportunity afforded for comment (49 FR 35701).

K mart Corporation is the importer of certain heavy duty trailer kits manufactured by Long Chih Ind. Co. of Taiwan. As an importer for resale, K mart is a "manufacturer" as defined by 15 U.S.C. 1391(5), and accordingly, responsible for notification and remedy of noncompliances with Motor Vehicle Safety Standards Nos. 119 and 120 in approximately 5,000 kits which have been sold to its customers.

*Standard No. 119.* The tires may not be marked with the maximum load rating and corresponding inflation pressure as required by paragraph 56.5(d).

*Standard No. 120.* The rims are not marked with any of the five items of information required by paragraph S5.2. These are a designation which indicates the source of the rim's published nominal dimensions, the rim size designation, the symbol DOT constituting a certification of compliance, a designation that identifies the manufacturer of the rim by name, trademark, or symbol, and the date of manufacture. In addition, the trailers have no label providing the three items of information required by paragraph S5.3: the tire size designation appropriate for the Gross Axle Weight Rating, the size designation and, if applicable, the type designation of rims appropriate for the tires, and the cold inflation pressure for the tires.

Petitioner argued that the noncompliances were inconsequential because the trailers otherwise comply with all applicable Federal motor vehicle safety standards, and that there was no indication that the trailer kits were inferior either in quality or any safety-related way.

No comments were received on the petition.

*Standard No. 119.* The absence of the maximum permissible load rating and the corresponding cold inflation pressure on the tire of the approximately 5,000 trailer kits sold to K mart customers cannot be considered inconsequential. The standard's requirement is intended to relieve the consumer of the burden of obtaining access to a tire and rim manual to obtain information which is vital to prevent overloading or underinflating the tires. Overloading and underinflating are two major factors that contribute to tire failure on the road. In addition, most trailer tires are designed to require higher inflation pressures than passenger car tires, a fact not generally known by consumers. Without this knowledge, the consumer might inflate the trailer tires to the same inflation pressure as the towing passenger car, thereby, exposing the motorist to an overloaded or underinflated trailer condition. The petition did not indicate whether the Load Range was indicated on the tire sidewall. However, even if these tires were correctly labeled with the proper Load Range, the letter-value would be of little value to the average consumer.

Frequently, utility trailers are owned by several users during their useful life and provision must be made for the future user. Therefore, any remedy for this noncompliance must be of a

permanent nature and not just a simple notification to the first purchaser.

*Standard No. 120.* The knowledge provided by the label required by paragraph S5.3 is necessary for safe operation of trailers. The 5,000 consumers who have purchased these trailer kits from K mart do not know the Gross Axle Weight Rating or the proper rim information. They have little or no knowledge of the trailer capacity or the proper tire load and inflation pressure. While K mart has stated that there is no indication that these trailer kits are inferior in any safety-related way, this lack of labeling information for the consumer can result in unsafe operation.

While the original purchaser might be able to obtain some or all of this information by inquiry to K mart, all future owners would find it difficult, if not impossible, to obtain this information.

Accordingly, petitioner has failed to meet its burden of persuasion that the noncompliances with Standards Nos. 119 and 120 herein described are inconsequential as they relate to motor vehicle safety, and its petition is hereby denied.

The engineer and attorney primarily responsible for this notice are A. Y. Casanova and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued: February 4, 1985.

**Barry Felrice,**

*Associate Administrator for Rulemaking.*

[FR Doc. 85-3178 Filed 2-7-85; 8:45 am]

BILLING CODE 4910-59-M

# Sunshine Act Meetings

Federal Register
Vol. 50, No. 27
Friday, February 8, 1985

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).

## CONTENTS



1

**COUNCIL ON ENVIRONMENTAL QUALITY**

February 5, 1985.

**TIME AND DATE:** 10:00 February 19, 1985.

**PLACE:** Conference Room, First Floor, 722 Jackson Place, NW., Washington, D.C.

**MATTERS TO BE CONSIDERED:**

1. Under CEQ's NEPA regulations, federal agencies may refer to the Council federal interagency disagreements concerning proposed major federal actions that might cause unsatisfactory environmental effects. (40 CFR 1504 *et seq.*). In accordance with this provision the Department of the Interior has referred the proposed Tennessee Tombigbee Waterway Mitigation Plan to the Council on Environmental Quality. The primary purpose of the meeting is to obtain additional information and clarification from the referring and lead agencies—the Department of the Interior and the Corps of Engineers, respectively. Discussion will be limited to the Council and representatives from the Department of the Interior and the Corps of Engineers.

2. Other business.

**CONTACT PERSON FOR MORE INFORMATION:** Dinah Bear, General Counsel, Council on Environmental Quality, 722 Jackson, Place, NW., Washington, D.C. 20006.

A. Alan Hill,

*Chairman.*

[FR Doc. 85-3265 Filed 2-5-85; 4:09 pm]

BILLING CODE 3125-01-M

2

**FEDERAL DEPOSIT INSURANCE CORPORATION**

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, February 4, 1985, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director C.T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: Metropolitan Bank and Trust Company Tampa, Florida

By the same majority vote, the Board further determined that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: February 5, 1985.

Federal Deposit Insurance Corporation.

**Margaret M. Olsen,**

*Deputy Executive Secretary.*

[FR Doc. 85-3320 Filed 2-6-85; 11:40 am]

BILLING CODE 6714-01-M

3

**FEDERAL DEPOSIT INSURANCE CORPORATION**

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, February 4, 1985, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice of the public, of the following matter:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,176-L: The First National Bank of Midland, Midland, Texas

The Board further determined, by the same majority vote, that no earlier notice of this change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), and (c)(9)(B)).

Dated: February 5, 1985.

Federal Deposit Insurance Corporation

**Margaret M. Olsen,**

*Deputy Executive Secretary.*

[FR Doc. 85-3321 Filed 2-6-85; 11:40 am]

BILLING CODE 6714-01-M

4

**FEDERAL TRADE COMMISSION**

**TIME AND DATE:** 2:00 p.m., Thursday, February 14, 1985.

**PLACE:** Room 532 (open); Room 540 (closed), Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

**STATUS:** Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:** Portions open to public:

(1) Oral Argument in Figgie International, Inc., Docket No. 9166.

Portions closed to the public.

(2) Executive Session to follow Oral Argument in Figgie International, Inc., Docket No. 9166.

**CONTACT PERSON FOR MORE INFORMATION:** Susan B. Ticknor, Office of Public Affairs (202) 523-1892; recorded message: (202) 523-3806.

**Emily H. Rock,**

*Secretary.*

[FR Doc. 85-3297 Filed 2-5-85; 5:07 pm]

BILLING CODE 6750-01-M

federal register

Friday
February 8, 1985

Part II

# Department of Labor

## Mine Safety and Health Administration

30 CFR Part 104

**Identification of Mines Having a Pattern of Violations; Withdrawal of Proposed Rule and Advance Notice of Proposed Rulemaking**

**DEPARTMENT OF LABOR**

**Mine Safety and Health Administration**

**30 CFR Part 104**

**Pattern of Violations**

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Withdrawal of proposed rule; advance notice of proposed rulemaking.

**SUMMARY:** The Mine Safety and Health Administration (MSHA) is considering rulemaking on criteria and procedures for identifying mines with a pattern of violations of mandatory standards that significantly and substantially contribute to safety and health hazards. On August 15, 1980, MSHA published a proposed rule to establish criteria for identifying mines having a pattern of violations (45 FR 54646). Commenters were generally opposed to the proposal, stating that it was complex, too statistically oriented, and vague. In addition, since that time, administrative litigation resulting in changes in Agency enforcement policies and a 1982 revision of the Agency's civil penalty procedures have affected key provisions of that proposal. The Agency now has experience with these changes and is considering resumption of rulemaking. This notice withdraws the 1980 pattern of violations proposal and outlines for public comment possible criteria and procedures for a new pattern of violations proposal.

**DATES:** This withdrawal is effective February 8, 1985. Comments on the Advance Notice of Proposed Rulemaking must be received by April 9, 1985.

**ADDRESSES:** Office of Standards, Regulations, and Variances, MSHA; Room 631 Ballston Tower No. 3; 4015 Wilson Boulevard; Arlington, Virginia 22203.

**FOR FURTHER INFORMATION CONTACT:** Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, (703) 235-1910.

**SUPPLEMENTARY INFORMATION:** Under section 104(e) of the Federal Mine Safety and Health Act of 1977 (Mine Act), the Secretary of Labor is authorized to issue a notice to a mine operator if the operator's mine has a pattern of violations of mandatory safety or health standards which significantly and substantially contribute to health or safety hazards at the mine. Congress established this provision of the Mine Act to address the problem of mine operators who have recurring violations of health and safety standards.

Under the Mine Act, once a section 104(e) pattern of violations notice is issued, any subsequent inspection within 90 days which reveals another significant and substantial (S&S) violation of mandatory safety or health standards results in the issuance of a withdrawal order until the violation is abated. The Mine Act further provides for withdrawal orders upon any subsequent finding of S&S violations until a complete inspection of the entire mine reveals no S&S violations.

On August 15, 1980 (45 FR 54656), the Mine Safety and Health Administration (MSHA) published a proposal in the **Federal Register** which would establish criteria for identifying mines which have a pattern of violations. Commenters were generally opposed to the proposal, stating that it was complex, too statistically oriented, overbroad, and vague. In addition, numerous commenters stated that it was inappropriate of MSHA to establish pattern of violations regulations at that time because of litigation pending before the Federal Mine Safety and Health Review Commission (Review Commission) that involved the definition of S&S violations. At that time, MSHA cited all violations as S&S except technical violations and violations that posed only a remote or speculative risk of injury. In April 1981, the Review Commission narrowed the definition of S&S violations. The Review Commission defined S&S violations as those that have a reasonable likelihood of resulting in a reasonably serious injury or illness (*Secretary of Labor* v. *Cement Division, National Gypsum Co.*, 3 FMSHRC 822). MSHA adopted this revised definition in May 1981.

Commenters also stated that review of the Agency's then pending regulations for the assessment of civil penalties could affect provisions of the pattern of violations proposal. In May 1982, MSHA revised its regulations for the assessment of civil penalties (47 FR 22286).

In view of these developments, MSHA is withdrawing the 1980 pattern of violations proposal. However, the Agency has gained sufficient experience with both the revised definition of S&S violations and the changes made in the civil penalty regulations to reconsider rulemaking to establish procedures and criteria for issuance of a pattern notice.

During preliminary development of a new approach for implementing pattern of violations criteria and procedures, MSHA has been guided by the principle expressed in the Mine Act's legislative history that issuance of a section 104(e) pattern of violations notice should be an enforcement tool reserved for dealing with chronic violators who do not respond to other efforts to bring their mines into compliance with health and safety standards. Congress made it clear that chronic violators demonstrate a disregard for the safety and health of miners by allowing the same work hazards to occur again and again without addressing the underlying problems.

At this point, MSHA believes that pattern of violations criteria should focus on the health and safety record of each mine rather than on a strictly quantitative comparison of each mine to industry-wide norms. In contrast to the 1980 proposal which relied on a statistically-oriented approach, the Agency envisions use of simplified criteria to identify the existence of a pattern of violations, coupled with procedures for fair and full notice. Review and appeal procedures would be the same as for any other citation or order issued under the Mine Act.

To implement this approach, MSHA is considering an enforcement concept which would incorporate the following elements: initial screening to identify any mines which may be developing a pattern of S&S violations; application of criteria to determine whether a pattern of violations exists at an identified mine; and notification to the mine operator of the potential for a pattern of violations notice with an opportunity to respond.

Initial identification of mines with a possible pattern of violations could occur through regular enforcement activities. Once a mine has been identified, MSHA would review conditions at the mine to determine whether or not a pattern of violations exists at the mine. At this point, MSHA envisions the use of two principal criteria. First, are the S&S violations common to a particular health or safety hazard or are there S&S violations throughout the mine which represent an underlying health or safety problem? Second, is the mine on a section 104(d) unwarrantable failure sequence, indicating the other enforcement measures have been ineffective? If these two criteria are met, MSHA would notify the mine operator that the operator's mine is subject to a section 104(e) pattern notice and state the reasons upon which such a determination was based. After allowing the operator an opportunity to respond, and absent a change in the health and safety conditions at the mine, MSHA would then issue a section 104(e) pattern notice. Once a mine is placed on a pattern of violations notice, the notice would be terminated upon an inspection

of the mine by MSHA in which no S&S violations are found.

MSHA considers early public participation in formulating criteria and procedures to be used for issuance of pattern of violations notices to be important. In particular, the Agency would like suggestions on what additional factors, if any, should be used for determining whether a pattern of violation exists. These factors might include work practices or mining conditions at the mine or the mine's accident history. In addition, MSHA would like comments on whether a proposal should include administrative procedures for terminating a pattern notice. The Agency welcomes comments on these and all other issues of concern.

**List of Subjects in 30 CFR Part 104**

Mine safety and health.

Dated: January 31, 1985.

**David A. Zegeer,**

*Assistant Secretary for Mine Safety and Health.*

[FR Doc. 85-2929 Filed 2-1-85; 2:43 pm]

BILLING CODE 4510-43-M

federal register

Friday
February 8, 1985

Part III

# Department of Labor

**Employment Standards Administration, Wage and Hour Division**

**Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions; Notice**

## DEPARTMENT OF LABOR

### Employment Standards Administration, Wage and Hour Division

### Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations. Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Orders 9–83, 48 FR 35736 (1983), and 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

#### Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations. Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Orders 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

#### Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

| | |
|---|---|
| California: CA83-5119 | Sept. 16, 1983. |
| District of Columbia: DC84-3009 | Apr. 6, 1984. |
| Idaho: ID82-5128 | Nov. 26, 1982. |
| Illinois: IL85-5005 | Jan. 25, 1985. |
| Montana: MT84-5041 | Dec. 14, 1984. |
| New York: NY83-3027 | July 22, 1983. |
| North Dakota: | |
| ND81-5131 | July 6, 1981. |
| ND84-5032 | Oct. 19, 1984. |
| Pennsylvania: PA84-3000 | Jan. 13, 1984. |
| Utah: UT83-5120 | Sept. 30, 1983. |
| Virginia: | |
| VA81-3015 | Mar. 6, 1981. |
| VA85-3001 | Jan. 11, 1985. |

#### Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the number of the decisions being superseded.

| | |
|---|---|
| Illinois: | |
| IL83-2053(IL85-5007) | Aug. 5, 1983. |
| IL83-2052 (IL85-5008) | July 1, 1983. |

Signed at Washington, D.C., this 1st day of February 1985.

**James L. Valin,**

*Assistant Administrator.*

BILLING CODE 4510-27-M

DECISION NO. CA83-5119-MOD. #9
(48 FR 41702 - September 16, 1983) San Diego, County, California

CHANGE:

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| Divers: | | |
| Divers | $42.77 | $4.76 |
| Stand-by Divers | 21.66 | 4.76 |
| Tenders | 20.66 | 4.76 |
| Parking lot work and/or Highway Markers: | | |
| Traffic Delineating Device Applicator | 14.83 | 2.00+ b |
| Striper; Sandblasters; Wheel Stop Installer | 14.30 | 2.00+ b |

Footnote b to read: Employer contributes .80 per hour to Vacation Fund for the first year of employment, 1 year but less than 5 years 1.13 to Vacation Fund, 5 years but less then 10 years 1.48 to Vacation Fund, over 10 years 1.83 per hour to Vacation Fund.

| | | |
|---|---|---|
| Plumbers, Pipefitters; Steamfitters: Air Condition, Refrigeration: | | |
| Zone 1 | 21.48 | 8.42 |
| Zone 2 | 23.73 | 8.42 |
| Power Equipment Operator: | | |
| Group 1 | 17.50 | 7.35 |
| Group 2 | 17.78 | 7.35 |
| Group 3 | 18.07 | 7.35 |
| Group 4 | 18.21 | 7.35 |
| Group 5 | 18.43 | 7.35 |
| Group 6 | 18.54 | 7.35 |
| Group 7 | 18.66 | 7.35 |
| Group 8 | 18.83 | 7.35 |
| Group 9 | 18.96 | 7.35 |

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| OMIT: | | |
| Parking lot work and/or Highway Markers: Slurry Seal Operation Mixer Operator: Squeegee Man; Applicator Operator; Shuttleman Top Man | | |
| ADD: | | |
| Parking Lot work and/or Highway Markers: Pavement Sealing, Slurry Seal, Resurfacing and Repair: | | |
| Mixer Operator | $13.95 | $2.00+ b |
| Applicator Operator; Shuttleman; Squeegee Man | 12.37 | 2.00+ b |
| Top Man | 10.39 | 2.00+ b |
| Traffic Control Man and Serviceman | 7.00 | 2.00+ b |

DECISION NO. DC84-3009-MOD. #9
(49 FR 13800-April 6,1984) DISTRICT OF COLUMBIA,MARYLAND-MONTGOMERY & PRINCE GEORGES COUNTIES, THE O.C. TRAINING SCHOOL, VIRGINIA-INDEPENTENT CITY OF ALEXANDRIA & ARLINGTON & FAIRFAX COUNTIES.

CHANGE:

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| SHEET METAL WORKERS d-Employer contributes additional 12¢ outside of the District of Columbia | $15.58 | 3.81+ |



DECISION #ID82-5128-MOD#10
(47 FR 53612-November 26, 1982) Statewide, Idaho

OMIT:
Description of Work: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects

ADD:
Description of Work: Heavy and Highway Projects

DECISION NO. IL85-5005 - Mod #1
(50 FR , January 25, 1985) DuPage, Grundy, Kane, Kendall, Lake, McHenry & Will Counties, Illinois

CHANGE:

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN & SOFT FLOOR LAYERS DuPage & Lake Counties | $16.75 | $3.78 |
| POWER EQUIPMENT OPERATORS Building & Residential Construction | | |
| Group 1 | 18.40+h | 5.25 |
| Group 2 | 17.10+h | 5.25 |
| Group 3 | 15.45+h | 5.25 |
| Group 4 | 13.70+h | 5.25 |

ADD:
FOOTNOTE:
h. Employees required to wear a Dosimeter Radiation Detection Device will have an additional 30¢ per hour added to their hourly rate of pay.

DECISION NO. NY83-3027 - MOD. #6
(48 FR 33622 - July 22, 1983) NASSAU & SUFFOLK COUNTIES, NEW YORK

CHANGE:

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| CARPENTERS: | | |
| Suffolk County: | | |
| Building & Residential | 20.07 | 5.01 |
| Heavy & Highway | 20.12 | 5.01 |
| ELECTRICIANS: | | |
| Building | 20.30 | .70+ 35.5% |

DECISION NO. ND84-5032 - Mod. #1
(49 FR 41136 - October 19, 1984) Statewide, North Dakota

Change:

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| TRUCK DRIVERS: | | |
| Single Axle | $8.82 | 1.25 |
| Tandem | 8.94 | 1.25 |
| Agitator Dumporete; Lowboy; Off road heavy duty end dumps, 20 yards and under; Tandem, semi | 9.25 | 1.25 |
| Euclid, over 20 yards | 10.02 | 1.25 |

DECISION NO. MT84-5041-

Mod. #2
(49 FR 48883 - December 14, 1984)
Statewide, Montana

Change:

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| PLUMBERS: | | |
| Area 3 | $18.40 | 2.25 |

Add:

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| Laborers: | | |
| Group Classification Descriptions | | |

CLASSIFICATIONS DESCRIPTIONS

LABORERS

Group 1: Axeman; Carpenter Tender; Car and Truck Loaders, Scissorman; Chuck Tender and Nipper (above ground); Cosmolene applying and removing; Dumpman (Spotter); Fence Erector and Installer (includes the installation and erection of fences, guard rails, median rails, reference posts, right-of-way markers and guide posts); Form Stripper; General Laborer - Heavy Highway, Highway Bridge and Structure, Crusher and Batch Plant Laborers; Heater Tender (not covered by joint board decision - such as radiant type of butane five, without blowers or fans - General Laborers scale); Landscape Laborer; Riprap Tender; Stake Jumper for Equipment; Sandblaster Tail Hoseman, Pot Tender; Sod Cutter, hand operated (General Laborers); Tool Checker; Tool Houseman

Group 2: Burning Bar; Cement Mason Tender; Caisson Workers (free air); Cement Handlers; Choker Setter; Concrete Laborers (wet or dry); Bucketmen and Signalmen; Curb Machine; Dumpman (Grade Man); Form Setter; Hand Faller; Jackhammer, Pavement Breaker, Wagon Driller, Concrete Vibrator, Mechanical Tamper Vibrating Roller, hand steered and other power tools; Nozzleman - air, water; Gunite and Placo Machine; Concrete or Asphalt Saws; Pipelayer (all types); Laser equipment Operator; Pipewrapper; Posthole Digger (power auger); Power Saw (bucking); Powderman Tender; Power driven wheelbarrow; Rigger; Riprapper; Spiker Driver, single or dual or hand; Switchman; Tar Pot Operator

Group 3: Asphalt Raker; Concrete Vibrator (5" and over); Drills, Air Track, self-propelled, Cat and Truck mounted air operated Drills; Drills, Air Track with dual masts; Drills, Air Tract, self-propelled Mustang type and similar; Equipment Handler; High Scaler; High Pressure Machine Nozzleman; Power Saw (falling); Sandblaster

Group 4: Core Drill Operator; Grade Setter; Powderman; Cutting Torch and Air Arc Operator



DECISION NO. ND81-5131 - Mod. #11
(46 FR 35008 - July 6, 1981)
Burleigh, Cass, Grand Forks, Morton, Richland, Steele, Traill, Walsh and Ward Counties, North Dakota

Change:

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| CARPENTERS: | | |
| Area 4: | | |
| Carpenters | $11.75 | 2.43 |
| Piledrivers | 12.30 | 2.43 |
| LABORERS: | | |
| Ward County: | | |
| Group 1 | 9.00 | .95 |
| Group 2 | 9.10 | .95 |
| Group 3 | 9.20 | .95 |
| MILLWRIGHTS | 16.36 | 3.62 |
| PLUMBERS: | | |
| Area 3 | 15.40 | 2.00 |
| POWER EQUIPMENT OPERATORS: | | |
| Building Construction: | | |
| Group 1 | 12.07 | 2.05 |
| Group 2 | 10.96 | 2.05 |
| Group 3 | 10.25 | 2.05 |
| Group 4 | 9.08 | 2.05 |
| TRUCK DRIVERS: | | |
| Group 1: | | |
| Off road heavy duty and dump over 20 yrds. | 11.45 | 1.25 |
| Group 2: | | |
| Low boy | 11.00 | 1.25 |
| Group 3: | | |
| Slide off box | 10.85 | 1.25 |
| Group 4: | | |
| Agitator; Dumpcrete off road heavy duty and dump under 20 yrds., Ready-mix truck and tandem axle semi | 10.80 | 1.25 |
| Group 5: | | |
| Farm tractor op.(when used in pulling a tractor for purpose of hauling material; Fuel truck-single axle semi; Tandem truck; Warehouse fork-lift op.(within warehouse or warehouse yard) | 10.65 | 1.25 |

DECISION NO. ND81-5131 Mod. #11 (Cont'd)

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| Truck Drivers (Cont'd) | | |
| Area 6: | | |
| School bus; Single axle truck | $10.55 | 1.25 |
| Area 7: | | |
| Pick-up Truck | 10.30 | 1.25 |
| SHEET METAL WORKERS | 15.29 | 3&+1.7 |

DECISION NO. VA81-3015-MOD. #19
(46 FR 15666-March 6,1981)
RADFORD ARMY AMMUNITION PLANT, VIRGINIA

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| ADD: | | |
| LEAD BURNERS | $17.35 | $2.76 |

DECISION NO. VA85-3001-MOD. #2
(50 FR 1682-January 11, 1985)
ACCOMACK,GREENSVILLE,ISLE OF WIGHT,JAMES CITY,NORTHAMPTON,SOUTHAMPTON,SURRY, SUSSEX,YORK, THE CITIES OF EMPORIA,FRANKLIN,SUFFOLK, & WILLIAMSBURG

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| DELETE: | | |
| FIREMAN | 8.50 | |

DECISION NO. PA84-3000 - MOD. #8
(49 FR 1851 - January 13, 1984)
Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Cameron, Centre, Clarion, Clearfield, Clinton, Crawford, Elk, Erie, Fayette, Forest, Franklin, Fulton Greene, Huntingdon, Indiana, Jefferson, Mercer, Lawrence, McKean, Mifflin, Potter, Somerset, Venango, Warren, Washington, & Westmoreland Counties, Pennsylvania

CHANGE:

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| CEMENT MASONS | 14.86 | 18% |
| TRUCK DRIVERS: | | |
| Heavy & Highway Construction | | |
| Class 1 | | |
| Zone 1 | 13.19 | 19% |
| Zone 2 | 12.96 | 19% |
| Class 2 | | |
| Zone 1 | 13.33 | 19% |
| Zone 2 | 13.14 | 19% |
| Class 3 | | |
| Zone 1 | 13.40 | 19% |
| Zone 2 | 13.24 | 19% |
| Class 4 | | |
| Zone 1 | 13.40 | 19% |
| Zone 2 | 13.24 | 19% |
| Class 5 | | |
| Zone 1 | 13.49 | 19% |
| Zone 2 | 13.33 | 19% |
| Class 6 | | |
| Zone 1 | 13.49 | 19% |
| Zone 2 | 13.33 | 19% |
| Class 7 | | |
| Zone 1 | 13.48 | 19% |
| Zone 2 | 13.29 | 19% |
| Class 8 | | |
| Zone 1 | 13.24 | 19% |
| Zone 2 | 12.99 | 19% |
| Class 9 | | |
| Zone 1 | 13.33 | 19% |
| Zone 2 | 13.10 | 19% |
| Class 10 | | |
| Zone 1 | 13.40 | 19% |
| Zone 2 | 13.24 | 19% |
| Class 11 | | |
| Zone 1 | 13.33 | 19% |
| Zone 2 | 13.14 | 19% |
| Class 12 | | |
| Zone 1 | 13.28 | 19% |
| Zone 2 | 13.10 | 19% |



DECISION NO. UT83-5120 - Mod. # 10
(48 FR 44992 - September 30, 1983)
Statewide, Utah

Change:

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| BOILERMAKERS | $16.41 | 4.25 |
| BRICKLAYERS: | | |
| Industrial (power plants, Refineries, Smelters and Industrial Refractory Projects) | 14.35 | 1.57 |
| All other work | 11.10 | 1.57 |
| CARPENTERS: | | |
| Building Construction: | | |
| Carpenters | 13.25 | 2.35 |
| Saw Operators | 13.50 | 2.35 |
| Scaffold Builder | 13.75 | 2.35 |
| Millwrights | 14.55 | 2.35 |
| Piledrivermen | 19.38 | 2.35 |
| Heavy and Highway Construction: | | |
| Zone 1: | | |
| Carpenters | 14.98 | 2.35 |
| Saw Operators: Carpenters handling creosote materials | 15.23 | 2.35 |
| Piledrivermen | 19.38 | 2.35 |
| Zone 2: | | |
| Carpenters | 17.48 | 2.35 |
| Saw Operators: Carpenters handling creosote materials | 15.23 | 2.35 |
| Piledrivermen | 19.38 | 2.35 |
| CEMENT MASONS: | | |
| Building Construction: | | |
| Cement Masons | 13.40 | 2.35 |
| Machine Operator; Mastic Floor Materials | 13.65 | 2.35 |
| ELEVATOR CONSTRUCTORS: | | |
| Mechanics | 15.95 | 3.29+m |
| Helpers | 11.165 | 3.29+m |
| Probationary Helpers | 7.975 | |
| GLAZIERS | 14.12 | 1.71 |

DECISION NO. UT83-5120 Mod. # 10 (Cont'd)

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| LINE CONSTRUCTION: | | |
| Groundman | $11.30 | $1.50+ 3-1/4% |
| Line Equipment Serviceman | 14.47 | 1.50+ 3-1/4% |
| Line Equipment Mechanic: | | |
| Base Shop | 14.47 | 1.50+ 3-1/4% |
| Right of Way | 15.50 | 1.50+ 3-1/4% |
| Line Equipment Operators | 14.71 | 1.50+ 3-1/4% |
| Lineman | 16.57 | 1.50+ 3-1/4% |
| Cable Splicers | 18.26 | 1.50+ 3-1/4% |
| PLUMBERS: Pipefitters | 16.33 | 3.03 |
| Truck Drivers: | | |
| Fringe Benefits | | $4.84 |

SUPERSEDEAS DECISION

STATE: Illinois
DECISION NUMBER: IL85-5007
COUNTIES: *See Below
DATE: Date of Publication
Supersedes Decision Number IL83-2053 dated August 5, 1983, in 48FR35826
DESCRIPTION OF WORK: Building construction (Does not include single family homes and apartments up to and including 4 stories)

*ALEXANDER, CHAMPAIGN, CHRISTIAN, CLARK, CLAY, COLES, CRAWFORD, CUMBERLAND, DEWITT, DOUGLAS, EDGAR, EDWARD, EFFINGHAM, FAYETTE, FORD, FRANKLIN, GALLATIN, HAMILTON, HARDIN, IROQUOIS, JACKSON, JASPER, JEFFERSON, JOHNSON, LAWRENCE, MARION, MASSAC, MOULTRIE, PERRY, PIATT, POPE, PULASKI, RICHLAND, SALINE, SHELBY, UNION, VERMILION, WABASH, WAYNE, WHITE, & WILLIAMSON (See Page 5 for area Descriptions)

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| ASBESTOS WORKERS: | | |
| Area 1 | $18.99 | 2.76 |
| Area 2 | 17.75 | 2.70 |
| Area 3 | 17.45 | 2.42 |
| Area 4 | 18.00 | 3.78 |
| BOILERMAKERS: | | |
| Area 1 | 18.50 | 3.03 |
| Area 2 | 18.30 | 3.305 |
| BRICKLAYERS; CAULKERS; CLEANERS; POINTERS; & STONEMASONS: | | |
| Area 1 | 15.10 | 1.95 |
| Area 2 | 15.80 | 1.90 |
| Area 3 | 15.75 | 1.87 |
| Area 4 | 16.00 | 1.00 |
| Area 5 | 15.78 | 1.56 |
| Area 6 | 16.35 | 2.25 |
| Area 7 | 16.05 | 3.75 |
| Area 8 | 16.35 | 2.25 |
| Area 9 | 16.725 | 2.10 |
| CARPENTERS; LATHERS, MILLWRIGHTS; PILEDRIVERMEN; & SOFT FLOOR LAYERS: | | |
| Area 1 | 14.55 | 2.15 |
| Area 2: | | |
| Carpenters; Lathers; & Soft Floor Layers | 16.275 | 2.47 |
| Millwrights & Piledrivermen | 16.775 | 2.47 |
| Area 3: | | |
| Carpenters; Lathers & Soft Floor Layers | 16.905 | 1.84 |
| Millwrights & Piledivermen | 17.405 | 1.84 |
| Area 4: | | |
| Carpenters; Lathers & Soft Floor Layers | 16.17 | 2.54 |
| Millwrights & Piledrivermen | 16.67 | 2.54 |
| Area 5: | | |
| Carpenters; Piledrivermen; Soft Floor Layers | 14.59 | 2.45 |
| Millwrights | 14.99 | 2.45 |
| Area 6: | | |
| Carpenters & Soft Floor Layers | 15.20 | 2.36 |
| Millwrights | 15.80 | 2.36 |
| Piledrivermen | 15.60 | 2.36 |
| Area 7: | | |
| Carpenters & Soft Layers | 16.38 | 2.07 |
| Millwrights & Piledrivermen | 16.88 | 2.07 |
| Area 8 | 17.85 | 2.40 |
| Area 9: | | |
| Carpenters; Lathers; Soft Floor Layers | 16.155 | 2.59 |
| Millwrights & Pile drivermen | 16.655 | 2.59 |
| Area 10: | | |
| Carpenters; Lathers; Soft Floor Layers | 16.105 | 2.64 |
| Millwrights & Piledrivermen | 16.605 | 2.64 |
| CARPENTERS: | | |
| Area 11: | | |
| Carpenters, Millwrights, Piledrivermen, Soft Floor Layer | 16.91 | 3.17 |
| Area 12: | | |
| Carpenters, Millwrights, Piledrivermen | 14.50 | 2.45 |
| CEMENT MASONS & PLASTERERS: | | |
| Area 1 | 15.50 | |
| Area 2: | | |
| Cement Masons | 17.57 | .825 |
| Plasterers | 16.865 | .825 |
| Area 3: | | |
| Cement Masons | 16.25 | 1.785 |
| Plasterers | 16.47 | 1.785 |



DECISION NO. IL85-5007

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| CEMENT MASONS (CONT'D) | | |
| Area 4 | 15.63 | 1.50 |
| Area 5 | 12.95 | .01 |
| Area 6 | 17.45 | |
| Area 7: | | |
| Cement Mason | 15.82 | |
| Plasterers | 15.00 | |
| Area 8 | 13.77 | 2.08 |
| Area 9: | | |
| Cement Masons | 16.79 | 1.42 |
| Plasterer | 18.39 | |
| Area 10: | | |
| Cement Masons | 15.45 | |
| Plasterers | 11.22 | |
| Area 11 | 15.50 | |
| Area 12 | 15.50 | |
| Area 13: | | |
| Cement Masons | 16.05 | 3.75 |
| Plasterers | 15.85 | 3.75 |
| Area 14: | 16.35 | 1.00 |
| Area 15: | | |
| Cement Masons | 16.35 | .01 |
| Plasterers | 16.45 | .01 |
| ELECTRICIANS: | | |
| Area 1 | 18.41 | 1.25+ 14% |
| Area 2 | 17.15 | 2.25+ 3.5% |
| Area 3 | 18.15 | 1.25+ 8.35% |
| Area 4 | 17.30 | 1.86+ 3% |
| Area 5 | 17.45 | 2.10+ 3.6% |
| Area 6: | | |
| Electricians | 17.64 | 2.60+ 3.6% |
| Cable Splicers | 18.09 | 2.60+ 3.6% |
| Area 7 | 17.17 | 2.00 3½% |
| Area 8 | 18.355 | .84+ 9½% |
| ELEVATOR CONSTRUCTORS: | | |
| Area 1: | | |
| Elevator Constructor | 16.425 | 3.00 +a&b |
| Helper | 70%JR | 3.00 +a&b |
| Helper (Prob.) | 50%JR | |
| GLAZIERS: | | |
| Area 1 | 16.29 | .97 |
| Area 2 | 19.45 | |
| Area 3 | 13.085 | 2.06 |
| Area 4 | 16.59 | 1.91 |
| Area 5 | 15.81 | 7.00 |
| IRONWORKERS: | | |
| Area 1 | 15.65 | 2.45 |
| Area 2: | | |
| Ironworkers | 15.00 | 3.48 |
| Fence Erectors | 12.00 | 3.28 |
| Area 3 | 15.95 | 2.23 |
| Area 4 | 15.25 | 4.05 |
| Area 5 | 18.05 | 2.75 |
| MARBLE SETTERS; TERRAZZO WORKERS; & TILE SETTERS: | | |
| Area 1: | | |
| Marble & Tile setters | 14.20 | 1.80 |
| Area 2: | | |
| Terrazzo Workers | 17.55 | |
| Area 3 | 17.65 | |
| Area 4 | 15.75 | 1.87 |
| Area 5 | 16.50 | 1.00 |
| Area 6 | 15.78 | 1.56 |
| Area 7 | 16.35 | 3.00 |
| Area 8 | 15.975 | 2.105 |
| MARBLE SETTERS' FINISHERS; TERRAZZO WORKERS' FINISHERS; & TILE SETTERS' FINISHERS: | | |
| Area 1: | | |
| Tile Setters' Finishers | 11.70 | 1.605 |
| Area 2: | | |
| Marble Setters' Finishers & Tile Setters Finishers | 15.75 | |
| Area 3: | | |
| Marble Setter's Finishers & Tile Setters' Finishers | 16.00 | |
| Terrazzo Finishers | 16.15 | |
| Area 4 | | |
| PAINTERS: | | |
| Area 1: | | |
| Brush (New) | 15.00 | |
| Brush (Old) | 13.12 | |
| Spray & Sandblast | 13.61 | |
| Area 2 | 16.57 | 1.24 |
| Area 3: | | |
| Brush | 13.65 | 1.75+c |
| Sandblast | 14.15 | 1.75+c |
| Taping & Rollers | 14.65 | 1.75+c |
| Spray | 14.40 | 1.75+c |

DECISION NO. IL85-5007

| PAINTERS (CONT'D) | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| Painters: | | |
| AREA 4: | | |
| Brush & Roller under 30ft | $15.40 | $1.00 |
| Over 30 Ft | 16.20 | 1.00 |
| Over 300 Ft | 17.20 | 1.00 |
| Blasting, Spraying, or Pressure Washing under 30 ft | 16.10 | 1.00 |
| Over 30 ft | 16.90 | 1.00 |
| Over 300 ft | 17.90 | 1.00 |
| Wallcovering, Drywall preparing | 15.00 | 1.00 |
| AREA 5: | | |
| Brush | 11.50 | 1.25 |
| Roller & Taping | 12.00 | 1.25 |
| Spray & Sandblasting | 12.00 | 1.25 |
| AREA 6: | | |
| Brush, Roller, Paperhanger | 14.80 | 1.65 |
| Spray | 15.55 | 1.65 |
| Brush & Roller over 50 ft | 15.80 | 1.65 |
| Spray over 50 ft | 16.55 | 1.65 |
| AREA 7: | | |
| Brush | 15.69 | 1.86 |
| Spray & Blast | 16.69 | 1.86 |
| Taper | 15.94 | 1.80 |
| AREA 8: | | |
| Brush | 15.80 | 1.75 |
| Spray & Taper, Steel, High work | 16.30 | 1.75 |
| Bridges, Air-less spraying | 16.80 | 1.75 |
| AREA: | | |
| Brush | 13.30 | |
| Steel | 14.30 | |
| Spray, Sandblast | 14.05 | |
| AREA 10: | | |
| Brush | 10.50 | |
| Roller 6 to 10" | 10.75 | |
| Drywall, Steel | 10.75 | |
| Roller over 10" | 11.50 | |
| Spray | 12.00 | |
| AREA 11: | | |
| Brush | 13.80 | 1.80 |
| Spray | 15.30 | 1.80 |
| Sandblast & Steamclean | 15.80 | 1.80 |
| AREA 12: | | |
| Brush | 13.00 | .33 |
| Structrual Steel | 13.50 | .33 |
| Sandblast, Spray | 14.00 | .33 |
| AREA 13 | 10.50 | |
| AREA 14: | $11.60 | $ .80 |
| Brush & Roller | 11.60 | .80 |
| Drywall Finisher & Paper Hangers | 12.10 | .80 |
| Sandblast & Power Tools | 12.50 | .80 |
| AREA 15: | | |
| Brush | 14.75 | |
| Spray & Blast | 16.00 | |
| AREA 16: | | |
| Brush, Drywall Taping | 16.00 | |
| Spray, Sandblast & Swing Stage | 17.00 | |
| PLUMBERS, PIPEFITTERS, & STEAMFITTERS: | | |
| Area 1 | 18.95 | 2.68 |
| Area 2 | 18.00 | 2.90 |
| Area 3 | 19.50 | 2.90 |
| Area 4 | 17.23 | 2.58 |
| Area 5 | 18.40 | 2.60 |
| Area 6 | 18.75 | 3.25 |
| Area 7 | 16.77 | 3.15 |
| Area 8 | 20.07 | 2.55 |
| Area 9 | 19.10 | 3.03 |
| Area 10 | 18.06 | 2.48 |
| ROOFERS: | | |
| Area 1 | 9.25 | |
| Area 2 | 13.30 | 1.35 |
| Area 3 | 16.21 | 2.50 |
| Area 4 | 15.88 | 2.42 |
| Area 5 | 16.13 | 3.25 |
| Area 6 | 15.00 | 1.50 |
| Area 7 | 17.09 | 1.70 |
| Area 8 | 8.40 | 1.45 |
| ROOFERS: | | |
| Area 9 | 17.00 | 3.00 |
| SHEET METAL WORKERS: | | |
| Area 1 | 14.78 | 2.75 |
| Area 2 | 16.74 | 3.44+a |
| Area 3 | 16.71 | 2.48+ 3% |
| Area 4 | 15.64 | 2.36+ 9% |
| Area 5 | 17.76 | 2.89 |
| SPRINKLER FITTERS | 16.67 | 2.83 |
| LABORERS: | | |
| Area 1 | 12.95 | 1.285 |
| Area 2: | | |
| Group 1 | 14.90 | 1.60 |
| Group 2 | 15.10 | 1.60 |
| Group 3 | 15.25 | 1.60 |
| Area 3: | | |
| Group 1 | 14.05 | 2.45 |
| Group 2 | 14.25 | 1.45 |
| Group 3 | 14 40 | 2.45 |



DECISION NO. IL85-5007

| LABORERS (CONT'D) | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| Area 4: | | |
| Group 1 | $14.40 | $2.10 |
| Group 2 | 14.60 | 2.10 |
| Group 3 | 14.75 | 2.10 |
| Area 5 | 12.95 | 1.185 |
| Area 6: | | |
| Group 1 | 14.75 | 1.65 |
| Group 2 | 14.95 | 1.65 |
| Group 3 | 15.10 | 1.65 |
| Area 7: | | |
| Group 1 | 14.42 | 2.05 |
| Group 2 | 14.62 | 2.05 |
| Group 3 | 15.10 | 1.65 |
| Area 7: | | |
| Group 1 | 14.42 | 2.05 |
| Group 2 | 14.62 | 2.05 |
| Group 3 | 14.82 | 2.05 |
| Area 8: | | |
| Group 1 | 14.25 | 2.25 |
| Group 2 | 14.45 | 2.25 |
| Group 3 | 14.60 | 2.25 |
| Area 9: | | |
| Group 1 | 13.55 | 2.95 |
| Group 2 | 13.75 | 2.95 |
| Group 3 | 13.90 | 2.95 |
| POWER EQUIPMENT OPERATORS: | | |
| Area 1: | | |
| Group 1 | 16.55 | 2.835 |
| Group 2 | 14.65 | 2.835 |
| Group 3 | 14.35 | 2.835 |
| Group 4 | 13.70 | 2.835 |
| Group 5 | 13.10 | 2.835 |
| Group 6 | 16.85 | 2.835 |
| Group 7 | 13.65 | 2.835 |
| Area 2: | | |
| Group 1 | 17.45 | 2.60 |
| Group 2 | 17.35 | 2.60 |
| Group 3 | 17.15 | 2.60 |
| Group 4 | 9.50 | 2.60 |
| Area 3: | | |
| Group 1 | 16.95 | 1.83 |
| Group 2 | 15.30 | 1.83 |
| Group 3 | 13.20 | 1.83 |
| Area 4: Master Mechanic | 19.07 | 2.73 |
| Group 1 | 18.57 | 2.73 |
| Group 2 | 15.14 | 2.73 |
| Group 3 | 14.49 | 2.73 |
| Group 4 | 14.39 | 2.73 |
| Group 5 | 14.14 | 2.73 |
| Class 6: | | |
| Group A | 20.72 | $2.73 |
| Group B | 21.02 | 2.73 |
| Group C | 16.24 | 2.73 |
| Group D | 16.74 | 2.73 |
| TRUCK DRIVERS: | | |
| Area 1: | | |
| 2-3 Axles | 15.70 | d |
| 4 Axles | 15.85 | d |
| 5 Axles | 16.05 | d |
| 6 Axles | 16.25 | d |
| Area 2: | | |
| 2-3 Axles | 15.50 | f |
| 4 Axles | 15.70 | f |
| 5 Axles | 15.90 | f |
| 6 Axles | 16.05 | f |
| Area 3: | | |
| Group 1 | 14.275 | 1.90+e |
| Group 2 | 14.675 | 1.90+e |
| Group 3 | 14.875 | 1.90+e |
| Group 4 | 15.125 | 1.90+e |

DECISION NO. IL85-5007

AREA DESCRIPTIONS

ASBESTOS WORKERS:

Area 1: Alexander, Christian, DeWitt, Fayette, Jackson, Jefferson, Marion, Moultrie, Perry, Piatt, Shelby, & Union Cos.
Area 2: Champaign, Clark, Douglas, Edgar, & Vermilion Cos.
Area 3: Clay, Coles, Crawford, Cumberland, Edwards, Effingham, Franklin, Gallatin, Hamilton, Hardin, Jasper, Johnson, Lawrence, Massac, Pope, Pulaski, Richland, Saline, Wabash, Wayne, White, & Williamson Cos.
Area 4: Ford & Iroquois Cos.

BOILERMAKERS

Area 1: Champaign, DeWitt, Ford, Iroquois & Vermilion Cos.
Area 2: Remaining Counties

BRICKLAYERS; CAULKERS; CLEANERS; POINTERS; & STONEMASONS:

Area 1: Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Massac, Perry, Pope, Pulaski, Saline, Union, White, & Williamson Cos.
Area 2: Champaign, Coles, Douglas (N. of Arcola), Edgar, Ford (S. of Roberts), & Vermilion Cos
Area 3: Christian Co.
Area 4: Clark, Clay, Crawford, Cumberland, Edwards, Effingham, Jasper, Lawrence, Richland, Wabash, & Wayne Cos.
Area 5: DeWitt Co.
Area 6: Fayette Co.
Area 7: Ford (Robert & N. Thereof) & Iroquois Cos.
Area 8: Marion Co.
Area 9: Moultrie, Piatt & Shelby Cos.

CARPENTERS; LATHERS; MILLWRIGHTS; PILEDRIVERMEN & SOFT FLOOR LAYERS:

Area 1: Alexander, Hardin, Johnson, Massac, Pope, Pulaski
Area 2: Champaign, Douglas (N. part inclu. Tuscola & Newman) & Piatt (Monticello), Ford (S½ inclu. Garber, Guthrie, Perdueville, Gibson City, Elliot, Proctor & Clarence)
Area 3: Christian (Millerville, Rosamond, Radford, Pana, & Vic.), Clark, Coles, Cumberland, Douglas, (S. part exclu. Tuscola & Newman), Edgar, Effingham, Jasper (W½), Moultrie (Exclu. Bethany, Okaw River, Lovington, Williamsbury, Lake City & all areas N.) & Shelby Cos.
Area 4: Christian (Morrisville) Co.
Area 5: Clay, Edward, Fayette, Hamilton, Jefferson, Marion, Richland, Wabash, Wayne & White Cos.
Area 6: Crawford, Jasper (E½), & Lawrence (E. of Summer Chancy Rd.) Cos.
Area 7: DeWitt Co.
Area 8: Ford (N½, N. of Garber), Iroquois & Vermilion (N. of Rossville Twps.) Cos.
Area 9: Moultrie (Bethnay, Okaw River, Lovington, Williamsbury, Lake City, & N. thereof), & Piatt (Remainder of County) Cos.
Area 10: Vermilion (Exclu. N. of Rossville) Co.
Area 11: Jackson, Perry Cos.
Area 12: Franklin, Gallatin, Saline, Union, Williamson





DECISION NO. IL85-5007

AREA DESCRIPTIONS (CONT'D)

CEMENT MASONS & PLASTERERS

Area 1: Alexander, Jackson, Perry, Pulaski, & Union Cos.
Area 2: Champaign, Douglas (N½, inclu. Tuscola & Newman), Ford, & Piatt (N½) Cos.
Area 3: Christian (N. part), DeWitt (S½, inclu. Clinton), Moultrie (NE), Piatt ( S½), & Shelby (Moweaqua & N. thereof) Cos.
Area 4: Christian (S. part), & Fayette (Bingham, Ramsey, & St. Elmo) Cos.
Area 5: Clark & Edgar Cos.
Area 6: Clay, Edwards, Jasper, Richland & Wayne (Exclu. SW part) Cos.
Area 7: Coles, Cumberland, Douglas (S½, exclu. Tuscola & Newman), Effingham (N ½), Moultrie (Exclu. NE), & Shelby (S. of Moweaqua Cos.
Area 8: Crawford, Lawrence & Wabash Cos.
Area 9: DeWitt (N½) Co.
Area 10: Effingham (S½), Fayette (E. Part, Exclu. Bingham, Ramsey, & St. Elmo), & Marion (N 2/3) Cos.
Area 11: Franklin, Hamilton, Jefferson (Mt. Vernon & E. thereof), Wayne (SW part), & Williamson Cos.
Area 12: Gallatin, Hardin, Johnson, Massac, Pope, Saline & White Cos.
Area 13: Iroquois Co.
Area 14: Vermilion Co.
Area 15: Fayette (Western Part including Vandalia), Jefferson (N½ North of Mt. Vernon), Marion (S. part including Sandoval & Odin)

ELECTRICIANS

Area 1: Alexander, Clay, Edwards, Effingham (Exclu. Banner, Bishop, Douglas, Liberty, Lucas, Moccasin, St. Francis, Summit, & Teulopolis Twps.), Fayette (Exclu. Hurricane, S. Hurricane, Ramsey, Bowling Green, Carson, & Loudon Twps.), Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Saline, Union, Wayne, White, & Williamson Cos.
Area 2: Champaign, DeWitt (Santa Anna Twp.), Douglas (N½), Ford (S. of Benton Twp.), Iroquois (Artesia, Pigeon Grove & Loda Twps.) & Piatt (Blue Ridge, Sangamon & Monticello Twps.) Cos.
Area 3: Christian, Coles, Cumberland, DeWitt (Exclu. Santa Anna Twps., Waynesville, Rutledge & Wilson), Douglas (S½), Effingham (Banner, Bishop, Douglas, Liberty, Lucas, Moccasin, St. Francis, Summit & Teulopolis Twps.), Fayette (Hurricane, S. Hurricane, Ramsey, Bowling Green, Carson, & Loudon Twps.), Moultrie, Piatt (Exclu. Blue Ridge, Sangamon & Monticello Twps.), & Shelby Cos.
Area 4: Clark, Crawford, Edgar, Jasper, Lawrence, & Richland Cos.
Area 5: DeWitt (Waynesville, Wilson, & Rutledge) Co.
Area 6: Ford (Benton twp. & N.), & Iroquois (Exclu. Artesia, Pigeon Grove, Loda, Fountain Creek, Lovejoy, & Prairie Green Twps.) Cos.
Area 7: Vermilion & Iroquois (Fountain Creek, Lovejoy, & Prarie Green Twps.) Cos.
Area 8: Wabash Co.

ELEVATOR CONSTRUCTORS

Area 1: Champaign, Fayette, & Vermilion Cos.

DECISION NO. IL85-3007

GLAZIERS

Area 1: Champaign, Christian, Clark (W. part), Coles, Cumberland, DeWitt, Douglas, Edgar (W. part), Effingham, Fayette, Jasper, Moultrie, Piatt, & Shelby Cos.
Area 2: Clark (E. Part), Edgar (E. part) & Vermilion Cos.
Area 3: Clay, Edwards, Gallatin, Hamilton, Lawrence, Marion, Massac, Pope, Saline, Wabash, Wayne, White, & Williamson Cos.
Area 4: Ford Co.
Area 5: Jackson, Jefferson, Perry & Union Cos.

IRONWORKERS

Area 1: Alexander, Franklin, Gallatin, Hardin, Jackson (Carbondale, Murphysboro & Grand Tower), Johnson, Massac, Pope, Pulaski, Saline (Exclu. Vic. of Eldorado & area N.E.), Union & Williamson Cos.
Area 2: Champaign, Coles, Cumberland, DeWitt (E. part), Douglas, Edgar, Ford, Moultrie, Piatt, Shelby (E½), & Vermilion Cos.
Area 3: Christian, DeWitt (W. part), Effingham (Exclu. Dexter & E. thereof), Fayette (St. Elmo & all area N. thereof), & Shelby (W½) Cos.
Area 4: Clark, Clay (N. of Louisville), Crawford, Effingham (Dexter & E. thereof), Jasper, Lawrence (N. of Lawrenceville), & Richland (N. of Olney) Cos.
Area 5: Fayette (exclu. St. Elmo & Area N. thereof), Jackson (Ava & Elkville Twps), Jefferson (Mt. Vernon & area W. thereof), Marion, & Perry Cos.

MARBLE SETTERS; TERRAZZO WORKERS & TILE SETTERS

Area 1: Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Massac, Perry, Pope, Pulaski, Saline, Union, White, & Williamson Cos.
Area 2: Alexander, Fayette, Franklin, Hamilton, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pulaski, Saline, & Union Cos.
Area 3: Champaign, Coles, Douglas (N. of Arcola), Fork (S. of Roberts) & Vermilion Cos.
Area 4: Christian Co.
Area 5: Clark, Clay, Crawford, Cumberland, Edwards, Effingham, Jasper, Lawrence, Richland, Wabash & Wayne Cos.
Area 6: DeWitt Co.
Area 7: Ford (Robert & N. thereof) Co.
Area 8: Moultrie, Piatt, & Shelby Cos.

MARBLE SETTERS' FINISHERS; TERRAZZO WORKER' FINISHERS; & TILE SETTERS FINISHERS

Area 1: Alexander, Franklin, Hamilton, Jackson, Jefferson, Johnson, Massac, Perry, Pulaski, Saline, Union, Wayne, & Williamson Cos.
Area 2: Champaign, Ford, Paitt,Vermilion, Iroquois
Area 3: Christian, Clark, Clay, Coles, Crawford, Cumberland, DeWitt, Douglas, Effingham, Jasper, Moultrie, Richland, & Shelby Cos.
Area 4: Edwards, Lawrence, & Wabash Cos.



DECISION NO. IL85-3007

AREA DEFINITIONS (CONT'D)

PAINTERS

Area 1: Alexander & Pulaski Counties
Area 2: Champaign, Coles, Cumberland, & Douglas Cos.
Area 3: Christian Co.
Area 4: Clark, Crawford, Edgar, Effingham, Jasper, Lawrence, Richland, & Wabash Cos.
Area 5: Clay, Edwards, Hamilton, Jefferson, Marion (Exclu. Salem City Limits) & Wayne Cos.
Area 6: DeWitt, Moutrie, Piatt, & Shelby Cos.
Area 7: Fayette Co.
Area 8: Ford Co.
Area 9: Franklin Co. (except city of Benton), Johnson, & Williamson Cos.
Area 10: Gallatin, Hardin, Pope, & Saline Cos.
Area 11: Iroquois Co.
Area 12: Jackson & Perry Cos.
Area 13: Marion (Salem) Co.
Area 14: Massac Co.
Area 15: Union Co.
Area 16: Vermilion Co.

PLUMBERS; PIPEFITTERS; & STEAMFITTERS

Area 1: Alexander, Hardin, Jackson, Johnson, Massac, Perry, Pope, Pulaski, Randolph (Exclu. Baldwin, Red Bud, Ruma, & Tilden Twps.) & Union Cos.
Area 2: Champaign, Coles, Cumberland, Effingham, Ford, Jasper, & Piatt (E½) Cos.
Area 3: Christian (Assumption, Pana, & Radford Twps.), DeWitt, Moultrie, Piatt (W½), & Shelby Cos.
Area 4: Christian (Exclu. Assumption, Pana, & Radford Twps.) Co.
Area 5: Clark, Crawford, Douglas, Edgar (S½), & Richland Cos.
Area 6: Clay, Fayette, & Marion Cos.
Area 7: Edgar (N½) & Vermilion Cos.
Area 8: Edwards, Lawrence, Wabash & White Cos.
Area 9: Franklin, Gallatin, Hamilton, Jefferson, Saline, Wayne, & Williamson Cos.
Area 10: Iroquois Cos.

ROOFERS

Area 1: Alexander (Cairo) Co.
Area 2: Alexander (Exclu. Cairo), Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Perry, Pope, Pulaski, Saline, Union, Wabash, Wayne, White, & Williams Cos.
Area 3: Champaign, Clark, Coles, Cumberland, Douglas, Edgar, Ford, Piatt (E. Section of Piatt, W. of & exclu. Cities of Monticello & Lodge) & Vermilion Cos.
Area 4: Christian (Assumption, Pinkle, Dollville, Millersville, Mt. Auburn, Oshbornville, Owaneea, Pana, Radford, Rosamond, Stonington, Velma, Vanderville, & Willeys), Clay, DeWitt (S½), Effingham, Fayette, Jasper, Moultrie, Piatt (W½), Richland & Shelby Cos.

DECISION NO. IL85-5007

AREA DEFINITIONS (CONT'D)

ROOFERS (CONT'D)

Area 5: Christian (Breckenridge, Edinburgh, Humphrey, Kincaid, Morrissonville, Palmer, & Taylorville) Co.
Area 6: Crawford & Lawrence Cos.
Area 7: DeWitt (N½) Co.
Area 8: Massac Co.
Area 9: Iroquois Co.

SHEET METAL WORKERS

Area 1: Alexander, Clay, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Richland, Saline, Union, Wabash, Wayne, White, & Williamson Cos.
Area 2: Champaign, Coles, Cumberland, Douglas, Ford, Moultrie, Piatt, Shelby & Vermilion Cos.
Area 3: Christian & DeWitt Cos.
Area 4: Clark, Crawford, Edgar, & Lawrence Cos.
Area 5: Iroquois Co.

LABORERS:

Area 1: Alexander, Franklin, Gallatin, Hardin, Jackson, Johnson, Massac, Perry, Pope, Pulaski, Saline, Union, & Williamson Cos.
Area 2: Champaign, DeWitt, Piatt (N. of a line drawn E. to W. thru N. City limits of Ivesdale) Cos.
Area 3: Christian & Moultrie (N½) Cos.
Area 4: Clark, Douglas, Edgar, Moultrie (S½), & Piatt (Rem. of Co.) Cos.
Area 5: Clay, Crawford, Edwards, Effingham, Fayette, Hamilton, Jasper, Jefferson, Lawrence, Marion, Richland, Wabash, Wayne, & White Cos.
Area 6: Coles & Cumberland Cos.
Area 7: Ford & Iroquois Cos.
Area 8: Shelby Co.
Area 9: Vermilion Co.

POWER EQUIPMENT OPERATORS

Area 1: Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Johnson, Massac, Pope, Pulaski, Saline, Union, White, & Williamson Cos.
Area 2: Champaign, Clark, Clay, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Ford, Iroquois, Jasper, Lawrence, Moultrie, Richland, Vermilion, Wabash, & Wayne
Area 3: Christian, DeWitt, Piatt & Shelby Cos.
Area 4: Fayette, Jefferson, Marion & Perry Cos.

TRUCK DRIVERS

Area 1: Ford (N½ of Co.) Co.
Area 2: Iroquois (N & SW parts of Co.) Co.
Area 3: Remaining Cos.



DECISION NO. IL85-5007

CLASSIFICATION DEFINITIONS

LABORERS

AREAS 2, 3, 4, 6, 7, 8, & 9

GROUP 1
UNSKILLED LABORERS - All Sewer Workers, plus Depth Pay; Asphalt Plant Laborers; Bankmen on Floating Plant; Batch Dumpers; Carpenters' Tenders; Cleaning Lumber; Cofferdam Workers, plus Depth Pay; Deck Hand, Dredge Hand & Shore Laborer; Dispatchers; Driving of Stakes, Stringlines for all Machinery; Fencing Laborers; Firemen of Salamander Tenders; Fireproofing Laborers; Form Handlers; Gravel Box Men, Dumpmen and Spotters; Laborers with De-Watering Systems; Landscapers; Laying of Sod; Material Handlers; Pit Men; Plastic Installers; Planting of Trees; Removal of Trees; Rip Rap Men; Scaffold Workers; Tool Cribmen; Track Laborers; Unloading & Carrying Lath; Unloading and carrying of Re-Bars; Wrecking, Dismantling Buildings, Wallmen & Housemovers; Wrecking Laborers

GROUP 2
SEMI-SKILLED LABORERS - Asphalt Workers with Machine; Asphalt Rakers & Layers; Cement Handlers; Cement Silica, Clay, Fly Ash, Lime and Plaster, Handlers (Bulk or Bag); Chain Saw; Chloride Handlers; Concrete Workers (Wet); Grade Checker; Handling of Materials Treated with Oil, Creosote, Asphalt and/or any Foreign Material Harmful to Skin or Clothing; Kettle Tar Men on Concrete Paving, Placing, Cutting and Tying of Reinforcing; Tank Cleaners; Tunnel Tenders in Free Air

GROUP 3
SKILLED LABORERS - Air Tamping Hammerman; Caisson Workers, plus Depth Pay; Concrete Burning Machine Op.; Concrete Saw Op.; Coring Machine Op.; Curb Asphalt Machine OP.; Gunnite Nozzle Men; Jackhammer and Drill Op.; Laborers Handling Masterplate or similar materials; Laborers Tending Masons with Hot Material or Where Foreign Materials are used; Laser Beam Op.; Layout Man on Sewer Work; Luteman; Mason Tenders; Mortar Mixer Op.; Motorized Buggies or Motorized Unit used for Wet Concrete or Handling of Building Materials; Multiple Concrete Duct - Leadman; Plasterer' Tenders; Ready Mix Scalemen; Screedman on Asphalt Pavers; Steel Form Setters - Street & Highway; Vibrator Ops.; Welders, Cutters, Burners & Torchmen

DECISION NO. IL85-5007

CLASSIFICATION DEFINITIONS-(CONT'D

POWER EQUIPMENT OPERATORS

AREA 1

Group 1 - APSCO or Equal Spreading Machine, Backhoe, Backfiller, Boom or Winch Cat, Bituminous Mixplane Machine, Blacksmith, Bituminous Surfacing Machine, Bulldozer, Crane Shovel, Dragline, Truck Crane, Pile Driver, Concrete Finishing Machine or Spreader Machine, Concrete Breaker, Concrete or Pump Crete Pumps, Dinky or Standard Locomotives, Well or Caisson Drills, Elevating Grader, Fork Lifts, Flexplane, Gradeall, Hi-Lift, Hoists, Guy-Derricks, Hyster, Mechanic, Motor Patrol, Mixers - 21 cu. ft. or over, Push Cats, Pulls and Scrapers, Two Well Point Pumps, Pulverizer or Tiller, Pugmill, Rubber-Tired Farm Type Tractor with Bulldozer/Blade/Auger or Hi-lift over ½ yd., Jersey Spreader, Tract-Air used with Drill or Hi-Lift, Trenching or Ditching Machines, Wood Chipper w/Tractor, Self-Propelled Roller W/Blade, Equipment Greaser, Self-Propelled Bump Grinder on Concrete Highway Pavement

Group 2 - Air Compressor W/Valve Driving Piling, Two Air Compressors (220 cu. ft. capacity or over), Two Air Tract Drills, Air Track Drill W/Compressor, Automatic Bins or Scales W/Compressor or Generator, Pipeline Boring Machine, Bulk Cement Plant W/ Separate Compressor, Power Operated Bull Float, Hydra-Lift W/Single Motor, Straw Mulcher Blower W/Spout, Self-Propelled Roller/Compactor, Back-end man on Bituminous Surfacing Machine

Group 3 - Boom or Winch Truck, Two Conveyors, Self Propelled Concrete Saw, Form Grader, Truck Crane Oiler, Self-Propelled Vibrator, Any Type Tractor Pulling any type Roller or Disc, Rubber Tired Farm Type Tractor w/Blade/Bulldozer/Auger/Hi-Lift - ½ yd. or less, Elevator Operator, Self Propelled Chip Spreader

Group 4 - Air-Track Drill (one), Belt Drag Machine, Power Broom, Mechanical Plasterer Applicator, Trac-Air, Air Compressor (720 cu. ft. or over) One, Air Compressor (under 220 cu. ft.) four, Automatic Bin, Bulk Cement Plant W/Built-in Compressor running off Same Motor or Electric Motor, Fireman, Self Propelled Form Tamper, Light Plants (4), Welding Machines (4), Pumps (4), or Combination of 4 Pumps, Light Plants,Welding Machines,Air-Compressors (under 220 cu. ft.), Mudjacks or Wood Chipper, Mixers - less than 21 cu. ft., Mortar Mixer w/skip or Pump, Pipeline Track Jack, Compressors, Light Plants, Generators, Welding Machines, Pumps or Conveyors, One Well-Point Pump, Two Motor Driven Heaters

Group 5 - One Air Compressor (under 220 cu. ft.), One Conveyor, One Motor Driven Heater, One Light Plant, One Pump, One Welding Machine, One Ulmac or Equal Spreader, conveyor Operator on Self-Propelled Chip Spreader Oilers



DECISION NO. IL85-5007

CLASSIFICATION DEFINITIONS (CONT'D)

POWER EQUIPMENT OPERATORS

AREA 1 (CONT'D)

RIVER WORK AND LEVEE WORK ON MISSISSIPPI AND OHIO RIVERS

GROUP 6 Crane, Shovel, Dragline, Scrapers, Dredge, Derrick, Pile-Diver, Push Boat, Mechanic, Engine-Man on Dredge, Lever-Man on Dredge, APSCO or equal Spreading machine, Backhoe, Backfiller, Boom or Winch Cat, Bituminuous Mixplane Meachine, Blacksmith, Bituminous Surfacing machine, Bulldozer, Truckcrane, Concrete Finishing machine or Spreader machine, Concrete Breaker, Concrete or Pumpcrete machine, Dinky or Standard Locomotives, Well Drill, Elevating Grade, Fork-lifts, Flexplane, Gradeall, Hi-Lift, Power Bandblade, Tugger type Hoist, Hoist Two Drums (or more), Guyderrick, Hyster, Motor Patrol, Mixers - 21 Cu. Ft. or over, Push Cat, Pulls @ Scrapers, Pumps- Two Well Points, Equipment Greaster, P & H Pulverizer or Pulverizer equal to Pugmill, Pugmill, Rubber-Tired Farm type tractor W/Bulldozer/Blade/Auger or Hi-lift+over ½yd, Skimmer Scoops, Seaman Tiller, Jersey Spreader, Tract-Air used with Drill or Hi-lift, Trenching or Ditching Machine, Wood Chipper W/Tractor, Self-Propelled Roller W/Blade, Concrete Pumps, Small Equipment Operators.

Group 7 Oiler or Fireman on Crane, Dragline, Shovel, Dredge, Truck Crane, Pile Driver, Gradeall, Dinky or Standard Locomotive, Guy Derrick, Trenching Machine or Ditching Machine 80 H.P. and over, All Terrain (cherry-Picker) Cranes with 20 ton Lifting Capacity or Over, Deck Oiler on Ohio River.

DECISION NO. IL85-5007

CLASSIFICATION DEFINITIONS (CONT'D)

POWER EQUIPMENT OPERATORS (CONT'D)

AREA 2

Group 1:- Master Mechanic
Group 2:- Utility Operator
Group 3:- Power Cranes, Draglines, Derricks, Shovels, Gradalls, Mechanics, Concrete Mixers with Skip, Tournamixers, Two Drum Machine, One Drum Hoists with Tower or Boom, Cableways, Tower Machines, Motor Patrol, Boom Tractor, Boom or Winch Truck, Winch or Hydraulic Boom Truck, Truck Crane, Tournapull, Tractor Operating Scoops, Bulldozer, Push Tractor, Asphalt Planer, Finishing Machine on Asphalt, Large Rollers on Earth, Rollers on Asphalt Mix, Ross Carriers or similar Machine,Gravel Processing Machine, Asphalt Plant Engineer, Paver Operator, Farm Tractor w/half yard Bucket and/or Backhoe Attachment, Dredging Equipment or Dredge Engineer or Dredge Operator, Central Mix Plant Engineer, CMI or similar type machine, Concrete Pump, Truck or Skid Mounted, Tower Crane, Engine or Rock Crusher Plant, Concrete Plant Engineer, Ditching Machine with dual attachment, Tractor Mounted Loaders, Cherry Picker, Hydro Crane, Standard or Dinkey Locomotives, Scoopmobiles, Euclid Loader, Soil Cement Machine, Back Filler, Elevating Machine, Power Blade , Drilling Machines, incl. Well Testing, Caisson, Shaft or any similar type Drilling Machines, Motor Driven paint Machine, Pipe Cleaning Machine, Pipe Wrapping Machine, Pipe Bending Machine, Apsco Paver, Boring Machine, Head Equipment Greaser, Barber-Greene Loaders, Formless Paver, Well Point System, Concrete Spreader, Hydra Ax, Besco Concrete Saw, Marine Scoops, Brush Mulcher, Brush Burner, Mesh Placer, Tree Mover, Helicopter Crew (3), Piledriver - Skid or Crawler, Stump Remover, Root Rake, Tug Boat Operator, Refrigerating Machine, Freezing Operator, Chair Cart - Self-Propelled, Hydra Seeder, Straw Blower, Power Sub Grader, Bull Float, Finishing Machine, Self-Propelled Pavement Breaker (Backhoe Attached), Lull (or similar type machine), Two Air Compressors, Compressors hooked in Manifold, Overhead Crane, Chip Spreader, Mud Cat, Sull-Air Tractor highlift, tournadozer, tube float, curing machine,milling mach
Group 4:- Concrete Mixers without Skips, Rock Crusher, Ditching Machine under 6', Curbing Machine, One Drum Machines without Tower or Boom, Air Tugger, Self Propelled Concrete Saw, Machine Mounted Post Hole Digger, Two to Four Generators, Water Pumps, or Welding Machines, within 400 feet, Air Compressor 600 cu. ft. and under, Rollers on Aggregate and Seal Coat Surfaces, Fork Lift, Concrete and Blacktop Curb Machines, Farm Tractor with less than half yard Bucket, One Water Pump, Oilers, Air Valves or Steam Valves, One Welding Machine, Truck Jack, Mud Jack, Gunite Machines, House Elevators when used for Hoisting Material, Engine Tenders, Fireman, Wagon Drill, Flex Plane, Conveyor, Siphons and Pulsometer, Switchman,Fireman on Paint Pots, Fireman on Asphalt Plants, Distributor Operator on Truck, Tampers, Self-Propelled Power Broom, Striping Machine (motor driven), Form Tamper, Seaman Tiller, Bulk Cement Plant Equipment Greaser, Deck Hands, Truck Crane, Oiler Driver, Cement Blimps, Form Grader, Temporary Heat, Throttle
Farm Tractor



DECISION NO. IL85-5007

CLASSIFICATIONS DEFINITIONS

POWER EQUIPMENT OPERATORS (CONT'D)

AREA-3

Group 1 - Asphalt Plant Engineer; Asphalt Screed Man; Apsco Concrete Spreaders; Asphalt Pavers; Asphalt Rollers on Bituminous Concrete; Athey Loaders; Backfillers, Crane Type; Backhoes; Cableways; Cherry Pickers; Clam Shell; C.M.I. & Similar Type Autograde Formless Paver, Autograde Placer & Finisher; Concrete Breakers; Concrete Plant Operators; Concrete Pumps; Cranes; Derricks; Derrick Boats; Draglines; Earth Auger Boring Machines; Elevating Graders; Engineers on Dredge; Gravel Processing Machines; Head Equipment Greasers; High Lift or Fork Lifts; Hoist w/two Drums or Two or more Loadlines; Locomotives; Mechanics; Motor Graders or Auto Patrols; Operators or Levelman on Dredges; Operators Power Boat; Operators Pug Mill (Asphalt Plants); Orange Peels; Overhead Cranes; Paving Mixers; Piledrivers; Pipe Wrapping & Painting Machines; Push Dozers, or Push Cats; Rock Crushers; Ross Carriers or Similar Machines; Scoops; Skimmers 2 cu. yds., cap. & under; Sheep Foot Roller (Self-Propelled); Shovels; Skimmer Scoops; Test Hole Drilling Machines; Tower Cranes; Tower Machines; Tower Mixers; Track Type End Loaders; Track Type Fork Lifts or High Lifts; Track Jacks & Tampers; Tractors; Side Boom Trenching Machines; Ditching Machine; Tunnel Luggers; Wheel Type End Loaders; Winch Cat; Scoops (All or Tournapull); Barber Green Loaders, Bulldozers
Group 2 - Asphalt Boosters & Heaters; Asphalt Distributors; Asphalt Plant Fireman; Building Elevator; Bull Floats or Flexplanes; Concrete Finishing Machines; Concrete Saws, Self-propelled; Concrete Spreader Machines; Gravel or Stone Spreaders, Power Operated; Hoist Automatic; Hoist w/1 Drum & 1 Load Line; Oiler on 2 Paving Mixers when used in Tandem Boom or Winch Truck; Post Hole Diggers; Mechanical; Road or Street Sweeper-Self-Propelled; Scissors Hoist; Seaman Tiller; Straw Machine; Vibratory Compactor; Well Drill Machines; Boom or Winch Truck
Group 3 - Air Compressor*; Air Compressors, Track or Self-propelled; Bulk Cement Batching Plants; Conveyors*; Concrete Mixers (except plant, paver, tower); Firemen; Generators*; Greasers; Light Plants*; Mechanical Heaters*; Oilers; Power Form Graders; Power Sub-Graders; Pug Mills, when used for other than Asphalt Operation; Rollers (except Bituminous Concrete); Tractors w/o Power Attachment Regardless of size or type; Truck Crane Oiler & Driver 1 (man); Vibratory Hammer; Water Pumps*; Welding Machines (one 300 amp. or over*); Welding Machines*
*COMBINATIONS OF ONE TO FIVE OF ANY AIR COMPRESSORS, CONVEYORS, WELDING MACHINES, WATER PUMPS, LIGHT PLANTS OR GENERATORS SHALL BE IN BATTERIES OR WITHIN 300 FT

DECISION NO. IL85-5007

CLASSIFICATION DEFINITIONS (CONT'D)

POWER EQUIPMENT OPERATORS (CONT'D)

AREA 4

Group 1 - Cranes; Dragline; Shovels; Skimmer Scoops; Clamshells or Derrick Boats; Pile Drivers; Crane Type Backhoes; Asphalt Plant Operators; Concrete Plant Operators, Ditching Machines or Backfillers (requiring Oilers), Dredges, Asphalt Spreading Machines, All Locomotives, Cable Way, or Tower Machines - 2 Drum or more (where Oiler or Fireman is required)...Hydraulic Backhoes, Ditching Machines or Backfiller (not Requiring Oilers), Hoists - 2 Drums or more (where Oiler or Fireman is not required), Cherry Pickers Overhead Cranes, Roller, Steam or Gas, Concrete Pavers, Excavators, Concrete Breakers, Concrete Pumps, Bulk Cement Plants, Cement Pumps, Derrick-Type Drills, Mixers, (over three bags), Boat Operators (25 feet and over)....Motor Graders or Pushcats, Scoops or Tournapulls, Bulldozers, Endloaders or Fork Lifts, Power Blade or Elevating Graders, Winchcats, Boom or Winch Trucks or Boom Tractors, Pipe Wrapping or Painting Machines...Asphalt Plant Engineer, Journeyman lubricating Engineer, Self propelled Walk-behind Rollers....Drills (other than Derrick Type), One Drum Hoists, Mud Jacks, or Well Drilling Machines, Boring Machines or Track Jacks, Mixers (Two ro Three Bags), Conveyors (two), Air Compressors (two), Water pumps regardless of size (Two), Welding Machines (two), Siphons or jets (two), Winch Heads or Apparatuses (Two), Ligh Plants (Two)....Mixers (under two bags)....All Tractors regardless of size (straight tractor only), Fireman on Stationary Boilers, Automatic Elevators, Form Grading Machines, Finishing Machines, Power Sub-Grader or Ribbon Machines, Longitudinal Floats, Boat Operators (under 25 feet), Distributor Operators on Trucks, Winch Heads or Apparatuses (one), Mobile Track Air and heaters (Two to Five)

Group 2 - Air Compressors (One), Water Pumps, regardless of size (One), Welding Machine (One), Mixers (One bag), Conveyor (One), Siphon or Jet (One), Light Plant (One), Heater (One), Immobile Track Air (One)

Group 3 - Asphalt Spreader Oilers, Fireman on Whirlies

Group 4 - Heavy Equipment Oilers (Truck Cranes, Dredges, Monigans, Large Cranes), over 65 ton rates capacity

Group 5 - Oiler

Group 6:

| | | |
|---|---|---|
| | Group A | Engineers Operatting Under Air Pressure |
| | Group B | Engineers Operating in Air over 10 lbs. pressure |
| | Group C | Oilers Operating Under Air Pressure |
| | Group D | Oilers Operating in Air over 10 lbs. pressure |



DECISION NO. IL85-5007

CLASSIFICATION DEFINITIONS (CONT'D)

TRUCK DRIVERS

AREA 3

Group 1 - Drivers on 2 Axles hauling less than 9 tons; Air Compressor & welding Machine incl. those pulled by separate units; Fork Lifts up to 6,000 lbs. cap.; Mechanic Tenders; Pick-ups when hauling materials, tools, or men to and from and on the job site; Truck Driver Tenders; Greasers & Tiremen

Group 2 - 2 or 3 Axles hauling more than 9 tons, but hauling less than 16 tons; A-Frame Winches; Fork Lifts over 6,000 lbs. cap.; 4-Axle Combination units; Hydrolifts or similar equipment when used for transportation purposes; & Winches

Group 3 - 2, 3, or 4 axles hauling 16 tons or more; Dispatcher; 5-Axles or more combination units; Mechanics & Water Pulls

Group 4 - Drivers on Oil Distributors; & Drivers on Semi-Lowboys when moving equipment

FOOTNOTES:

a. 7 paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving; & Christmas Day
b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in the business more than 5 years; 6% for employee who has work in business less than 5 years
c. 25.00 per year
d. $116.00 per week
e. 55.00 per week
f. $119.70 per week

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: ILLINOIS
DECISION NUMBER: IL85-5008
COUNTIES: *See Below
DATE: Date of Publication
Supersedes Decision Number IL83-2052, dated July 1, 1983, in 48 FR 30576
DESCRIPTION OF WORK: Building projects (does not include single-family homes and apartments up to and including 4 stories)
* ADAMS, BOND, BOONE, BROWN, BUREAU, CALHOUN, CARROLL, CASS, CLINTON, DEKALB, FULTON, GREENE, HANCOCK, HENDERSON, HENRY, JERSEY, JODAVIESS, KNOX, LASALLE, LEE, LIVINGSTON, LOGAN, MCDONOUGH, MCLEAN, MACOUPIN, MARSHALL, MASON, MENARD, MERCER, MONROE, MONTGOMERY, MORGAN, OGLE, PIKE, PUTNAM, RANDOLPH, ROCK ISLAND, SCHUYLER, SCOTT, STARK, STEPHENSON, WARREN, WASHINGTON, WHITESIDE, WINNEBAGO & WOODFORD

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| ASBESTOS WORKERS: | | |
| Area 1 | $18.99 | $2.76 |
| Area 2 | 16.50 | 2.70 |
| Area 3 | 18.00 | 3.78 |
| Area 4 | 16.86 | 2.40 |
| BOILERMAKERS: | | |
| Area 1 | 18.30 | 3.305 |
| Area 2 | 18.40 | 4.53+5% |
| BRICKLAYERS; CAULKERS; CLEANERS; POINTERS & STONEMASONS: | | |
| Area 1 | 15.85 | .40 |
| Area 2 | 16.35 | 2.25 |
| Area 3 | 16.69 | 3.01 |
| Area 4 | 16.38 | 2.25 |
| Area 5 | 14.83 | 2.06 |
| Area 6 | 16.35 | 2.25 |
| Area 7 | 16.86 | 2.99 |
| Area 8 | 15.91 | 3.22 |
| Area 9 | 16.85 | |
| Area 10 | 16.15 | 1.75 |
| Area 11 | 15.23 | 3.40 |
| Area 12 | 15.53 | 3.25 |
| Area 13 | 15.45 | 2.73 |
| Area 14 | 15.83 | 2.50 |
| Area 15 | 16.85 | .10 |
| Area 16 | 15.78 | 2.56 |
| Area 17 | 15.75 | 1.87 |
| Area 18 | 15.11 | 2.97 |
| Area 19 | 15.10 | 1.95 |
| CARPENTERS; LATHERS; MILLWRIGHT PILEDRIVERMEN & SOFTFLOOR LAYERS: | | |
| Area 1: | | |
| Carpenters; Lathers & Soft Floor Layers | 16.305 | 2.44 |
| Millwrights; Piledrivermen | 16.805 | 2.44 |
| Area 2: | | |
| Carpenters; Lathers; Millwrights & Soft Floor Layers | 17.435 | 2.90 |
| Area 3: | | |
| Piledrivermen | 17.435 | 2.90 |
| Area 4: | | |
| Carpenters; Lathers; Piledrivermen & Softfloor Layers | 15.805 | 2.94 |
| Millwrights | 16.305 | 2.94 |

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| CARPENTERS (Cont'd) | | |
| Area 5: | | |
| Carpenters; Lathers; Piledrivermen & Softfloor Layer | 15.605 | 2.94 |
| Millwrights | 16.105 | 2.94 |
| Area 6: | | |
| Piledrivermen | 15.905 | 3.01 |
| Area 7: | | |
| Carpenters; Soft Floor Layer | 14.90 | 2.60 |
| Millwrights; Piledrivermen | 18.72 | 2.40 |
| Area 8: | | |
| Carpenters; Piledrivermen & Soft Floor Layers | 15.03 | 2.68 |
| Millwrights | 15.28 | 2.68 |
| Area 9: | | |
| Carpenters; Soft Floor Layer | 14.91 | 2.78 |
| Piledrivermen | 15.41 | 2.78 |
| Area 10: | | |
| Carpenters; Millwrights; Piledrivermen and Soft Floor Layers | 16.91 | 3.17 |
| Area 11: | | |
| Carpenters; Hardwood Floor Layers & Soft Floor Layers | 15.80 | 3.17 |
| Millwrights; Piledrivermen | 16.55 | 3.17 |
| Area 12: | | |
| Carpenters; Soft Floor Layer | 15.68 | 3.32 |
| Piledrivermen | 16.18 | 3.32 |
| Area 13: | | |
| Carpenters; Soft Floor Layer | 15.45 | 2.48 |
| Millwrights; Piledrivermen | 16.15 | 2.48 |
| Area 14: | | |
| Lathers | 12.68 | .21 |
| Area 15: | | |
| Lathers | 12.50 | .01 |
| Area 16: | | |
| Carpenters; Lathers & Soft Floor Layers | 16.17 | 2.54 |
| Millwrights; Piledrivermen | 16.67 | 2.54 |
| Area 17: | | |
| Carpenters; Piledrivermen & Soft Floor Layers | 14.20 | 2.40 |
| Millwrights | 18.72 | 2.40 |



| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| CARPENTERS (Cont'd): | | |
| Area 18: | | |
| Millwrights | $16.00 | $3.70 |
| Area 19: | | |
| Millwrights | 16.18 | 3.32 |
| CEMENT MASONS; PLASTERERS: | | |
| Area 1: Plasterers | 15.05 | 1.51 |
| Cement Masons | 14.78 | 1.53 |
| Area 2: | | |
| Cement Masons | 16.155 | 2.52 |
| Plasterer | 17.775 | |
| Area 3: | | |
| Cement Masons | 15.42 | 3.95 |
| Plasterers | 15.44 | 2.51 |
| Area 4: | | |
| Area 5: | 16.10 | 1.65 |
| Cement Masons | 15.13 | 3.70 |
| Plasterers | 15.07 | 3.70 |
| Area 6: | | |
| Cement Masons | 15.63 | 1.50 |
| Plasterers | 17.51 | 2.01 |
| Area 7: | | |
| Cement Masons | 16.35 | .01 |
| Plasterers | 16.45 | .01 |
| Area 8 | 16.80 | 3.81 |
| Area 9 | 16.14 | 2.03 |
| Area 10: | | |
| Cement Masons | 15.43 | 3.15 |
| Area 11: | | |
| Plasterers | 15.59 | 3.15 |
| Area 12: | | |
| Cement Masons | 16.90 | .85 |
| Plasterers | 16.65 | .85 |
| Area 13: | | |
| Cement Masons | 15.11 | 2.02 |
| Area 14: | | |
| Plasterers | 16.94 | |
| Area 15: | | |
| Cement Masons | 17.65 | |
| Plasterers | 17.28 | |
| Area 16: | | |
| Cement Masons | 15.70 | 1.65 |
| Area 17: | | |
| Cement Masons | 16.79 | 1.42 |
| Plasterers | 18.39 | |
| Area 18: | | |
| Cement Masons | 15.90 | |
| Plasterers | 17.15 | |
| Area 19: | | |
| Cement Masons | 14.83 | 2.06 |
| Plasterers | 15.69 | 2.06 |
| Area 20 | 15.50 | |

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| ELECTRICIANS: | | |
| Area 1 | 17.12 | 2.25+ 3.75% |
| Area 2 | 18.41 | 1.25+14% |
| Area 3 | 19.20 | 2.83 |
| Area 4 | 18.20 | 2.25+3½% |
| Area 5 | 18.50 | 2.60+ 3.6% |
| Area 6: | | |
| Twps. in Henry & Stark Cos. (Contracts not exceeding $4000) | 16.10 | 2.07 |
| All Other Contracts | 16.60 | 2.09 |
| Area 7 | 18.06 | 3.25+ 3.3% |
| Area 8: | | |
| Electricians | 16.34 | 1.66+8% |
| Cable Splicers | 17.34 | 1.66+8% |
| Area 9: | | |
| Electricians, Cable Splicers | 17.12 | 2.15+ 3.1% |
| Area 10 | 18.50 | 20.5% |
| Area 11 | 17.12 | 2.25+ 3.75% |
| Area 12 | 17.12 | 2.25+ 3.75% |
| Area 13 | 14.95 | 2.36 |
| Area 14 | 17.15 | 2.25+ 3.5% |
| Area 15 | 17.45 | 2.10+ 3.5% |
| Area 16 | 17.85 | 2.14 |
| ELEVATOR CONSTRUCTORS: | | |
| Area 1 | 16.425 | 3.00+sh |
| Area 2 | 18.17 | 3.00+sh |
| Area 3 | 16.88 | 3.29+sh |
| Area 4 | 17.36 | 2.33+sh |
| Area 5 (Helpers=70%JR+ full fringe Probationary=50%JR, no fringe) | 14.19 | 2.89+sh |
| GLAZIERS: | | |
| Area 1 | 16.29 | .97 |
| Area 2 | 15.81 | 7.00 |
| Area 3 | 14.53 | 2.77 |
| Area 4 | 13.50 | 2.27 |
| Area 5 | 16.24 | 2.00+ 5%+a |
| IRONWORKERS: | | |
| Area 1 | 15.95 | 2.23 |
| Area 2 | 16.00 | 2.40 |
| Area 3 | 18.05 | 2.75 |
| Area 4 | 17.02 | 5.625 |

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| IRONWORKERS (Cont'd): | | |
| Area 5 | $16.60 | $3.56 |
| Area 6 | 16.20 | 3.335 |
| Area 7 | 19.67 | 2.59 |
| Area 8 | 15.665 | 3.66 |
| Area 9 | 15.00 | 3.03 |
| MARBLE & TILE SETTERS; TERRAZZO WORKERS: | | |
| Area 1 | 15.85 | .40 |
| Area 2: | | |
| Terrazzo Workers | 17.55 | |
| Area 3: | | |
| Tile Setters | 13.98 | 2.91 |
| Area 4 | 15.20 | 2.80 |
| Area 5 | 14.83 | 2.06 |
| Area 6 | 15.56 | 3.22 |
| Area 7: | | |
| Terrazzo Workers | 16.85 | |
| Area 8 | 16.85 | .10 |
| Area 9 | 15.78 | 2.56 |
| Area 10 | 15.75 | 1.87 |
| Area 11 | 14.10 | 2.75 |
| Area 12: | | |
| Marble & Tile Setters | 14.20 | 1.80 |
| MARBLE, TILE & TERRAZZO FINISHERS: | | |
| Area 1: | | |
| Marble & Tile Finishers | 16.00 | |
| Terrazzo Finisher, Floor Machine Operator | 16.15 | |
| Base Machine Operator | 16.55 | |
| Area 2: | | |
| Tile Finishers | 11.70 | 1.61 |
| Area 3 | 11.60 | .95 |
| Area 4: | | |
| Marble & Tile Finishers | 14.74 | 2.05 |
| Terrazzo Finishers | 14.87 | 2.05 |
| Base Machine Operators | 15.12 | 2.05 |
| PAINTERS: | | |
| Area 1: | | |
| Brush | 11.00 | |
| Sand & Water Blasting, Spray & Steam Cleaning | 13.00 | |
| Area 2: | | |
| Brush | 15.69 | 1.86 |
| Taper | 15.94 | 1.86 |
| Spray & Blast | 16.69 | 1.86 |
| Area 3: | | |
| Brush & Roller (Repaint) | 14.97 | 2.55 |
| Brush & Roller (New) | 15.97 | 2.55 |
| Structural Steel | 16.22 | 2.55 |
| Spray | 16.47 | 2.55 |
| Sandblasting | 16.97 | 2.55 |

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| PAINTERS (Cont'd): | | |
| Area 4: | | |
| Brush | 14.50 | 2.20+c |
| Sandblasting | 15.00 | 2.20+c |
| Spray | 15.25 | 2.20+c |
| Roller, Taping | 15.50 | 2.20+c |
| Area 5: | | |
| Brush, Roller | 10.00 | 1.05 |
| Spray, Taping | 11.00 | 1.05 |
| Area 6: | | |
| Brush, Roller, Sign Painter | 14.47 | 3.49 |
| Drywall Taper, Sandblasting Spray, Structural Steel | 14.97 | 3.49 |
| Area 7: | | |
| Brush, Roller | 12.50 | 1.00 |
| Structural Steel | 12.75 | 1.00 |
| Taper | 12.85 | 1.00 |
| Spray | 13.00 | 1.00 |
| Area 8: | | |
| Brush, Drywall Finisher, Sandblast & Spray | 14.45 | 2.71 |
| Area 9: | | |
| Brush | 15.35 | 2.38 |
| Pressure Roller, Sandblast, Spray & Structural Steel | 16.20 | 2.38 |
| Paperhanger | 15.95 | 2.38 |
| Area 10: | | |
| Brush, Drywall Taper Finisher & Wall Covering | 15.00 | |
| Spray | 16.00 | |
| Pressure Roller, Sandblast & Structural Steel | 15.50 | |
| Area 11: | | |
| Brush, Paperhanger, Roller & Taper | 11.50 | 1.60 |
| Spray, Steel | 11.05 | 1.60 |
| Area 12: | | |
| Brush & Roller | 12.00 | 1.85 |
| Sandblast, Spray, Taper | 13.00 | 1.85 |
| Area 13: | | |
| Brush | 10.53 | |
| Sandblast, Spray, Steam Clean & Structural Steel | 10.88 | |
| Area 14: | | |
| Brush, Structural Steel | 14.00 | |
| Area 15: | | |
| Brush | 15.80 | 1.75 |
| Spray, Taper, Steel, High Work | 16.30 | 1.75 |
| Bridges, Airless Spraying | 16.80 | 1.75 |
| Area 16: | | |
| Brush | 13.00 | .33 |
| Structural Steel | 13.50 | .33 |
| Sandblast & Spray | 14.00 | .33 |



| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| PLUMBERS, PIPEFITTERS & STEAMFITTERS: | | |
| Area 1 | $16.05 | $2.87 |
| Area 2 | 20.00 | 2.13+d |
| Area 3 | 18.73 | 2.78 |
| Area 4 | 17.57 | 2.09 |
| Area 5 | 16.50 | 3.70 |
| Area 6 | 17.23 | 2.58 |
| Area 7 | 17.60 | 2.60 |
| Area 8 | 18.75 | 3.25 |
| Area 9 | 17.65 | 3.05 |
| Area 10 | 16.89 | 3.50 |
| Area 11 | 19.76 | 2.40 |
| Area 12 | 16.55 | 4.83 |
| Area 13 | 18.95 | 2.68 |
| ROOFERS: | | |
| Area 1 | 16.00 | 3.00 |
| Area 2 | 14.85 | 2.05 |
| Area 3 | 16.97 | 1.93 |
| Area 4 | 16.13 | 3.25 |
| Area 5 | 14.70 | 1.96 |
| Area 6 | 16.63 | 2.65 |
| Area 7 | 17.09 | 1.70 |
| Area 8 | 14.25 | .60 |
| Area 9 | 14.40 | 2.86 |
| Area 10 | 12.16 | .50 |
| Area 11: Composition Slate & Tile | 11.85 | .45 |
| | 11.90 | .45 |
| SHEET METAL WORKERS: | | |
| Area 1 | 16.08 | 2.98 |
| Area 2 | 15.64 | 2.36+3% |
| Area 3 | 17.13 | 3.25 |
| Area 4 | 17.12 | 2.48+e |
| Area 5 | 16.45 | 2.51+e |
| Area 6 | 16.06 | 2.98 |
| Area 7 | 16.75 | 2.61+e |
| Area 8 | 14.33 | 2.98 |
| Area 9 | 17.76 | 3.23 |
| SPRINKLER FITTERS | 16.67 | 2.83 |
| LABORERS: | | |
| Area 1: | | |
| Unskilled | 13.89 | 1.70 |
| Semi-skilled | 14.09 | 1.70 |
| Skilled | 14.24 | 1.70 |
| Area 2: | | |
| Unskilled | 13.59 | 2.00 |
| Semi-skilled | 13.79 | 2.00 |
| Skilled | 13.94 | 2.00 |
| Area 3: | | |
| Unskilled | 14.15 | 1.95 |
| Semi-skilled | 14.35 | 1.95 |
| Skilled | 14.50 | 1.95 |

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| LABORERS (Cont'd): | | |
| Area 4: | | |
| Unskilled | 14.10 | 2.50 |
| Semi-skilled | 14.30 | 2.50 |
| Skilled | 14.45 | 2.50 |
| Area 5: | | |
| Group 1 | 16.95 | .35 |
| Group 2 | 17.20 | .35 |
| Group 3 | 17.45 | .35 |
| Group 4 | 18.55 | .35 |
| Area 6: | | |
| Group 1 | 16.85 | .45 |
| Group 2 | 17.10 | .45 |
| Group 3 | 17.35 | .45 |
| Group 4 | 18.45 | .45 |
| Area 7: | | |
| Group 1 | 17.00 | .30 |
| Group 2 | 17.25 | .30 |
| Group 3 | 17.50 | .30 |
| Group 4 | 18.60 | .30 |
| Area 8: | | |
| Group 1 | 17.05 | .25 |
| Group 2 | 17.30 | .25 |
| Group 3 | 17.55 | .25 |
| Group 4 | 18.65 | .25 |
| Area 9: | | |
| Group 1 | 15.70 | 1.60 |
| Group 2 | 15.95 | 1.60 |
| Group 3 | 16.20 | 1.60 |
| Group 4 | 17.30 | 1.60 |
| Area 10: | | |
| Group 1 | 16.25 | 1.05 |
| Group 2 | 16.50 | 1.05 |
| Group 3 | 16.75 | 1.05 |
| Group 4 | 17.85 | 1.05 |
| Area 11: | | |
| Group 1 | 16.80 | .50 |
| Group 2 | 17.05 | .50 |
| Group 3 | 17.30 | .50 |
| Group 4 | 18.40 | .50 |
| Area 12: | | |
| Group 1 | 16.15 | .65 |
| Group 2 | 16.90 | .65 |
| Group 3 | 17.15 | .65 |
| Group 4 | 18.25 | .65 |
| Area 13: | | |
| Group 1 | 17.25 | .05 |
| Group 2 | 17.50 | .05 |
| Group 3 | 17.75 | .05 |
| Group 4 | 18.85 | .05 |

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| LABORERS (Cont'd): | | |
| Area 14: | | |
| Group 1 | $14.30 | $3.00 |
| Group 2 | 14.55 | 3.00 |
| Group 3 | 14.80 | 3.00 |
| Group 4 | 15.90 | 3.00 |
| Area 15: | | |
| Group 1 | 15.40 | 1.90 |
| Group 2 | 15.65 | 1.90 |
| Group 3 | 15.90 | 1.90 |
| Group 4 | 17.00 | 1.90 |
| Area 16: | | |
| Group 1 | 16.45 | .85 |
| Group 2 | 16.70 | .85 |
| Group 3 | 16.95 | .85 |
| Group 4 | 18.05 | .85 |
| Area 17: | | |
| Group 1 | 13.65 | 2.66 |
| Group 2 | 13.75 | 2.66 |
| Group 3 | 13.80 | 2.66 |
| Group 4 | 13.85 | 2.66 |
| Group 5 | 13.90 | 2.66 |
| Group 6 | 14.00 | 2.66 |
| Group 7 | 14.15 | 2.66 |
| Area 18: | | |
| Unskilled | 13.52 | 2.70 |
| Semi-skilled | 13.72 | 2.70 |
| Skilled | 13.92 | 2.70 |
| Area 19: | | |
| Unskilled | 13.52 | 2.70 |
| Semi-skilled | 13.72 | 2.70 |
| Skilled | 13.92 | 2.70 |
| Area 20: | | |
| Unskilled | 14.32 | 1.90 |
| Semi-skilled | 14.52 | 1.90 |
| Skilled | 14.72 | 1.90 |
| Area 21: | | |
| Unskilled | 13.47 | 2.75 |
| Semi-skilled | 13.67 | 2.75 |
| Skilled | 13.87 | 2.75 |
| Area 22: | | |
| Unskilled | 12.47 | 3.60 |
| Semi-skilled | 12.67 | 3.60 |
| Skilled | 12.87 | 3.60 |
| Area 23: | | |
| Unskilled | 13.25 | 2.97 |
| Semi-skilled | 13.45 | 2.97 |
| Skilled | 13.65 | 2.97 |
| Area 24: | | |
| Group 1 | 13.44 | 3.515 |
| Group 2 | 13.69 | 3.515 |

| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| LABORERS (Cont'd): | | |
| Area 25: | | |
| Group 1 | 13.39 | 3.515 |
| Group 2 | 13.64 | 3.515 |
| Area 26: | | |
| Group 1 | 14.84 | 2.115 |
| Group 2 | 15.09 | 2.115 |
| Area 27: | | |
| Group 1 | 14.70 | 1.45 |
| Group 2 | 14.95 | 1.45 |
| Group 3 | 15.20 | 1.45 |
| Group 4 | 15.55 | 1.45 |
| Area 28: | | |
| Unskilled | 14.67 | 2.35 |
| Semi-skilled | 14.87 | 2.35 |
| Skilled | 15.07 | 2.35 |
| Area 29: | | |
| Unskilled | 14.43 | 2.15 |
| Semi-skilled | 14.63 | 2.15 |
| Skilled | 14.83 | 2.15 |
| Area 30: | | |
| Unskilled | 14.23 | 2.35 |
| Semi-skilled | 14.43 | 2.35 |
| Skilled | 14.63 | 2.35 |
| Area 31: | | |
| Unskilled | 13.70 | 2.55 |
| Semi-skilled | 13.90 | 2.55 |
| Skilled | 14.10 | 2.55 |
| Area 32: | | |
| Unskilled | 13.73 | 2.85 |
| Semi-skilled | 13.93 | 2.85 |
| Skilled | 14.13 | 2.85 |
| Area 33: | | |
| Unskilled | 13.51 | 3.07 |
| Semi-skilled | 13.71 | 3.07 |
| Skilled | 13.91 | 3.07 |
| Area 34: | | |
| Unskilled | 14.03 | 2.55 |
| Semi-skilled | 14.23 | 2.55 |
| Skilled | 14.43 | 2.55 |
| Area 35: | | |
| Unskilled | 13.18 | 2.20 |
| Semi-skilled | 13.43 | 2.20 |
| Skilled | 13.68 | 2.20 |
| Area 36: | | |
| Group 1 | 14.45 | 1.65 |
| Group 2 | 14.70 | 1.65 |
| Group 3 | 14.75 | 1.65 |
| Group 4 | 14.95 | 1.65 |
| Area 37: | | |
| Group 1 | 15.30 | 2.00 |
| Group 2 | 15.55 | 2.00 |
| Group 3 | 15.80 | 2.00 |
| Group 4 | 16.90 | 2.00 |





| | Basic Hourly Rates | Fringe Benefits |
|---|---|---|
| POWER EQUIPMENT OPERATORS: | | |
| Area 1: | | |
| Group 1 | $16.95 | $1.83 |
| Group 2 | 15.30 | 1.83 |
| Group 3 | 13.20 | 1.83 |
| Area 2: | | |
| Master Mechanic | 19.07 | 2.73 |
| Group 1 | 18.57 | 2.73 |
| Group 2 | 15.14 | 2.73 |
| Group 3 | 14.49 | 2.73 |
| Group 4 | 14.39 | 2.73 |
| Group 5 | 14.14 | 2.73 |
| Group 6: | | |
| a | 20.72 | 2.73 |
| b | 21.02 | 2.73 |
| c | 18.24 | 2.73 |
| d | 16.74 | 2.73 |
| Area 3: | | |
| Group 1 | 18.40 | 5.25 |
| Group 2 | 17.10 | 5.25 |
| Group 3 | 15.45 | 5.25 |
| Group 4 | 13.70 | 5.25 |
| Area 4: | | |
| Group 1 | 16.64 | 2.95 |
| Group 2 | 15.91 | 2.95 |
| Group 3 | 14.68 | 2.95 |
| Area 5: | | |
| Group 1 | 15.25 | 3.28 |
| Group 2 | 15.25 | 3.28 |
| Group 3 | 13.85 | 3.28 |
| Group 4 | 13.85 | 3.28 |
| Group 5 | 12.80 | 3.28 |
| TRUCK DRIVERS: | | |
| Area 1: | | |
| Group 1 | 14.275 | 1.90+f |
| Group 2 | 14.675 | 1.90+f |
| Group 3 | 14.875 | 1.90+f |
| Group 4 | 15.125 | 1.90+f |
| Area 2: | | |
| Group 1 | 14.275 | 1.90+f |
| Group 2 | 14.675 | 1.90+f |
| Group 3 | 14.875 | 1.90+f |
| Group 4 | 15.125 | 1.90+f |
| Area 3: | | |
| 2-3 Axles | 14.87 | 4.00 |
| 4 Axles | 15.02 | 4.00 |
| 5 Axles | 15.22 | 4.00 |
| 6 Axles | 15.42 | 4.00 |
| Area 4: | | |
| 2-3 Axles | 15.70 | g |
| 4 Axles | 15.85 | g |
| 5 Axles | 16.05 | g |
| 6 Axles | 16.25 | g |

FOOTNOTES:

a. Paid holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & the day after, and Christmas Day

b. Employer contributes 8% of regular hourly rate to vacation for employees with 5 or more years service, and 6% with less than 5 years service

c. $25.00 per year

d. Paid holiday: 4 hours for Christmas eve if holiday falls on Monday through Friday.

e. 3% of gross earnings to SASMI

f. $55.00 per week

g. $116.00 per week

AREA DESCRIPTIONS

ASBESTOS WORKERS:

Area 1: Adams, Bond, Brown, Calhoun, Cass, Clinton, Fulton, Greene, Jersey, Logan, Macoupin, Masons, Menard, Monroe, Montgomery, Morgan, Pike, Randolph, Schuyler, Scott & Washington

Area 2: Boone, Ogle, Stephenson & Winnebago

Area 3: Bureau, DeKalb, LaSalle, Lee, Livingston, Mclean, Marshall, Putnam, Stark, and Woodford

Area 4: Carroll, Hancock, Henderson, Henry, JoDaviess, Knox, McDonough, Mercer, Rock Island, Warren & Whiteside

BOILERMAKERS:

Area 1: Adams, Bond, Brown, Calhoun, Cass, Clinton, Greene, Jersey, Macoupin, Menard, Monroe, Montgomery, Morgan, Pike, Randolph

Area 2: Boone, DeKalb & Winnebago

Area 3: Bureau, Carroll, Fulton, Hancock, Henderson, Henry, JoDaviess, Knox, LaSalle Lee, Livingston, Logan, McDonough, McLean, Marshall, Mason, Mercer, Ogle, Putnam, Rock Island, Schuyler, Stark, Stephenson, Warren, Whiteside, & Woodford Counties

AREA DESCRIPTIONS

BRICKLAYERS, CAULKERS, CLEANERS, POINTERS & STONEMASONS:

Area 1: Adams, Brown, & Pike Co.
Area 2: Bond, Calhoun, Jersey, Macoupin (Staunton & Mt Olive) & Montgomery Cos.
Area 3: Boone, Carroll, JoDaviess, Lee, Ogle, Stephenson, Whiteside & Winnebago Cos.
Area 4: Bureau & Putnam Cos.
Area 5: Cass, Greene, Macoupin (Excluding Staunton & Mt Olive), Morgan, Schuyler, Scott
Area 6: Clinton, Monroe & Washington Cos.
Area 7: DeKalb Co.
Area 8: Fulton, Henderson, Knox, Marshall, Warren & Woodford Cos.
Area 9: Hancock & McDonough Cos.
Area 10: Henry & Stark Cos.
Area 11: LaSalle(LaSalle, Peru & vicinity)
Area 12: LaSalle (Seneca, Marseilles, Mendota, Ottawa & Oglesby)
Area 13: LaSalle (Streator & Vicinity)
Area 14: Livingston Co.
Area 15: Logan & Mason Cos.
Area 16: McLean Co.
Area 17: Menard Co.
Area 18: Mercer & Rock Island Cos.
Area 19: Randolph Co.

CARPENTERS, LATHERS, MILLWRIGHTS, PILEDRIVERMEN & SOFT FLOOR LAYERS

Area 1: Adams Co.
Area 2: Bond, Calhoun, Greene (S. of Apple Creek), Jersey, Macoupin (S. 2/3) Cos.
Area 3: Bond, Calhoun, Greene (S. of Apple Creek), Jersey, Macoupin (S. 2/3) Cos.
Area 4: Boone, Ogle (N.½), & Winnebago cos.
Area 5: Brown, Cass, Greene (Whitehall & N. thereof), Morgan, Pike, Schuyler (except part lying N. of State Hwy #101 to Federal Hwy #67, S. of Federal Hwy #67 1¼ mi., from this point to SW corner of Fulton Co.) and Scott Co.
Area 6: Brown, Cass, Greene (Whitehall & N. thereof), Morgan, Pike (N. of Rt #54), Schuyler (except area N. of State Hwy #101 to Federal Hwy #67, S. of Federal Hwy #67 1¼ mi., from this point to SW corner of Fulton Co.), Scott (N of Rt 54)
Area 7: Bureau (Ohio), Lee (Ashton, Franklin Grove, Amboy, Lee Center, Compton, W. Brooklyn, Shaw Station, Sublette, Eldena, Harmon, Nelson, Prairieville), Ogle (Polo, Haldene, Mt Morris, Oregon, Chana, Woosung, Brookville & Grand Detour), Stephenson, & Whiteside (Penrose Corner) Cos.
Area 8: Bureau (Exclu. Ohio & area W. of Hwy #88), LaSalle, Lee (exclu. E.½ of Co., Ashton, Franklin Grove, Amboy, Lee Center, Compton, W. Brooklyn, Shaw Station sublette, Eldena, Harmon, Nelson & Prairieville), Livingston (NW corner incl. Blackstone & Cornell), Marshall & Putnam Cos.
Area 9: Bureau (W. of Hwy #88), Henry, Mercer, Rock Island & Whiteside (W. of Hwy #78)
Area 10: Clinton, Monroe, Randolph & Washington (except area E. of a line due S. of the Montgomery-Fayette Co. line to Rt #177, E. 1½ mi, S. 2 mi to road running E&W to to Jerrerson Co. line) Cos.
Area 11: DeKalb, Lee (E ½) & Ogle (Rochelle & vic) Cos.
Area 12: Fulton, Hancock (E1/3), Henderson, Knox, Livingston (exclu. NW corner), Logan (lincoln & vic), McDonough, McLean, Mason, Schuyler (N. of State Hwy #101 to Fed. Hwy #67 S. of Fed. Hwy #67 1¼ mi, from this point to SW corner of Fulton Co.), Stark, Warren & Woodford Cos.
Area 13: Hancock (W. 2/3 of Co.)
Area 14: Henry, Mercer, Rock Island, & Whiteside (W.½) Cos.



AREA DESCRIPTIONS (Cont'd)

CARPENTERS; LATHERS; MILLWRIGHTS; PILEDRIVERMEN & SOFT FLOOR LAYERS (Cont'd)

Area 15: Knox Co.
Area 16: Macoupin (Girard & N. thereof), Menard, Montgomery (Waggoner, Standard City & N. thereof) Cos.
Area 17: Ogle (Maryland, Forreston, Harper, Buffalo, Adeline, Lightsville, Baileyville) Stephenson, & Whiteside (E. of Hwy #78, Exclu. Penrose Corner) Cos.
Area 18: Bureau (W. of Hwy #88), Henderson (W. of Hwy #163), Henry, Mercer, Rock Island Stark, & Whiteside (W. of Hwy #78) Cos.
Area 19: Fulton, Hancock (E 1/3), Henderson (E. of Hwy #163), Knox, Livingston (exclu. NW corner), Logan (Lincoln & vic), McDonough, McLean, Mason, Schuyler (N. of State Hwy #101 to Fed. Hwy #67 1¼ mi, from this point to SW corner of Fulton Co.), Warren & Woodford Cos.

CEMENT MASONS & PLASTERERS

Area 1: Adams, Brown & Pike Cos.
Area 2: Bond, Calhoun, Clinton (W.½ incl. Beckemeyer), Greene, Jersey, Macoupin, Monroe & Montgomery Cos.
Area 3: Boone & Winnebago Cos.
Area 4: Bureau, LaSalle, Livingston (N. part inclu. Pontiac), Marshall (E. part inclu. Toluca), Putnam & Woodford (NW part inclu. Minonk) Cos.
Area 5: Carroll, JoDaviess, Lee, Ogle, Stephenson, & Whiteside (except Erie & SW thereof)
Area 6: Cass & Menard
Area 7: Clinton (Carlyle & E. thereof) & Washington Co.
Area 8: DeKalb Co
Area 9: Fulton (NW portion), Knox, Mercer (SE corner) & Warren Cos.
Area 10: Fulton (exclu. NW portion), Marshall (W. part exclu Toluca), Mason & Woodford (exclu. NW part & Minonk) Cos.
Area 11: Fulton (exclu. NW portion), Marshall (W Part exclu Toluca), Mason & Woodford (exclu NW part & minonk) Cos.
Area 12: Hancock, Lee ( area S. of a line drawn 3 mi from city limits of Ft Madison in Iowa), McDonough & Schuyler Cos.
Area 13: Henderson (N½), Henry (W ½), Mercer (exclu SE part), Rock Island, Whiteside (Erie & area SW thereof) Cos.
Area 14: Henderson (N ½), Henry, Mercer (exclu SE part), Rock Island, Whiteside (Erie & area SW thereof) Cos.
Area 15: Henderson (S ½) Co.
Area 16: Henry (E ½) & Stark Cos.
Area 17: Livingston (S. part exclu Pontiac), McLean & Woodford (E. part exclu Roanoke) Co.
Area 18: Logan Co.
Area 19: Morgan & Scott Cos.
Area 20: Randolph Co.

ELECTRICIANS:

Area 1: Adams, Brown, Hancock, McDonough (Lamoine, Bethel, Industry & Eldorado), Pike & Schuyler Cos.
Area 2: Bond (E ½), Clinton (Huey, Hoffman & Vic), Randolph (exclu. Red Bud Twp) & Washington (exclu Venedy Twp) Cos.
Area 3: Bond (W ½), Clinton (exclu Huey, Hoffman & vic), Macoupin (exclu Brighton Twp Athensville, Scottville, Girard & Area N. thereof), Monroe, Montgomery, Randolph (Red Bud Twp) & Washington (Venedy Twp) Cos.
Area 4: Boone, Carroll (Cherry Grove, Shannon, Rock Creek, Lima, Wysox & Elkhorn Grove Twps), DeKalb (Franklin, Kingston, Genoa, S. Grove, Mansfield, Sycamore, Malta, DeKalb (Franklin, Kingston, Genoa, S. Grove, Mansfield, Square Grove, Pow Wow, Victor & Somonauk Twps), JoDaviess (Warren, Rush, Stephenson,

AREA DESCRIPTIONS (Cont'd)

ELECTRICIANS:

Area 4 (cont'd): Whiteside (Genesee, Jordan, Hopkins, Sterling, Hume, Montgomery, Tampico and Hahnaman Twps) and Winnebago Counties.
Area 5: Bureau (Arlington, Cherry, LaMoille, Malden, Ohio, Walnut, Clareton, Bureau, Dover, Berlin & Westfield), & LaSalle (S. part Incl. Ottawa & Seneca) Cos.
Area 6: Bureau (Arispe, Concord, Fairfield, Wyanet, Gold, Greenville, Hall, Indiantown, Leepertown, Macon, Manlius, Milo, Mineral, Neponset, Selby, Wheatland & Princeton), Henry (Annawan, Burns, Cambridge, Galva, Kewanee, Weller, & Wethersfield Twps), LaSalle (Deer Park, Eden, LaSalle, Peru, Utica & Vermillion Twps), Putnam, (Granville, Hennepin & Senachwine Twps), & Stark (Elmira, Goshen, Osceola, Penn & Toulon Twps) Counties.
Area 7: Calhoun, Greene, Jersey, & Macoupin (Brighton Twp) Counties
Area 8: Carroll (W. Part incl. Chadwick, Mt Carroll, Savanna & Thompson), Henry (Excl. Annawan, Burns, Cambridge, Galva, Kewanee, Weller & Westerfield), JoDaviess (Savanna Ordnance Depot), Mercer (Excl. Ohio Grove, N. Henderson & Suez Twps)
Area 9: Cass, Logan, Macoupin (Athensville, Scottville, Girard & Area N. thereof), Mason (Lynchburg, Bath, Kilbourne, Crane Creek, Salt Creek & Mason Twps), Menard, Montgomery (Bois D'Arc, Pitman & Harvel Twps), Morgan & Scott Counties.
Area 10: DeKalb (Sandwich Twp) Coounty
Area 11: Fulton (Cass, Deerfield, Ellisville, Harris, Lee, Union, Young & Hickory Twps), Henderson, Knox, McDonough (Blandinsville, Prairie City, Emmet, Tennessee, Scotland, Sciota, Bushnell, Macomb, Colechester, New Salem, Walnut Grove, Hire, Mound & C almers Twps), Mercer (Ohio Grove, Suez & N. Henderson Twps) & Warren Co.
Area 12: Fulton (Rem. of Co. ), Marshall (W. of Bell Plain & Roberts Twps), Masons (Excl. Bath, Crane Creek, Kilbourne, Lynchburg, Mason City & Salt Creek Twps), Stark (Essex, Valley, & W. Jersey Twps), & Woodford (W. of Kansas, Linn, Palestine, & Roanoke Twps) Counties.
Area 13: Jo Daviess (Excl. Savanna Ordnance Depot & area E. of Apple River, Thompson, and Woodbine Twps) County.
Area 14: LaSalle (Remainder of Co), Livingston, McLean (Cropsey, Anchor, Cheney Grove & Belleflower Twps), Marshall (Roberts, Evans, Bell, Plaine, & Bennington), Putnam (Magnolia Twp) & Woodford (Linn, CLayton, Minonk, Roanoke, Green & Panola Twps) Counties.
Area 15: McLean (Excl. Anchor, Belleflower, Cropsey, Cheney Grove Twps) & Woodford Palestine, El Paso & Kansas Twps) Counties
Area 16: Montgomery (E. of Butler Grove, Grisham & Raymond Twps) County

ELEVATOR CONSTRUCTORS:

Area 1: Adams, Brown, McLean, Macoupin, Menard, Morgan, Pike & Scott Counties
Area 2: Boone, Lee, Ogle, Stephenson & Winnebago Counties
Area 3: Carroll, Henry, Mercer, Rock Island, & Whiteside Counties
Area 4: DeKalb County
Area 5: Greene & Jersey Counties

GLAZIERS:

Area 1: Adams, Brown, Cass, Logan, Macoupin (N. part), Mason, Menard, Montgomery, Morgan Pike, Schuyler & Scott Counties.
Area 2: Bond, Calhoun, Clinton, Greene, Jersey, Macoupin (S. part), Monroe, Randolph, & Washington Counties
Area 3: Boone, DeKalb (N. 2/3), Lee (NE part), & Winnebago Counties.



AREA DESCRIPTIONS (Cont'd)

GLAZIERS Cont'd:

AREA 4: Bureau (New Bedford, Thomas & Neponset), Carroll, Hancock, Henderson, Henry JoDaviess, Knox, Lee (NW incl. Dixon), McDonough (N ½), Mercer, Rock Island, Stephenson, Warren & Whiteside Cos.
Area 5: Bureau (Excl. New Bedford, Thomas, & Neponset), DeKalb (S 1/3), Fulton, LaSalle, Lee (S 1/3), Livingston (S part), McLean, Marshall (E 1/3), Putnam, Stark, & Woodford (E. corner) Cos.

IRONWORKERS:

Area 1: Adams (SE corner), Brown, Cass, Fulton (S. tip incl. Marbletown, Astoria & Summum Twps), Greene (S ½), Logan, Macoupin (N. part), Mason (E. of Rt 136), Menard, Montgomery (excl. Litchfield, Hillsboro & S. thereof), Morgan, Pike, Schuyler (E ½), & Scott Cos.
Area 2: Adams (excl. SE corner), Hancock, Henderson, Knox (W. of hwy #41), Mercer, Schuyler (W ½), & Warren Counties.
Area 3: Bond, Calhoun, Clinton, Greene (S ½), Jersey, Macoupin (S. part), Monroe, Montgomery (Litchfield, Hillsboro & S. thereof), Randolph & Washington
Area 4: Boone, Carroll (excl. Thompson, Savanna & vic.), DeKalb (excl. SE 2/3), JoDaviess (excl. E. Dubuque, Galena, Hanover & vic), Lee, Ogle, Stephenson, Whiteside (Cities of Rock Falls, Sterling, & W. Sterling) & Winnebago Cos.
Area 5: Bureau, LaSalle, Marshall (excl. SW corner) & Putnam Counties
Area 6: Carroll (Thompson, Savanna & vic), Henry, JoDaviess (E. Dubuque, Galena, Hanover & vic.), Knox (Galesburg & areas N. of the City), Rock Island, & Whiteside (excl. Sterling, Rock Falls & W. Sterling) Cos.
Area 7: DeKalb (SE 2/3 incl. Sycamore & DeKalb) County
Area 8: Fulton (excl. Marbletown, Astoria & Summum twps), Knox (Area SE of Galesburg), Livingston, McDonough, McLean (W ½), Marshall (SW corner), Mason (W of Rt 136), Stark, & Woodford Counties.
Area 9: McLean (E ½) County

MARBLE & TILE SETTERS; TERRAZZO WORKERS:

Area 1: Adams, Brown & Pike Cos.
Area 2: Bond, Clinton, Monroe, Randolph & Washington Cos.
Area 3: Bond, Monroe, & Washington Cos.
Area 4: Boone, Carroll, DeKalb, Ogle, Stephenson & Winnebago Cos.
Area 5: Cass, Greene, Macoupin, Morgan, Schuyler & Scott Cos.
Area 6: Fulton, Henderson, Knox, Marshall, Warren & Woodford Cos.
Area 7: Hancock & McDonough Cos.
Area 8: Logan & Mason Cos.
Area 9: McLean Co.
Area 10: Menard Co.
Area 11: Mercer & Rock Island Cos.
Area 12: Randolph Co.

MARBLE, TILE & TERRAZZO FINISHERS:

Area 1: Adams, Brown, Cass, Greene, Logan, Macoupin, Mason, Menard, Morgan, Pike, Schuyler & Scott Cos.
Area 2: Bond, Clinton, Monroe, Randolph & Washington Cos.
Area 3: Boone, Carroll, DeKalb, Ogle, Stephenson, & Winnebago Cos.
Area 4: Fulton, Hancock, Henderson, Knox, McDonough, McLean, Marshall, Warren, Woodford Counties.



AREA DESCRIPTIONS (Cont'd)



AREA DESCRIPTIONS (Cont'd)

AREA DESCRIPTIONS (Cont'd)

PAINTERS:

Area 1: Adams County
Area 2: Bond, Calhoun, Clinton, Greene, Jersey, Macoupin, Monroe, Montgomery, Pike and Washington Cos.
Area 3: Boone, Ogle, Stephenson, & Winnebago Cos.
Area 4: Brown, Cass, Logan, Menard, Morgan (Meridosia & Waverly), & Scott Cos.
Area 5: Bureau, LaSalle (LaSalle, Mendota, Oglesby, Utica, Peru & Vic) & Putnam Cos.
Area 6: Carroll, Henry (N ½ to I-80), Mercer, Rock Island, Warren (excl. area N. to Center of West-West Hwy at Alexis) & Whiteside (W. of State Rt 78) Cos.
Area 7: Henderson, Henry (S ½ to I-80), Knox, Stark & Warren (N. to center of East-West Hwy at Alexis) Cos.
Area 8: DeKalb Co.
Area 9: Fulton, Marshall, Mason, Schuyler & Woodford Cos.
Area 10: Hancock & McDonough Cos.
Area 11: JoDaviess Co.
Area 12: LaSalle (Ottawa, Streator, Marseilles & vic.) Co.
Area 13: Lee & Whiteside (E. of State Rt 78) Cos.
Area 14: Livingston Co.
Area 15: McLean Co.
Area 16: Randolph Co.

PIPEFITTERS; PLUMBERS & STEAMFITTERS:

Area 1: Adams, Brown, Hancock (excl. E ½), & Schuyler Cos.
Area 2: Bond, Calhoun, Greene, Jersey, Macoupon (S. of Rt 108) & Montgomery (SW of Rt #127) Cos.
Area 3: Boone, Carroll (to Rt 78 incl. Mt Carroll), JoDaviess, Ogle, Stephenson and Winnebago Cos.
Area 4: Bureau, LaSalle, Livingston (N of Pontiac), Marshall (N of Rt 17) & Putnam Cos.
Area 5: Carroll (W of Rt 78 excl. Mt Carroll), Henderson, Henry, Knox, Lee, Mercer, Rock Island, Warren & Whiteside Cos.
Area 6: Cass, Logan, Macoupin (N. of State Rt 108 incl. Carlinville), Mason, Menard, Montgomery (N of Rt 127 incl Hillsboro & Schram City), Morgan, Pike, Sangamon & Scott Cos.
Area 7: Clinton (W 2/3 incl. Albers, Aviston, Bartelgo, Beckemeyer, Breese, Carlyle, Germantown, New Baden, New Memphis, Posey & Trenton), McDonough (Prairie), Monroe (Hecker), Randolph (Baldwin, Red Bud, Ruma, Tilden) & Washington (Addieville, Covington, Lively Grove, Nashville, New Minden, Oakdale, Okawville, & Venedy) Cos.
Area 8: Clinton (E 1/3), & Washington (E ½) Cos.
Area 9: DeKalb Co.
Area 10: Fulton, Hancock (E ½), McDonough (excl. Prairie), Marshall (S. of Rt 17), Stark, & Woodford (except part contained in area 11 below) Cos.
Area 11: Livingston (Pontiac & S. of Rt 116 extending E. to Ford Co.), McLean and Woodford (S of Rt 116 to Rt 116A & area E. of Rt 116A to & incl. Goodfield) Cos.
Area 12: Monroe (Valmeyer & vic) Co.
Area 13: Randolph (excl. Baldwin, Red Bud, Ruma & Tilden) County

ROOFERS:

Area 1: Adams & Hancock Cos.
Area 2: Bond, Calhoun, Clinton, Greene, Jersey, Macoupin (S ½), Monroe, Randolph and Washington, Cos.
Area 3: Boone, Carroll, DeKalb (W ½), Lee, Ogle, Stephenson, Whiteside (Rock Falls, Sterjong & W. Sterling) & Winnebago Cos.
Area 4: Brown, Cass, Logan, Macoupin (N ½), Mason, Menard, Montgomery, Morgan, Pike, Schuyler & Scott Cos.



AREA DESCRIPTIONS (Cont'd)

ROOFERS (Cont'd):

Area 5: Bureau, LaSalle, Livingston, Marshall (NE ½) & Putnam Cos.
Area 6: DeKalb (E ½ incl. Sycamore, DeKalb & Waterman) County
Area 7: Fulton, McDonough (E ½ excl. Macomb), Marshall (SW ½), Stark & Woodford Cos.
Area 8: Henderson, Knox, McDonough (W ½ incl. Macomb) & Warren Cos.
Area 9: Henry, Mercer, Rock Island, & Whiteside (excl. Rock Falls, Sterling & W. Sterling) Cos.
Area 10: JoDaviess County
Area 11: McLean County

SHEET METAL WORKERS:

Area 1: Adams, Calhoun, Hancock & Pike Cos.
Area 2: Bond, Clinton, Greene, Jersey, Macoupin, Monroe, Montgomery, Randolph and Washington Counties
Area 3: Boone, Carroll (E ½), DeKalb, JoDaviess (E of Hwy #73), Lee, Ogle, Stephenson, Whiteside & Winnebago Cos.
Area 4: Brown, Cass, Logan, Mason, Menard, Morgan, Schuyler & Scott Cos.
Area 5: Bureau, LaSalle, Livingston (S. part), Marshall, Putnam & Stark Cos.
Area 6: Carroll (W. of Hwy 78), Henderson, Henry, Knox, McDonough, Mercer, Rock-Island, Warren & Whiteside (W. of Hwy 78) Cos.
Area 7: Fulton, McLean & Woodford Counties
Area 8: JoDaviess (W. of Hwy 78) County
Area 9: Livingston (N. part) County

LABORERS:

Area 1: Adams County
Area 2: Brown, Cass, Mason, Morgan, Pike, Schuyler & Scott Cos.
Area 3: Logan & Menard (N ½) Cos.
Area 4: Menard (S ½)incl. City of Petersburg) Co.
Area 5: Bond (Greenville) & Macoupin (Mt Olive & vic) Cos.
Area 6: Bond (Pocahontas), Macoupin (Gillespie & vic) & Washington (Ashley & vic) Cos.
Area 7: Bond (Sorento) & Jersey Cos.
Area 8: Calhoun Co.
Area 9: Clinton,(Carlyle, Trenton & Vic) Co.
Area 10: Greene, Macoupin (Staunton & Vic), Montgomery (Litchfield) Cos.
Area 11: Macoupin (Shipman) Co.
Area 12: Washington Co. (Okawville & Vic.)
Area 13: Macoupin (Carlinville & vic) co.
Area 14: Montfomery Co. (Hillsboro & vic).
Area 15: Randolph Co. (Sparta & vic)
Area 16: Washington (Nashville & ivc)
Area 17: Boone County
Area 18: Bureau County
Area 19: LaSalle (Streator & Vic) Co.
Area 20: LaSalle Co. (Marseilles & vic)
Area 21: LaSalle Co. (Ottawa & vic)
Area 22: LaSalle Co. (LaSalle & vic)
Area 23: Putnam Co.
Area 24: Winnebago Co
Area 25: DeKalb & Ogle (City of Rochelle) Cos.
Area 26: Carroll, JoDaviess, Lee, Ogle (except City of Rochelle), Stephenson & Whiteside
Area 27: Clinton (New Baden & vic) Co.
Area 28: Fulton Co.

AREA DESCRIPTIONS (Cont'd)

LABORERS (Cont'd):

Area 29: Hancock & McDonough Cos.
Area 30: Henderson, Knox & Warren Cos.
Area 31: Henry & Stark (W½) Cos.
Area 32: Livingston & Woodford Cos.
Area 33: McLean Co.
Area 34: Marshall & Stark (E ½) Cos.
Area 35: Mercer & Rock Island Cos.
Area 36: Monroe Co.
Area 37: Randolph Co. (Chester & Vic.)

POWER EQUIPMENT OPERATORS:

Area 1: Adams, Brown, Cass, Logan, Menard, Morgan, Pike, Schuyler & Scott Cos.
Area 2: Bond, Calhoun, Clinton, Greene, Jersey, Macoupin, Monroe, Montgomery, Randolph, & Washington Cos.
Area 3: Boone, Bureau (E. of Rt 26), Carroll, DeKalb, JoDaviess, LaSalle, Lee, Livingston, Ogle, Putnam (E. of Illinois River), Stephenson, Whiteside (E ½) & Winnebago Cos.
Area 4: Bureau (W. of Rt 26), Fulton, Hancock, Henderson, Henry (E ½), Knox, McDonough, McLean, Marshall, Mason, Putnam (W. of Illinois River), Stark, Warren, & Woodford
Area 5: Henry (W ½), Mercer, Rock Island & Whiteside (W. part from the 5th sectional line E. of Morrison running directly N & S) Cos.

TRUCK DRIVERS:

Area 1: Adams, Bond, Brown, Bureau, Calhoun, Carroll (excl. area N. of Rt 72 & E. of Rt 78), Cass, Clinton, Fulton, Greene, Hancock, Henderson, Henry, Jersey, JoDaviess (W. of Rt 78 including Stockton), Knox, LaSalle, Lee (excl. area E. of Rt 51), Livingston (Reading, New Town, Sunbury, Nevada, Long Point & Amity), Logan, McDonough, McLean, Macoupin, Menard, Mercer, Monroe, Montgomery, Morgan, Ogle (excluding area E. of Rt 51), Pike, Putnam, Randolph, Rock Island, Schuyler, Scott, Warren, Washington & Whiteside Cos.
Area 2: Marshall, Mason, Stark & Woodford (NW corner) cos.
Area 3: Boone, Carroll (N. of Rt 72 & E. of Rt 78), JoDaviess (E. of Rt 78 excl. City of Stockton), Stephenson & Winnebago Cos.
Area 4: DeKalb, Lee (E. of Rt 51), Livingston (excl. Reading, New Town, Sunbury, Nevada, Long Point & Amity), Ogle (E. of Rt 51) & Woodford (excl NW corner) Cos.

LABORER CLASSIFICATIONS FOR AREAS 1, 2, 3 & 4

UNSKILLED All sewer workers plus depth pay; Asphalt plant laborers; Bankmen on Floating plant; Batch dumpers; Carpenter tender; Cleaning lumber; Cofferdam workers plus depth pay; Deck hand, Dredge hand & shore laborer; Dispatchers; Driving of stakes; Stringlines for all machinery; Fencing laborer; Firemen or salamander tenders; Fireproofing fire shop laborers; Form handlers; Gravel box men, Dumpmen & Spotters; Laborers w/de-watering systems; Landscapers; Laying of sod; Material handlers; Pit men; Plastic installers; Planting & removal of trees; Rip-rap men; Scaffold workers; Tool cribmen; Track laborers; Unloading explosives; Unloading & carrying lath; Unloading & carrying re-bars; Wrecking, Dismantling buildings; Wallmen & housemovers; Wrecking Laborers.
SEMI-SKILLED Asphalt workers with machine; Asphalt raker & layer; Cement handler; Cement silica; Fly ash; Lime & plasters (bulk or bag); Chain saw; Chloride handler; Concrete workers (wet); Grade checker; Handling material treated with oil, creosote, asphalt or any foreign material harmful to skin or clothing; Kettle tar men; on concrete paving, placing, cutting & typing of reinforcing; Signal man on crane; Tank cleaner; Tunnel tenders in free air



LABORERS CLASSIFICATIONS FOR AREAS 1, 2, 3, 4, (Cont'd):

SKILLED Air tamping hammerman; Caisson workers plus depth pay; Concrete burning machine operator; Concrete saw ; Coring machine; Curb asphalt machine operator; Gunnite nozzle men; Jackhammer & drill operators; Laborers handling masterplate or similar materials; Laborers tending masons with hot material or where foreign materials are used for wet concrete or handling of bhilding materials; Multiple concrete duct - leadman; Plasterer tender; Ready mix scaleman, portable or temporary plant; Screedman on asphalt pavers; Steel form setters (street & hwy); Vibrator operator; Cutters, burners & torchmen

LABORERS CLASSIFICATIONS FOR AREAS 5 THROUGH 16

Group 1: Common Laborer
Group 2: Power vibrator
Group 3: Torchman (demolition), mortarman
Group 4: Power tamper
Group 5: Jackhammer & airspade, chainsaw, swinging stage and boatswain chair, cement gun nozzleman, hod carrier, plaster tender, and tunnel man.
Group 6: Tile layers, bottom men
Group 7: Caisson laborers, dynamiters

LABORERS CLASSIFICATIONS FOR AREAS 18 THROUGH 23

UNSKILLED: Asphalt plant laborers; Carpenter tenders; Cleaning lumber; common laborers; Driving of stakes; Dumpmen & spotters; Fencing laborers; Firemen or Salamander tenders; Fireproofing laborers; Form handlers; Gravel box men; Landscapers; Laying of sod; Pitmen; Plant of trees; Removal of trees; Stringlines for all machinery; Tool cribmen; Unloading explosives; Wallmen & housemovers; Wrecking, dismantling buildings & wrecking laborers.
SEMI-SKILLED: Asphalt rakers; Batch dumpers; Bankmen on floating plant; Cement handler; Cement silica, clay, fly ash, lime & plasters; Chloride handlers; Cofferdam workers plus depth pay; Laborers on concrete paving; Concrete workers (wet); Deck hand; Dredge hand; Grade checker; Handling of materials treated with oil, creosote, asphalt or any foreign material; Kettle & tarmen; Laborers with de-watering system; Mason & Plasterer tenders & material wheelers; Morter mixers; Motorized buggies or motorized unit for wet concrete or handling of building materials; Placing, cutting & tying or reinforcing; Plastic installers; Scaffold workers; Sewer workers plus depth; Shore laborers; Tank cleaners; Track laborers; Tunnel tenders in free air; Unloading & laborers with steel workers & rebars; Vibrator operators.
SKILLED: Air tamping hammerman; Caisson workers plus depth; Chain saw operators; Concrete burning machine operator; Concrete saw operator; Coring machine operator; Curb asphalt machine operators; Cutters, burners & torchmen; Dynamite man or blasters; Gunnite nozzle men; Jackhammer & drill operators; Laborers handling masterplate or or similar materials; Laborers tending masons with hot material or where foreign materials are used Laser beam operators; Layout men; Lead man on sewer work; Lutemen; Multiple concrete duct-leadman; Portable or temporary plant; Ready-mix scaleman; Screedman on asphalt pavers; Signalman on crane; Steel form setters (street & hwy); and welders.

LABORERS CLASSIFICATIONS FOR AREAS 24, 25 & 26

GROUP 1: Common laborer; Carpenter tender; Tool cribmen; Firemen or salamander tender; Gravel box men, dumpmen & spotters; Form handlers; Material handlers; Fencing laborers; Cleaning lumber; Pit men; Landscaper; Unloading explosives; Laying sod, planting trees; Removal of trees; Asphalt workers with machine & layers; Asphalt plant laborers; Wrecking; Fireproofing; Driving stakes, stringlines for all machinery; Window cleaning



AREA DESCRIPTIONS (Cont'd)



AREA DESCRIPTIONS (Cont'd)

AREA DESCRIPTIONS (Cont'd)

LABORERS CLASSIFICATIONS FOR AREAS 24, 25, 26 (Cont'd)

GROUP 2: Handling of any materials with any foreign matter harmful to skin or clothing; Track; Cement handler; Chloride handler; Unloading & laborers with steel workers & rebars; Concrete workers, wet; Tunnel tenders in free air; Batch dumper; Mason Tender; Kettle & tar men; Tank cleaner; Plastic installer; Scaffold worker; Motorized buggies or motorized unit used for wet concrete or handling of building materials; Laborers with de-watering systems; Sewer workers plus depth; Vibrator operator; Cement silica, clay, fly ash, lime & plasters, handlers (bulk or bag); Cofferdam workers plus depth; Concrete paving, placing, cutting & tying of reinforcing; Deck hand, dredge hand and shore laborers; Bankmen on floating plant; Grade checker; Power tools; Front end man on chip spreader; Caisson worker plus depth, Gunnite nozzle man; Lead man on sewer work; Welders, cutters, burners & torchmen; Chainsaw operator; Jackhammer & drill Oper; Layout man or tile layer; Steel form setter (street & hwy); Air tamping hammermen; Signal man on crane; Concrete saw operator; Screedman on asphalt pavers; Tending masons with hot material or where foreign materials are used; Mortar mixer operator; Multiple concrete duct - leadman; Luteman; Asphalt raker; Curb asphalt machine operator; Ready mix scaleman, permanent, portable or temporary plant; Laborers handling masterplate or similar materials; Laser beam operator; Concrete burning machine operator; Coring machine operator; Plaster tender; Underpinning and snoring of buildings; Pump men; Manhole and catch basin; Dirt & stone tamper; Hose men on concrete pump

LABORERS CLASSIFICATIONS FOR AREA 27

GROUP 1: Common Laborer
GROUP 2: Cooking & handling of hot mastic material; Cutting & burning with torch; Chain saw; Men working on bottom doing caulking, laying, or final grading for sectional sewer pipe; Men handling creosote or other material harmful to skin
GROUP 3: Mason & plasterer tenders
GROUP 4: Dynamite men

LABORERS CLASSIFICATIONS FOR AREA 36

GROUP 1: Common Laborer
GROUP 2: Air tools, cutting torch & welding (not incl. jackhammers); Bottom of sewer trenches on the final grading, laying or caulking of preformed sectional sewer pipe; High work - 50 ft or more
GROUP 3: Cooking of mastic, coal tar derivatives, or handling of creosoted materials
GROUP 4: Dynamite & blasting (4hr minimum); Mason tenders, plasterer tenders

LABORERS CLASSIFICATIONS FOR AREA 28

UNSKILLED: Carpenter tender; Tool cribman; Cleaning and oiling of machinery and tools; Fireman or salamander tenders; Gravel box men; Form handlers; Material handler; Fencing laborer; Cleaning lumber; Pit men; Landscapers; Unloading explosives; Laying sod, planting & removal of trees; Pile driver helpers; Asphalt plant helpers; Wrecking laborers; Fireproofing laborers; Driving of stakes, string lines for all machinery; Unloading and laborers with steel workers and re-bars; mason tenders; Scaffold workers; Laborers with de-watering systems; Plaster tenders; Truck driver tender to load and unload materials.
SEMI-SKILLED: Handling of materials treated with oil, creosote, asphalt or foreign material harmful to skin or clothing; Track laborer; Cement handler; Concrete worker (wet); Chloride handler; Tunnel helper in free air; Batch dumper; Kettle & tar men Tank cleaner; Plastic installer; Motorized buggies or units used for wet concrete or building materials; Sewer worker; Vibrator oper.; Mortar mixer oper.; Cement silica, clay, fly ash, lime and plaster handler, bulk or bag; Cofferdam worker; On concrete paving, placing, cutting and tying of reinforcing; Deck hand, dredge hand & shore laborer; Bank man on floating plant; Asphalt worker and layer with machine; Grade checker, dumpman, and spotter; Power tools; Chain saw oper.; Jackhammer & drill oper.;



AREA DESCRIPTIONS (Cont'd)

Laborer classifications for Area 28 (Cont'd)

SEMI-SKILLED (Cont'd): Air tamping hammerman; Tree topping; Signaling & spotting of rigs & equipment; Stripping concrete forms, with composite crew of laborers & carpenters (applies only to forms erected by Carpenters with laborers tending them); High pressure water jetting
SKILLED: Caisson worker plus depth; Gunnite nozzleman; Lead man on sewer work; Welders, cutters, burners & torchmen to include but not limited to scrap; Layout man or tile layer; Steel form setters (street & hwy); Concrete saw oper.; Screedman on asphalt paver; Front end man on chip spreader; Laborer tending masons with hot materials or where foreign materials are used; Multiple concrete duct - leadman; Luteman; Curb asphalt machine oper.; Ready mix scalemen, permanent, portable or temporary plant; Laborers hauling masterplate or similar materials; Laser beam oper; Concrete burning machine oper; Coring machine oper; Under pinning & shoring of buildings; Dynamite shooter; Setting & using laser beam equip; Setting up and using of all concrete burning bars, whether burn-concrete or any type of material; Operation of high pressure water jetting -Over 3000 PSI

POWER EQUIPMENT OPERATORS CLASSIFICATIONS FOR AREA 1

GROUP 1: Asphalt plant engineer; Asphalt screed man; Apsco concrete spreader; Asphalt paver; Asphalt roller on bituminous concrete; Athey loaders; Backfillers; Crane type backhoes; Cableways; Cherry picker; Clam shell; CMI & similar typ Autograde formless paver, autograde placer & finisher; Concrete breaker; Concrete plant oper; Concrete pumps; Cranes; Derricks; Derrick boats; draglines; Earth auger boring machine; Elevating graders; Engineers on dredge; Gravel processing machines; Head equipment greaser; High lift or fork lift; Hoist with two drums or 2 or more loadlines; Locomotives; Mechanics; Motor graders or auto patrols; Operators or levelman on dredges; Power boat oper; Pug mill oper.(asphalt plat); Orange peels; Overhead cranes; Paving mixers; Piledrivers; Pipe wrapping & painting machines; Push dozers, or push cats; Rock crusher; Ross carrier or similar machine; Scoops; Skimmers 2 cu yd capacity & under; Sheep foot roller (self propelled); Shovels; Skimmer scoops; Test hole drilling machines; Tower crane; Tower machine; Tower mixer; Track type & loaders; Track type fork lifts or high lifts; Track jacks & tampers; Tractors; Sideboom; Trenching machine; Ditching machine; Tunnel lugger; Wheel type end loader; Winch cat; Scoops (all or tournapull)
GROUP 2: Asphalt booster & heater; Asphalt Distributor; Asphalt plant fireman; Building elevator; Bull float or flexplane; Concrete finishing machine; Concrete saw, self-propelled; Concrete spreader machine; Gravel or stone spreader, power operated; Hoist automatic; Hoist with one drum & one load line; Oiler on 2 paving mixers when used in tandem boom or winch truck; Ost hole diggers, mechanical; Road or street sweeper, self-propelled; Scissors hoist; Seaman tiller; Straw machine; Vibratory compactor; Well drill machines; & mud jacks
GROUP 3: Air compressors, track or self-propelled; Bulk cement batching plants; Conveyors; Concrete mixers (except plant, paver, tower); Firement; Generators; Greasers; Light plants; Mechanical heaters; Oilers; Power form graders; Power sub-grader; Pug mill, when used other than asphalt operation; Rollers (except bituminous concrete); Tractors w/o power attachments regardless of size or type; Truck crane oiler & driver (one man); Vibratory hammer; Water pump; Welding machine (one 300 amp or over). Combinations of one to five of any air compressors, conveyors, welding machines, water pumps, light plants or generators shall be in batteries or within 300 ft.

AREA DESCRIPTIONS (Cont'd)

POWER EQUIPMENT OPERATORS FOR AREA 2

GROUP 1: Cranes; Draglines; Shovels; Skimmer scoops; Clamshells or derrick boats; Pile drivers; Crane-type backhoes; Asphalt plant oper; Plant oper; Ditching machines or backfillers (requiring oilers); Dredges; Asphalt spreading machines; Heavy duty Mechanic; Assistant Master mechanic; Locomotives; Cableways or tower machines; Hoists 2 drum or more; Hydraulic backhoes; Ditching machines or backfiller not requiring oilers; Cherry pickers; Overhead crane; Roller; Concrete paver; Breakers & pumps; Bulk cement plants; Cement pumps; Derrick type drills; Mixers (over 3 bags) & boat operators (25ft & over); Motor graders or pushcats; Scoops or tournapulls; Bulldozers; Endloaders or forklifts; Power blade or elevating graders; Winch cats; Boom tractors, & pipewraping or painting machines; Drills (other than derrick type); one-drum hoists; Mud jacks; Mixers (2 or 3 bags); Conveyors(two); two air compressors; Two water pumps regardless of size; Two welding machines; Two siphons or jets; Two winch heads or apparatus; and two light plants; Tractors regardless of size (tractor only); Firemen on stationary boilers; Automatic elevators; Form grading machines; Finishing machines; Power sub-grader or ribbon machine; Longitudinal floats; Boat operator (under 25 ft); Distribution oper on trucks; Winch heads or apparatuses(1); Excavators

GROUP 2: One air compressor; One water pump regardless of size, One welding machine; One 1-bag mixer; One conveyor; One siphon or jet; One light plant; One heater; One immobile track air

GROUP 3: Firemen on whirlies and asphalt spreader oilers.

GROUP 4: Heavy equipment oilers (Truck cranes, dredges, monigans, large cranes over 65Ton

GROUP 5: Oilers

GROUP 6: a. Engineers operating under air pressure
b. Engineers operating in air over 10 lbs pressure
c. Oilers operating under air pressure
d. Oilers operating in air over 10 lbs pressure

Hard rock mining - 25c per hour premium pay

POWER EQUIPMENT OPERATORS CLASSIFICATIONS FOR AREA 3

GROUP 1: Mechanic; Asphalt plant; Asphalt spreader; Autograde; Batch plant; Benoto; Boiler and throttle valve; Caisson rigs; Central redi-mix plant; Combination back hoe front end loader machine; Compressor and throttle valve; Concrete breaker (truck mounted); Concrete conveyor; Concrete paver over 27E cu ft; Concrete paver 27E cu ft and under; Concrete placer; Concrete pump (truck mounted); Concrete tower; Cranes; Hammerhead crane; Creter crane; Crusher, stone, etc; Derricks; Traveling derricks; Formless curb and gutter machine; Grader, elevating; Grouting machines; Highlift shovels or front endloader 2½ yd and over; Hoists, elevators, outside type rack and pinion and similar machines; hoists 1,2,3 drums; Hoist, two tugger one floor; Hydraulic backhoes; Hydraulic boom truck; Locomotive; Motor patrol; Pile drivers and skid rig; Post hole digger; Pre-stress machine; Pump crete dual ram; Pump cretes: squeeze cretes screw type pumps Gypsum bulker and pump; Raised and blind hole drill; Rock drill (self-propelled); Rock drill (truck mounted); Roto mill grinder (36") and over; Roto Mill grinder less than 36"; Scoops-tractor drawn; Slip form paver; Straddle buggies; Tournapull; Tractor with boom, and side boom & trenching machines.

GROUP2: Bobcat over 3/4 cu yd; Boiler; Brick forklift; Broom, power propelled; Bulldozer; Concrete mixer (2 bag & over); Conveyor, portable; Forklift trucks; Greaser engineer; Highlift shovels or front end loaders under 2½ yd; Hoists, automatic; Hoists, inside freight elevators; Hoists, sewer dragging machine; Hoists, tugger single drum; Roller Steam generators; Tractors; Tractor drawn vibratory roller (receives 50c/hr additional); and winch trucks with "A" frame



AREA DESCRIPTIONS (Cont'd)

POWER EQUIPMENT OPERATORS CLASSIFICATIONS FOR AREA 3 (Cont'd)

GROUP 3: Air compressor-small 150 & under (1 to 5 not to exceed a total of 300 ft); Air compressor-large over 150; Combination-small equipment oper.; Generator-small 50KW & under; Large generator over 50 KW; Heaters, mechanical; Hoists, inside elevators (rheostat manual controlled); Hydraulic power units (pile driving & extracting); Pump over 3" (1 to 3 not to exceed 300 ft); Pumps, well points; Welding machines (2 to 5); Winches, 4 small electric drill winches; Bobcat up to incl. 3/4 cu yd; Brick forklift.

GROUP 4: Oilers; Hoists, inside elevators push button automatic doors

Raised & blind hole drill for Boone, Carroll, DeKalb, JoDaviess, Lee, Ogle, Stephenson, Whiteside, & winnebago Counties Only

POWER EQUIPMENT OPERATORS CLASSIFICATIONS FOR AREA 4

Group 1: Cranes & derricks booms(1c/hr per ft over 80ftincluding jib, $1.00/hr over scale when crane or derrick boom is positioned 50 ft or more adjacent ground level or water level; Overhead cranes, gradall, all cherry pickers, mechanics, central concrete mixing plant oper, road pavers 27E-dual drum-tri batchers, blacktop plant oper & plant engineers, 3 drum hoist, derricks, hydro cranes, shovels, skimmer scoops, Koehring scooper, dragline, backhoe, derrick boat, pile driver and skid rigs, clamshells, locomotive cranes, dredge, all types, motor patrol, power blades-Dunore-elevating & similar type, tower crane (crawlermobile) & stationary, crane-type backfiller, Drott Yumbo & similar types considered as cranes, caisson rigs, dozer, tournadozer, work boats, Ross carrier, helicopter, tournapulls-all & similar types, scoops (all sizes), pushcats, endloaders all types, asphalt surfacing machine, slip form paver, rock crusher, heavy equip. oper.; CMI, CMI belt placer, autograde & 3 track & similar types, side bboms, multiple unit earth movers (25c/hr for each scoop over one), creter crane, trench machine, pumpcrete-belt-crete-squeeze-crete, screw type pumps and gypsum, bulker & pump, formless finishing machine, Flaherty spreader or similar types, screed man on lay down machine, wheel tractors industrial or farm type w/ dozer-hoe-end loader or other attachments, FWD & similar types, vermeer concrete saw.

GROUP 2: Dinkeys, power launches, PH one-pass soil-cement machine & similar types, pug mill with pump, backfillers, Euclid loader, forklifts, jeeps w/ditching machine or other attachments, tuneluger, automatic cement & gravel batching plants, mobile drills (soil testing) & similar types, Gurries & similar types, 1 and 2 drum hoists (buck hoists and similar types), Chicago boom, boring machine & pipe jacking machine, Hydro boom, de-watering system, straw blower, hydro seeder, assistant heavy equipment greaser on spread, tractors track type without power unit pulling rollers, rollers on asphalt-brick macadem, concrete breakers, concrete spreaders, mule pulling rollers, center stripper, cement finishing machines & CMI texture & reel curing machines, cement finishing machine, Barber Green or similar loaders, vibro tamper (all similar types) self propelled, winch or boom truck, mechanical bull floats, mixers over 3 bag to 27E, tractor pulling power blade or elevating grader, porter rex rail, clary screed, truck type hoptoe oilers, fireman, spray machine on paving, curb machines, truck crane oiler, oil distributor, 3-4 small equipment, oiler and one small equipment.

GROUP 3: Air compressor 1 or 2, power subgrader, straight tractor, trac air w/o attach., Herman Nelson heater, Bravo, Warner, Silent Glo & similar types one engineer will operate 1-5 and after 5 two operators required, self-propelled concrete saws, roller 5 Ton & under on earth or gravel, form grader, cra- e & skid rig oilers, freight elevators, 1 or 2 pumps, 1 or 2 light plants, 1 or 2 generators 3.5KW & over, 1 or 2 conveyors operator will clean, welding machine 1 or 2(300 amp & over) does not include electric welder, 3 bag mixer & under standard capacity with skip, bulk cement plant, oiler on central concrete mixing plant.

AREA DESCRIPTIONS (Cont'd)

POWER EQUIPMENT OPERATORS CLASSIFICATIONS FOR AREA 5

GROUP 1: Cranes; Shovels; Clamshels; Draglines; Backhoes; Derricks; Cableways; Dual drum pavers; Concrete spreaders behind 2 pavers; Asphalt spreaders; Asphalt mixer plant engineers; Dipper dredge operator; Dipper dredge cranemen; Dual purpose trucks (boom or winch); Leverman or engine men (hydraulic dredge); Mechanics; Paving mixers (16E to 34E); Paving mixers with tower attached (2 operators required); Pile drivers; Boom tractors; Stationary, portable, or floating mixing plants; Trenching machines; Building hoists (2 drums); Hot paint wrapping machines; Cleaning and priming machines.
GROUP 2: Athey, Barber Greene, Euclid or Haise Loaders; Asphalt pug mills; Firemen and driers; Concrete pumps; Concrete spreaders (behind one paver); Bulldozers; End loaders (other than those above); Fork lifts; Elevating graders; Group equipment greasers; LeTourneaupull & similar machines; Power blades; Power subgrad rs (on forms and similar machines); Push cats; Tractors pulling elevating graders or power blades; Tractors with power attachments; Rollers on asphalt or blacktop; single drum hoists; Jaeger mix and place machines; Pipe bending machines; welding machines (3 to 4); Fuller Kenyon cement pumps or similar machines; Automatic cement and gravel batch plants (1 stop set-up)
GROUP 3: Asphalt boosters; Firemen and pump operators at asphalt plants; Compressors (500 cu ft and over); Concrete finishing machines; Form graders with rollers on earth; Mixers 3 bag to 16-E; Power operating bull floats; Tractors without power attachments; Dope pots (agitating motor); Dope chop machines; Distributors (backend); Flex-planes; Boat operator; Hydrohammers; Power winch on paving work; Self-propelled earth rollers or compactors (other than paving work); Pump operator (more than one well point pump); Portable crusher operator.
GROUP 4: Air compressors (275 CFM or over); Drivers on Truck cranes; Conveyors; Light plants; Mixers (1 or 2 bags); Power batching machines (cement auger or conveyor); Boiler engineer or firemen; Water pumps; Welding machines; Mechanical brooms; Automatic cement and gravel batch plants (2 or 3 stop set-up; Small rubber tired tractors
GROUP 5: Oilers; Mechanic helpers; Water pumps (pumping water to paver); Mechanical heaters other than steam boiler

TRUCK DRIVERS CLASSIFICATIONS AREAS 1 AND 2

GROUP 1: Two axles hauling less than 9 tons; Air compressor & welding machine incl. those pulled by separate units; Fork lifts up to 6000 lbs capacity; Mechanic tenders; pick-ups when hauling materials, tools, or men to and from and on the job site; and truck driver tenders
GROUP 2: 2 or 3 axles hauling more than 9 tons, but less than 16 tons; A-frame winches; Fork lifts over 6000 lbs capacity; 4-axle combination units; Hydrolifts or similar equipment when used for transportation purposes; and winches
GROUP 3: 2, 3, or 4 axles hauling 16 tons or more; Dispatcher; 5-axles or more combination units; Mechanics and working foremen; and water pulls
GROUP 4: Drivers on oil distributors; and drivers on semi-lowboys when moving equipment

UNLISTED CLASSIFICATIONS NEEDED FOR WORK NOT INCLUDED WITHIN THE SCOPE OF THE CLASSIFICATIONS LISTED MAY BE ADDED AFTER AWARD ONLY AS PROVIDED IN THE LABOR STANDARDS CONTRACT CLAUSES (29 CFR, 5.5 (a)(1)(ii)

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Part IV

# Department of Agriculture

7 CFR Chs. XXXII and XXXIV
Special Research Grants Program; Administrative Provisions; Final Rule

**DEPARTMENT OF AGRICULTURE**

**7 CFR Chs. XXXII and XXXIV**

## Special Research Grants Program; Administrative Provisions

**AGENCY:** Cooperative State Research Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This document establishes rules relating to the administration of the Special Research Grants Program conducted under the authority of Section 2(c)(1) of the Act of August 4, 1965, as amended (7 U.S.C. 450i(c)(1)). The issuance of these rules establishes the procedures to be followed annually in the solicitation of special research grant proposals, the evaluation of such proposals, and the award of special research grants.

**EFFECTIVE DATE:** February 1, 1985.

**FOR FURTHER INFORMATION CONTACT:** Terry J. Pacovsky, Chief, Grants Administrative Management, Office of Grants and Program Systems, U.S. Department of Agriculture, Room 112, West Auditor's Building, 15th and Independence Avenue SW., Washington, D.C. 20251. (Telephone: (202) 475–5024)

**SUPPLEMENTARY INFORMATION:**

### Paperwork Reduction

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C Chapter 35, section 3504(h)), the collection of information requirements contained in this rule have been under OMB Document No. 0520–0001.

### Classification

This rule has been reviewed under Executive Order 12291 and it has been determined that it is not a major rule because it does not involve a substantial or major impact on the nation's economy or on large numbers of individuals or businesses. There will be no major increase in cost or prices for consumers, individual industries, Federal, State, or local governmental agencies, or geographic regions. It will not have a significant economic impact on competitive employment, investment, productivity, innovation, or on the ability of U.S. enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, it will not have a significant impact on substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96–534 (5 U.S.C. 601).

### Regulatory Analysis

Not required for this rulemaking.

### Environmental Impact Statement

This regulation does not significantly affect the environment. Therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969.

### *Catalog of Federal Domestic Assistance*

10.200, Grants for Agricultural Research, Special Research Grants.

### *Introduction*

Under the authority of section 2(c)(1) of the Act of August 4, 1965, as amended, the Secretary of Agriculture is authorized to make special grants for research to facilitate or expand promising breakthroughs in areas of the food and agricultural sciences of importance to the Nation to land-grant colleges and universities, research foundations established by land-grant colleges and universities, State agricultural experiment stations, and to all colleges and universities having a demonstrable capacity in food and agricultural research. In the past, a Notice was published in the **Federal Register** annually announcing the availability of funds for special research grants and soliciting proposals. In addition, the Notice set forth the procedures and criteria for the evaluation of the proposals and procedures and conditions relating to the award and administration of these grants. This rule establishes and codifies such procedures, criteria, and conditions to be employed annually. It standardizes the rules applicable to the administration of the Special Research Grants Program and eliminates the need to republish them annually. On May 30, 1984, the Department published a Notice in the **Federal Register** (49 FR 22491–22497) proposing the establishment of these regulations and inviting comments from interested individuals and organizations. Written comments on that proposal were requested by September 1, 1984.

During the comment period, the Department received only one response regarding the actual contents of the proposed rule. A second comment related to an administrative oversight. Copies of these comments may be examined in the Department's Office of Grants and Program Systems, Room 112, West Auditor's Building, 15th and Independence Avenue SW., Washington, D.C. 20251.

### Discussion of Comments

Based upon comments received from some of its member universities, the respondent recommended that paragraph (1) of § 3400.7(d) (formerly identified as § 3201.7(d)) be deleted from the Final Rule. This subparagraph relate to the requirement that written approval be obtained from the Department prior to transferring amounts budgeted for indirect costs to absorb increases in direct costs. The commenter pointed out that while subparagraphs 3.c. of Attachment J to OMB Circular No. A–110 and 3.c. of Attachment K to OMB Circular No. A–102 give Federal agencies the option of requiring prior approval, many of the major Federal granting agencies have not imposed this restriction.

The Department acknowledges the optional nature of this provision in the above-mentioned OMB Circulars; thus, when USDA's implementing regulations (i.e., "Uniform Federal Assistance Regulations" (7 CFR Part 3015)) were issued on November 10, 1981 (46 FR 55636–55664), internal agencies were given the same leeway in applying or waiving this provision.

For several reasons, our agency made the decision to employ it where applicable. First, we believe that there is a direct relationship between direct and indirect costs; this relationship is established at the time a grant is awarded and it is accpeted by authorized officials of the grantee institution prior to beginning actual work. We think that it is important to maintain this relationship throughout the period of project performance unless prior approval is received from the agency to alter it. Second, it allows us to track indirect costs with reasonable accuracy for responding to Congressional inquiries. Third, it is in the public interest that we be able to account for and justify the various uses to which taxpapers' money is put. We have long viewed this as one way in which we can preserve or promote the public trust. Finally, this requirement is applied consistently to all agency programs under which indirect costs are allowable and, so far, we have not been informed that it has disrupted any research effort or otherwise created a hardship for grantee institutions. Thus, § 3400.7(d)(1) appears intact in this Final Rule. The respondent also noted that subparagraph (2) of § 3400.7(d) in essence proposes the opposite requirement of that contained in subparagraph (1). This subparagraph requires that written approval be obtained before transferring amounts budgeted for direct costs to

accommodate changes in indirect cost rates negotiated subsequent to the awarding of a standard, renewal, continuation, or supplemental grant. In this case, OMB Circular No. A–110 allows Federal agencies to require prior approval, while OMB Circular No. A–102 does not contain such an authorization. Because of concern expressed by some of its members that the imposition of this requirement will lead to the issuance of research project grants with incorrect negotiated indirect cost rates and correspondingly incorrect recoverable amounts, the commentor urged that subparagraph (2) be similarly deleted from the Final Rule.

Before responding to this comment, it should first be noted that OMB Circular No. A–102, "Uniform Administrative Requirements for Grants-in-aid to State and Local Governments," does not apply to the Special Research Grants Program because State and local governments are ineligible to receive awards under this program (see 3400.3(a) of this part).

In answering the substantive protion of the comment, a short explanation of the Department's policy and the procedures used to award indirect costs may be helpful. It is the Department's policy to permit full reimbursement for indirect costs applicable to grants awarded under the authority of Section 2(c)(1) of the Act of August 4, 1965, unless the proposing institution specifically waives all or a portion of the costs to which it is entitled. The actual amount of indierect costs awarded is based upon the institution's *negotiated indirect cost rate in effect at the time a proposal is recommended for support by the responsible programmatic staff.* The rate authorized normally remains in effect for the duration of the project. (In no event will the Department authorize the use of an indirect cost rate in excess of the institution's current negotiated rate at the time of award.)

However, the Department recognizes that institutional circumstances may change during the course of a project. It is therefore willing to entertain requests from grantees to make rate adjustments *provided* that the type of rate used (such as fixed-with-carryforward) lends itself to later adjustment and, *provided further*, that the grantee forwards a fully signed copy of the supporting negotiated agreement to the Department for review.

Based upon the policy and related procedures outlined above, the Department disagrees that this requirement will lead to the issuance of grants containing either incorrect indirect cost rates or amounts. Accordingly, § 3400.7(d)(2) has not been deleted from this Final Rule.

The other commentor pointed out that Cooperative State Research Service, as an Agency of the Department of Agriculture, should have its own Chapter assignment and that the Special Research Grants Program should be designated as a separate Part under that Chapter. In addition, the respondent stated that the heading "Office of the Secretary" should be removed from the document because regulations relating to the Secretary's Office are contained in Subtitle A of this Title.

The Department agrees with this position and has made appropriate changes consistent with these suggestions. In the Notice of Proposed Rulemaking the Special Research Grants Program appeared as Part 3201 of Chapter XXXII, which was assigned to Science and Education. In this Final Rule, Chapter XXXIV is established and assigned to Cooperative State Research Service and Part 3400 is established for the Special Research Grants Program. Further, reference to "Office of the Secretary" has been deleted from the heading.

### Lists of Subjects

Grant programs—agriculture, Grant administration.

The Department therefore amends Title 7, Subtitle B of the Code of Federal Regulations as follows:

(1) The heading of Chapter XXXII is revised to read as follows: "Office of Grants and Program Systems, Department of Agriculture".

(2) Chapter XXXIV is added entitled, "Cooperative State Research Service, Department of Agriculture" consisting of Part 3400 to read as follows:

## CHAPTER XXXIV—COOPERATIVE STATE RESEARCH SERVICE, DEPARTMENT OF AGRICULTURE

## PART 3400—SPECIAL RESEARCH GRANTS PROGRAM

### Subpart A—General

Sec.



### Subpart B—Scientific Peer Review of Research Grant Applications



Authority: Sec. 2(h) of the Act of August 4, 1965, as amended (7 U.S.C. 450i(h)).

### Subpart A—General

#### § 3400.1 Applicability of regulations.

(a) The regulations of this part apply to special research grants awarded under the authority of section 2(c)(1) of the Act of August 4, 1965, as amended (7 U.S.C. 450i(c)(1)), to facilitate or expand promising breakthroughs in areas of food and agricultural sciences of importance to the Nation. The Secretary of Agriculture, or his or her designee, shall determine and announce, through publication of a Notice in the **Federal Register** each year, research program areas for which proposals will be solicited to the extent that funds are available.

(b) The regulations of this part do not apply to research grants awarded by the Department of Agriculture under any other authority.

#### § 3400.2 Definitions.

As used in this part:

(a) "Secretary" means the Secretary of Agriculture and any other officer or employee of the Department of Agriculture to whom the authority involved may be delegated.

(b) "Department" means the Department of Agriculture.

(c) "Principal investigator" means a single individual designated by the grantee in the grant application and approved by the Secretary who is responsible for the scientific and technical direction of the project.

(d) "Grantee" means the institution or organization designated in the grant award document as the responsible legal entity to whom a grant is awarded under the part.

(e) "Research project grant" means the award by the Secretary of funds to a grantee to assist in meeting the costs of conducting for the benefit of the public an identified project which is intended and designed to establish, discover, elucidate, or confirm information or the underlying mechanisms relating to a research program area identified in the annual solicitation of applications.

(f) "Project" means the particular activity within the scope of one or more of the research program areas identified in the annual solicitation of

applications, which is supported by a grant award under this part.

(g) "Project period" means the total length of time that is approved by the Secretary for conducting the research project as outlined in an approved grant application.

(h) "Budget period" means the interval of time (usually 12 months) into which the project period is divided for budgetary and reporting purposes.

(i) "Awarding official" means the Secretary and any other officer or employee of the Department to whom the authority to issue or modify research project grant instruments has been delegated.

(j) "Peer review group" means an assembled group of experts or consultants qualified by training and experience in particular scientific or technical fields to give expert advise, in accordance with the provisions of this part, on the scientific and technical merit of grant applications in those fields.

(k) "*Ad hoc* reviewers" means experts or consultants qualified by training and experience in particular scientific or technical fields to render special expert advice, whose written evaluations of grant applications are designed to complement the expertise of the peer review group, in accordance with the provisions of this part, on the scientific or technical merit of grant applications in those fields.

(l) "Research" means any systematic study directed toward new or fuller knowledge and understanding of the subject studied.

(m) "Methodology" means the project approach to be followed and the resources needed to carry out the project.

**§ 3400.3 Eligibility requirements.**

(a) Except where otherwise prohibited by law, any State agricultural experiment station, land-grant college or university, research foundation established by a land-grant college or university, and all other colleges or universities having a demonstrable capacity in research relating to the food and agricultural sciences, shall be eligible to apply for and receive a special research project grant under this part, provided that the applicant qualifies as a responsible grantee under the criteria set forth in paragraph (b) of this section.

(b) To qualify as responsible, an applicant must meet the following standards as they relate to a particular project:

(1) Have adequate financial resources for performance, the necessary experience, organizational and technical qualifications, and facilities, or a firm commitment, arrangement, or ability to obtain such (including proposed subagreements);

(2) Be able to comply with the proposed or required completion schedule for the project;

(3) Have a satisfactory record of integrity, judgment, and performance, including in particular any prior performance under grants and contracts from the Federal Government;

(4) Have an adequate financial management system and audit procedure which provides efficient and effective accountability and control of all property, funds, and other assets; and

(5) Be otherwise qualified and eligible to receive a research project grant under applicable laws and regulations.

(c) Any applicant who is determined to be not responsible will be notified in writing of such findings and the basis therefor.

**§ 3400.4 How to apply for a grant.**

(a) A request for proposals will be prepared and announced in the **Federal Register** as early as practicable each fiscal year. It will contain information sufficient to enable all eligible applicants to prepare special research grant proposals and will be as complete as possible with respect to:

(1) Descriptions of specific research program areas which the Department proposes to support during the fiscal year involved, including anticipated funds to be awarded;

(2) Deadline dates for proposal receipt;

(3) Name and address where proposals should be mailed;

(4) Number of copies to be submitted;

(5) Forms required to be used when submitting proposals; and

(6) Special requirements.

(b) *"Research Grant Application Kit."* A "Research Grant Application Kit" will be made available to any potential grant applicant who requests a copy. This kit provides required forms, certifications, instructions, and certain regulatory provisions applicable to the submission and administration of research project grants.

(c) *Format for research grant proposals.*

(1) *Grant Application (Form S&E–661).* All research grant proposals submitted by eligible institutions should contain a Grant Application form, which must be signed by the proposing principal investigator(s) and endorsed by the cognizant authorized organizational representative who possesses the necessary authority to commit the institution's time and other relevant resources.

(2) *Title of project.* The title of the project must be brief (80-character maximum), yet represent the major thrust of the research. This information will be used by the Department to provide information to The Congress and other interested parties; therefore, highly technical words or phraseology should be avoided. In addition, phrases such as "investigation of" or "research on" should not be used.

(3) *Objectives.* Clear, concise, complete, and logically arranged statement(s) of the specific aims of the research must be included in all proposals.

(4) *Procedures.* The procedures or methodology to be applied to the proposed research plan should be explicitly stated. This section should include but not necessarily be limited to:

(i) A description of the proposed investigations and/or experiments *in the sequence in which it is planned to carry them out;*

(ii) Techniques to be employed, including their feasibility;

(iii) Kinds of results expected;

(iv) Means by which data will be analyzed or interpreted;

(v) Pitfalls which might be encountered; and

(vi) Limitations to proposed procedures.

(5) *Justification.* This section should describe:

(i) The importance of the problem to the needs of the Department and to the Nation, including estimates of the magnitude of the problem;

(ii) The importance of starting the work during the current fiscal year, and

(iii) Reasons for having the work performed by the proposing organization.

(6) *Literature review.* A summary of pertinent publications with emphasis on their relationship to the research should be provided and should include all important and recent publications from other institutions, as well as those from the proposing institution. The citations themselves should be accurate, complete, written in an acceptable journal format, and be appended to the proposal.

(7) *Current research.* The relevancy of the proposed research to ongoing and as yet unpublished research at both the proposing and other institutions should be described.

(8) *Facilities and equipment.* All facilities, including laboratories, which are *available for use or assignment to the proposed research project during the requested period of support,* should be reported and described. Any materials, procedures, situations, or activities,

whether or not directly related to a particular phase of the proposed research, and which may be hazardous to personnel, must be fully explained, along with an outline of precautions to be exercised. All items of major instrumentation *available for use or assignment to the proposed research project during the requested period of support* should be itemized. In addition, items of nonexpendable equipment needed to conduct and bring the proposed project to a successful conclusion should be listed.

(9) *Research timetable.* The applicant should outline all important research phases as a function of time, year by year.

(10) *Personnel support.* All personnel who will be involved in the research effort must be clearly identified. For each scientist involved, the following should be included:

(i) An estimate of the time commitments necessary;

(ii) Vitae of the principal investigator, senior associates, and other professional personnel to assist reviewers in evaluating the competence and experience of the project staff. This section should include curricula vitae of *all* key persons who will work on the proposed research project, whether or not Federal funds are sought for their support. The vitae are to be no more than two pages each in length, excluding publications listings; and

(iii) A chronological listing of the most representative publications during the past five years shall be provided for each professional project member for whom a curriculum vitae appears under this section. Authors should be listed in the same order as they appear on each paper cited, along with the title and complete reference as these usually appear in journals.

(11) *Budget.* A detailed budget is required for *each year* of requested support. In addition, a summary budget is required detailing requested support for the overall project period. A copy of the form which must be used for this purpose, along with instructions for completion, is included in the "Research Grant Application Kit" identified under § 3400.4(b) and may be reproduced as needed by proposers. Funds may be requested under any of the categories listed, provided that the item or service for which support is requested is allowable under applicable Federal cost principles and can be identified as necessary for successful conduct of the proposed research project. All research project grants awarded under this part shall be issued without regard to matching funds or cost sharing by recipients of such grants.

(12) *Research involving special considerations.* A number of situations encountered in the conduct of research require special information and supporting documentation before funding can be approved for the project. If such situations are anticipated, the proposal must so indicate. It is expected that a significant number of special research grant proposals will involve the following:

(i) *Recombinant DNA molecules.* All key personnel identified in a proposal and all endorsing officials of a proposed performing organization are required to comply with the guidelines established by the National Institutes of Health entitled, "Guidelines for Research Involving Recombinant DNA Molecules," as revised.

(ii) *Human subjects at risk.* Responsibility for safeguarding the rights and welfare of human subjects used in any research project supported with grant funds provided by the Department rests with the performing organization. Guidance is contained in Pub. L. 93–348, as implemented by the Department of Health and Human Services' policies under 45 CFR Part 46. In the event that a project involving human subjects at risk is recommended for award, the proposer will be required to submit a statement certifying that the research plan has been reviewed and approved by the Institutional Review Board at the proposing organization or institution. The "Research Grant Application Kit," identified above in § 3400.4(b), contains a form which is suitable for such certification.

(13) *Current and pending support.* All proposals must list any other *current* public or private research support, in addition to the proposed project, to which key personnel listed in the proposal under consideration have committed portions of their time, whether or not salary support for the person(s) involved is included in the budgets of the various projects. This section must also contain analogous information for all projects underway and for pending research proposals which are currently being considered by, or which will be submitted in the near future to, other possible sponsors, including other Departmental programs or agencies. Concurrent submission of identical or similar projects to other possible sponsors will not prejudice its review or evaluation by the Secretary or experts or consultants engaged by the Secretary for this purpose.

(14) *Additions to project description.* Each project description is expected by the Secretary, members of peer review groups, and the relevant program staff to be complete in itself. However, in those instances in which the inclusion of additional information is necessary, the number of copies submitted should match the number of copies of the application requested in the annual solicitation of proposals as indicated in § 3400.4(a)(4). Each set of such materials must be identified with the title of the research project as it appears on the Grant Application (Form S&E–661) and the name(s) of the principal investigator(s). Examples of additional materials may include photographs which do not reproduce well, reprints, and other pertinent materials which are deemed to be unsuitable for inclusion in the proposal.

(15) *Organizational information.* Specific management information relating to the proposing institution or organization shall be submitted on a *one-time basis prior to the award* of a research project grant identified under this part. Copies of forms recommended for use in fulfilling the requirements contained in this section are available upon request from the agency specified in this part.

### § 3400.5 Evaluation and disposition of applications.

(a) *Evaluation.* All proposals received from eligible applicants in accordance with deadlines established in the applicable request for proposals shall be evaluated by the Secretary through such officers, employees, and others as the Secretary determines are uniquely qualified in the areas of research represented by particular projects. To assist in equitably and objectively evaluating proposals and to obtain the best possible balance of viewpoints, the Secretary shall solicit the advice of peer scientists, *ad hoc* reviewers, and/or others who are recognized specialists in the research program areas covered by the applications received and whose general roles are defined in § 3400.2(j) and § 3400.2(k). Specific evaluations will be based upon the criteria established in Subpart B, § 3400.15. The overriding purpose of such evaluations is to provide information upon which the Secretary can make informed judgments in selecting proposals for ultimate support. Incomplete, unclear, or poorly organized applications will work to the detriment of proposers during the peer evaluation process. To ensure a comprehensive evaluation, all applications should be written with the care and thoroughness accorded papers for publication.

(b) *Disposition.* On the basis of the Secretary's evaluation of an application in accordance with paragraph (a) of this section, the Secretary will (1) approve

support using currently available funds, (2) defer support due to lack of funds or a need for further evaluations, or (3) disapprove support for the proposed project in whole or in part. With respect to approved projects, the Secretary will determine the project period (subject to extension as provided in § 3400.7(c)) during which the project may be supported. Any deferral or disapproval of an application will not preclude its reconsideration or a reapplication during subsequent fiscal years.

**§ 3400.6 Grant awards.**

(a) *General.* Within the limit of funds available for such purpose, the awarding official shall make research project grants to those responsible, eligible applicants whose proposals are judged most meritorious in the announced program areas under the evaluation criteria and procedures set forth in this part. The date specified by the Secretary as the beginning of the project period shall be no later than September 30 of the Federal fiscal year in which the project is approved for support and funds are appropriated for such purpose, unless otherwise permitted by law. All funds granted under this part shall be expended solely for the purpose for which the funds are granted in accordance with the approved application and budget, the regulations of this part, the terms and conditions of the award, the applicable Federal cost principles, and the Department's "Uniform Federal Assistance Regulations" (Part 3015 of this Title).

(b) *Grant award document and notice of grant award.* (1) *Grant award document.* The grant award document shall include at a minimum the following:

(i) Legal name and address of performing organization or institution to whom the Secretary has awarded a special research project grant under the terms of this part;

(ii) Title of project;

(iii) Name(s) and address(es) of principal investigator(s) chosen to direct and control approved activities;

(iv) Identifying grant number assigned by the Department;

(v) Project period, which specifies how long the Department intends to support the effort without requiring recompetition for funds;

(vi) Total amount of Departmental financial assistance approved by the Secretary during the project period;

(vii) Legal authority(ies) under which the research project grant is awarded to accomplish the purpose of the law;

(viii) Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the research project grant award; and

(ix) Other information or provisions deemed necessary by the Department to carry out its granting activities or to accomplish the purpose of a particular research project grant.

(2) *Notice of grant award.* The notice of grant award, in the form of a letter, will be prepared and will provide pertinent instructions or information to the grantee which are not included in the grant award document.

(c) *Categories of grant instruments.* The major categories of grant instruments shall be as follows:

(1) *Standard grant.* This is a grant instrument by which the Department agrees to support a specified level of research effort for a predetermined project period without the announced intention of providing additional support at a future date. This type of research project grant is approved on the basis of peer review and recommendation and is funded for the entire project period at the time of award.

(2) *Renewal grant.* This is a document by which the Department agrees to provide additional funding under a standard grant as specified in paragraph (c)(1) of this section for a project period beyond that approved in an original or amended award, provided that the cumulative period does not exceed the statutory limitation. When a renewal application is submitted, it should include a summary of progress to date under the previous grant instrument. Such a renewal shall be based upon a new application, *de novo* peer review and staff evaluation, new recommendation and approval, and a new award instrument.

(3) *Continuation grant.* This is a grant instrument by which the Department agrees to support a specified level of effort for a predetermined period of time with a statement of intention to provide additional support at a future date provided that performance has been satisfactory, appropriations are available for this purpose, and continued support would be in the best interests of the Federal Government and the public. It involves a long-term research project that is considered by peer reviewers and Departmental officers to have an unusually high degree of scientific merit, the results of which are expected to have a significant impact on the food and agricultural sciences, and it supports the efforts of experienced scientists with records of outstanding research accomplishments. This kind of document will normally be awarded for an initial one-year period and any subsequent continuation research project grants will also be awarded in one-year increments. The award of a continuation research project grant to fund an initial or succeeding budget period does not constitute an obligation to fund any subsequent budget period. A grantee must submit a separate application for continued support for each subsequent fiscal year. Requests for such continued support must be submitted in duplicate at least three months prior to the expiration date of the budget period currently being funded. Such requests must include: an interim progress report detailing all work performed to date; a Grant Application; a proposed budget for the ensuing period, including an estimate of funds anticipated to remain unobligated at the end of the current budget period; and current information regarding other extramural support for senior personnel. Decisions regarding continued support and the actual funding levels of such support in future years will usually be made administratively after consideration of such factors as the grantee's progress and management practices and within the context of available funds. Since initial peer reviews were based upon the full term and scope of the original special research grant application, additional evaluations of this type are not generally required prior to successive years' support. However, in unusual cases (e.g., when the nature of the project or key personnel change or when the amount of future support requested substantially exceeds the grant application originally reviewed and approved), additional reviews may be required prior to approving continued funding.

(4) *Supplemental grant.* This is an instrument by which the Department agrees to provide small amounts of additional funding under a standard, renewal, or continuation grant as specified in paragraphs (c)(1), (c)(2), and (c)(3) of this section and may involve a short-term (usually six months or less) extension of the project period beyond that approved in an original or amended award. A supplement is awarded only if required to assure adequate completion of the original scope of work and if there is sufficient justification of need to warrant such action. A request of this nature does not normally require additional peer review.

(d) *Obligation of the Federal Government.* Neither the approval of any application nor the award of any research project grant shall legally commit or obligate the United States in any way to make any renewal, supplemental, continuation, or other award with respect to any approved

application or portion of an approved application.

**§ 3400.7 Use of funds; changes.**

(a) *Delegation of fiscal responsibility.* The grantee may not in whole or in part delegate or transfer to another person, institution, or organization the responsibility for use or expenditure of grant funds.

(b) *Change in project plans.*

(1) The permissible changes by the grantee, principal investigator(s), or other key project personnel in the approved research project grant shall be limited to changes in methodology, techniques, or other aspects of the project to expedite achievement of the projects' approved goals. If the grantee and/or the principal investigator(s) are uncertain as to whether a change complies with this provision, the question must be referred to the Secretary for a final determination.

(2) Changes in approved goals, or objectives, shall be requested by the grantee and approved in writing by the Department *prior to effecting such changes.* In no event shall requests for such changes be approved which are outside the scope of the original approved project.

(3) Changes in approved project leadership or the replacement or reassignment of other key project personnel shall be requested by the grantee and approved in writing by the Department *prior to effecting such changes.*

(4) Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for payment of funds, whether or not Federal funds are involved, shall be requested by the grantee and approved in writing by the Department *prior to effecting such transfers.*

(c) *Changes in project period.* The project period determined pursuant to § 3400.5(b) may be extended by the Secretary without additional financial support, for such additional period(s) as the Secretary determines may be necessary to complete, or fulfill the purposes of, an approved project. Such extension, when combined with the originally approved or amended project period, shall not exceed five (5) years (the limitation established by statute), and shall be further conditioned upon prior request by the grantee and approval in writing by the Department.

(d) *Changes in approved budget.* Changes in an approved budget shall be requested by the grantee and approved in writing by the Department prior to instituting such changes if the revision will:

(1) involve transfers of amounts budgeted for indirect costs to absorb increases in direct costs;

(2) involve transfers of amounts budgeted for direct costs to accommodate changes in indirect cost rates negotiated during a budget period and not approved when a standard, renewal, continuation, or supplemental grant was awarded;

(3) involve transfers of amounts previously budgeted for training allowances;

(4) result in a need or claim for the award of additional funds; or

(5) involve transfers or expenditures of amounts requiring prior approval as set forth in the applicable Federal cost principles, Departmental regulations, or in the standard, continuation, renewal, or supplemental award.

**§ 3400.8 Other Federal statutes and regulations that apply.**

Several other Federal statutes and/or regulations apply to grant proposals considered for review or to research project grants awarded under this part. These include but are not limited to:

7 CFR 1.1—USDA implementation of Freedom of Information Act

7 CFR Part 15, Subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964

7 CFR Part 3015—USDA Uniform Federal Assistance Regulations, implementing OMB directives (i.e., Circular Nos. A–102, A–110, A–87, A–21, and A–122) and incorporating provisions of 31 U.S.C. 6301–6308 (formerly, the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224), as well as general policy requirements applicable to recipients of Departmental financial assistance

29 U.S.C. 794, section 504—Rehabilitation Act of 1973, and 7 CFR Part 15B (USDA implementation of statute), prohibiting discrimination based upon physical or mental handicap in Federally assisted programs

35 U.S.C. 200 *et seq.*—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in OMB Circular No. A–124).

**§ 3400.9 Other conditions.**

The Secretary may, with respect to any research project grant or to any class of awards, impose additional conditions prior to or at the time of any award when, in the Secretary's judgment, such conditions are necessary to assure or protect advancement of the approved project, the interests of the public, or the conservation of grant funds.

## Subpart B—Scientific Peer Review of Research Grant Applications

**§ 3400.10 Establishment and operation of peer review groups.**

(a) To the extent applicable, the Federal Advisory Committee Act (5 U.S.C. App. I) and Departmental implementing regulations (Part 25 of this Title) will govern the establishment and operation of peer review groups.

(b) Subject to § 3400.5 and paragraph (a) of this section, the Secretary will adopt procedures for the conduct of peer reviews and the formulation of recommendations under § 3400.14.

**§ 3400.11 Composition of peer review groups.**

(a) Peer review group members will be selected based upon their training and experience in relevant scientific or technical fields, taking into account the following factors:

(1) The level of formal scientific or technical education by the individual;

(2) The extent to which the individual has engaged in relevant research, the capacities in which the individual has done so (e.g., principal investigator, assistant), and the quality of such research;

(3) Professional recognition as reflected by awards and other honors received from scientific and professional organizations outside of the Department;

(4) The need of the group to include within its membership experts from various areas of specialization within relevant scientific or technical fields;

(5) The need of the group to include within its membership experts from a variety of organizational types (e.g., universities, industry, private consultant(s)) and geographic locations; and

(6) The need of the group to maintain a balanced membership, e.g., minority and female representation and an equitable age distribution.

**§ 3400.12 Conflicts of interest.**

Members of peer review groups covered by this part are subject to relevant provisions contained in Title 18 of the United States Code relating to

criminal activity, Department regulations governing employee responsibilities and conduct (Part O of this title) and Executive Order 11222, as amended.

**§ 3400.13 Availability of information.**

Information regarding the peer review process will be made available to the extent permitted under the Freedom of Information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a.), and implementing Departmental regulations (Part 1 of this Title).

**§ 3400.14 Proposal review.**

(a) All research grant applications will be acknowledged. Prior to technical examination, a preliminary review will be made for responsiveness to the request for proposals (e.g., relationship of application to research program area). Proposals which do not fall within the guidelines as stated in the annual request for proposals will be eliminated from competition and will be returned to the proposing organization or institution. Proposals whose budgets exceed the maximum allowable amount for a particular program area as announced in the request for proposals may be considered as lying outside the guidelines.

(b) All applications will be carefully reviewed by the Secretary, qualified officers or employees of the Department, the respective peer review group, and *ad hoc* reviewers, as required. Written comments will be solicited from *ad hoc* reviewers when required, and individual written comments and in-depth discussions will be provided by peer review group members prior to recommending applications for funding. Applications will be ranked and support levels recommended within the limitation of total available funding for each research program area as announced in the applicable request for proposals.

(c) No awarding official will make a research project grant based upon an application covered by this part unless the application has been reviewed by a peer review group and/or *ad hoc* reviewers in accordance with the provisions of this part and said reviewers have made recommendations concerning the scientific merit of such application.

(d) Except to the extent otherwise provided by law, such recommendations are advisory only and are not binding on program officers or on the awarding official.

**§ 3400.15 Review criteria.**

(a) In carrying out its review under § 3400.14, the peer review group will use the following form upon which the evaluation criteria to be used are enumerated:

**Peer Panel Scoring Form**

Proposal Identification No. _____
Institution and Project Title _____

I. Basic Requirement:

Proposal falls within guidelines? ____ Yes ____ No. If no, explain why proposal does not meet guidelines under comment section of this form.

II. Selection Criteria:

| | Score 1–10 | Weight factor | Score X weight factor | Comments |
|---|---|---|---|---|
| 1. Scientific and technical quality of the idea | | 8 | | |
| 2. Scientific and technological quality of the approach | | 8 | | |
| 3. Relevence and importance of proposed research to solution of specific area of inquiry | | 6 | | |
| 4. Feasibility of attaining objectives during life of proposed research | | 5 | | |
| 5. Adequacy of professional training or research experience of research team in essential disciplines needed to conduct proposed research | | 5 | | |
| 6. Adequacy of facilities, equipment, and professional and technical staffing | | 5 | | |

Score _____
Summary Comments _____

(b) Proposals satisfactorily meeting the guidelines will be evaluated and scored by the peer review panel for each criterion utilizing a scale of 1 through 10. A score of one (1) will be considered low and a score of ten (10) will be considered high for each selection criterion. A weighted factor is used for each criterion.

Done at Washington, D.C., this 30th day of January, 1985.

**Orville G. Bentley,**

*Assistant Secretary for Science and Education.*

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Part V

# Department of Education

34 CFR Part 682

Guaranteed Student Loan Program; Final Rule and Proposed Rulemaking

**DEPARTMENT OF EDUCATION**

**34 CFR Part 682**

**Guaranteed Student Loan Program**

**AGENCY:** Department of Education.

**ACTION:** Final regulations.

**SUMMARY:** The Secretary of Education issues final regulations to govern the approval of the *Plan for Doing Business* (OMB 1840–0530) submitted to the Department of Education by Authorities which issue tax-exempt obligations in order to secure funds to make, purchase, or provide financing for loans under the Guaranteed Student Loan (GSL) and PLUS Programs. Specifically, these final regulations establish general standards and procedures that Authorities must follow in submitting their Plans for Doing Business, as well as particular standards for implementing the requirement of section 438(d)(1)(G) of the Higher Education Act that no tax-exempt obligations be issued by Authorities in excess of reasonable needs for student loan credit after taking into account existing sources of credit.

**EFFECTIVE DATE:** Unless the Congress takes certain adjournments, these regulations will take effect 45 days after publication in the **Federal Register**. If you want to know the effective date of these regulations, call or write the Department of Education contact person. Additional information regarding the manner in which these regulations will take effect will be found in section (n.) of this preamble.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Bayer or Mr. Andrejs Penikis, Guaranteed Student Loan Program, Office of Postsecondary Education, U.S. Department of Education, Room 4310, ROB–3, 400 Maryland Avenue SW., Washington, D.C. 20202; telephone (202) 245–2475.

**SUPPLEMENTARY INFORMATION:**

**Background**

On February 10, 1984, the Secretary published in the **Federal Register** at 49 FR 5330–5342 a Notice of Proposed Rulemaking for the Guaranteed Student Loan Program to implement the requirement of a Plan for Doing Business found in section 438(d)(1) of the Higher Education Act of 1965, as amended (HEA). In order to receive special allowance payments on loans acquired with tax-exempt financing, that section requires student loan Authorities to submit a *Plan for Doing Business* (Plan) and receive approval of the Secretary for that Plan. This requirement was imposed by Section 420(b) of the Education Amendments of 1980 (Pub. L. 96–374, October 3, 1980, 94 Stat. 1427). Section 7 of the Student Loan Consolidation and Technical Amendments Act of 1983 (Pub. L. 98–79, August 15, 1983, 97 Stat. 482) expanded the list of provisions required in the Plan to include new provisions to ensure that:

> The Authority will not issue obligations for amounts in excess of the reasonable needs for student loan credit within the area served by the Authority, after taking into account existing sources of student loan credit in that area.

This assurance is now found in section 438(d)(1)(G) of the HEA. That same amendment also added an anti-discrimination provision directed specifically to Authorities. This provision, now found in section 438(d)(2) of the HEA, is discussed in greater detail in the Notice of Proposed Rulemaking accompanying this final rule. It disqualifies for special allowance payments Authorities that engage in patterns or practices which result in a denial of access to loans based on factors already addressed in existing anti-discrimination law, such as race, sex, color, religion, age, or income, as well as new factors such as attendance at particular institutions, length of the borrower's educational program, or the borrower's academic year.

In approving, under these rules, particular tax-exempt obligations, the Secretary is complying with Public Law 98–79. The promulgation of these regulations, however, does not indicate approval of the policy of using tax-exempt financing for the GSL and PLUS programs; such financing is a serious drain on the Treasury and contributes to the deficit. The Secretary encourages the general use of taxable, rather than tax-exempt, financing in support of these programs.

**Summary of Major Issues**

Comments on the proposed regulations were solicited on February 10, 1984. The comment period ended on March 12, 1984; however, comments received after that date were given full consideration. As a result of the comments received and its own experience in reviewing amended Plans and justifications for proposed new tax-exempt obligations, ED is making some changes to the proposed regulations in these final regulations.

a. *Lendable proceeds.* § 682.800. The final regulations clarify that the Secretary intends to review the Authority's justification of only that portion of the proposed tax-exempt obligation to be used to provide funds for financing or refinancing student loans. The term "lendable proceeds" has been adopted to describe that portion of the original proceeds of an obligation which the issuer has neither spent nor committed itself to spend on issuing expenses, debt service, administrative or servicing costs, or to deposit into a reasonably required reserve or replacement fund. The scope of the term thus differs somewhat from the term "spendable proceeds" used in Internal Revenue Service (IRS) rules and in the proposed rules; spendable proceeds excludes the amounts which might be placed in a reserve fund, whether or not they were in fact so deposited, but the term includes amounts to be spent on debt service and administrative costs. The Secretary therefore considered a new term useful to describe only funds to be used for loan acquisitions.

b. *Use of repayments and unexpended proceeds to retire obligations,* § 682.811. The final regulations delete the proposed requirement that the term of an obligation not exceed ten years. Instead, the objective of that rule, to match outstanding tax-exempt debt to the amount of student loans still outstanding which were financed by that debt, is addressed with greater precision by requiring an Authority to use two sources of funds to retire its obligations. First, as under the proposed rules, the Authority must use any portion of the lendable proceeds which remains unspent at the end of the bond-use period to retire a corresponding portion of the outstanding issue. However, there is no purpose served in imposing this requirement on an issuer which would, at the end of the bond-use period of a prior issue, demonstrate a need for a new issue. The final regulations therefore permit an Authority to use the vehicle of a justification for a new issue, in which the Authority would account for the unexpended funds as a credit against the amount of unmet need, or a separate justification if no new issue is proposed, to demonstrate that need to use such unexpended funds.

Second, in place of restrictions on the term of obligations, some commenters suggested mandating use of provisions permitting the Authority to redeem, or "call", obligations before their nominal maturity date. This suggestion has been adopted. The final rule thus requires Authorities to use loan repayments as a second source of funds to retire outstanding obligations. Once those repayments are equal to a substantial portion of the lendable proceeds, the Authority must use them to retire outstanding obligations, and must make further payments annually if a

significant amount of loan repayments have been received since the last redemption. Twenty percent and five percent have been selected as large enough figures to warrant triggering the first and subsequent redemptions, respectively, in order to avoid uneconomical exercises of call provisions. This rule is consistent with the general principle that debt service is expected to be financed out of loan repayments.[1] Moreover, by mandating no more than annual calls, the final rule permits Authorities to retain the unrestricted yield opportunity given under IRS rules on those repayments deposited in a bona-fide debt service fund.

The Secretary recognizes that bonds already issued may not include provisions which would permit the issuer to retire obligations in the manner provided in the final regulations. Obligations issued after the effective date of these final regulations must contain terms needed to permit the issuing Authority to meet these retirement requirements. Under § 682.813(b)(2), Authorities proposing new issues must consider as an available credit resource repayments on obligations issued before the effective date of the new rule unless those repayments are restricted by the bond indenture. As new obligations containing the call provisions needed to comply with § 682.811(g)(2) supplant older bonds which lacked such terms, the Department expects that § 682.813(b)(2) will become moot as all repayments become dedicated to debt service and debt retirement.

c. *Short-term obligations,* § 682.811(d). Several commenters expressed the concern that the proposed regulations created particular problems for commercial paper financing programs. To remove unintended restrictions on such programs, the Secretary has modified the proposed rules to deal specifically with certain issues arising particularly with commercial paper financing. First, the regulations clarify that the approval process established here applies only to the issuance of tax-exempt obligations, not their resale, regardless of the party reselling the obligation. The pre-issue review and approval process likewise does not apply to the issuance of an obligation, such as a letter of credit note, which the Authority issues not to finance loan acquisitions but to evidence its obligation to repay any funds borrowed from a bank providing it credit support and used to meet a demand to retire the original issue.

In addition, the Secretary recognizes that an Authority has increased neither the amount of tax-exempt obligations outstanding nor their term if, during the bond-use period of an approved obligation, it issues a short-term obligation merely to replace one previously-approved which it reacquired at the demand of the holder. Therefore, the Authority needs no approval for such a replacement issue or a successor replacement issue. However, the rationale for eliminating approval of short-term replacement issues applies only during the bond-use period, when repeated submissions of justifications of the same level of borrowing would be unnecessary. After the close of the bond-use period on the originally-approved issue, the issuance of new tax-exempt obligations to replace or refund tax-exempt commercial paper raises the same questions regarding the need for such new tax-exempt borrowing as are raised in refunding longer-term tax-exempt obligations, and therefore the same requirements apply to refundings of both long-term and short-term obligations.

d. *Estimating need for student loan credit,* § 682.812. Several commenters contended that measurement of loan demand by the "utilization rate" concept was unrealistic. The proposed rule required Authorities generally to assume that loan demand in their area could be determined by using data from the Higher Education General Information Survey (HEGIS). In order to adopt a more conservative measure of likely loan demand and to reduce the burden in preparing such estimates, while allowing the Authority the option of proving greater demand than demonstrated in the past, the final regulations give an Authority a choice between two methods for determining need for student loan credit. First, an Authority may project the annual loan demand during the bond-use period as equal to loan volume in that area for the most recent twelve-month period for which actual data is available. Second, the final regulation retains the option that an Authority may project a higher loan demand if it can identify and measure greater loan demand than the amount of the preceding year's loan volume. To support a larger projection of loan demand under this second option, both those statistics selected and the assumptions adopted by the Authority to develop that projection must withstand critical scrutiny. The Department's experience in reviewing such projections convinces it of both the need to continue to critically scrutinize such estimates and of the desirability of soliciting the opinions of local parties on the estimate. Therefore, although ED will continue to review the reasonableness of such estimates, the regulation has been changed to require an Authority using such a projection to secure the review and written concurrence in its analysis of local agencies with the expertise and information to render an informed critique. Those agencies include the guarantee agencies, student financial aid officers' associations, postsecondary education planning entities and any other student loan Authorities operating in that service area. An additional check on such projections is retained as in the propose rule: the issuing Authority must identify and explain in justifications submitted for later issues any discrepancies of more than five percent between data elements as projected and as later occurring, and make appropriate corrections in its projection methodology.

e. *Estimating credit available from direct lenders,* § 682.813(a). The proposed rule would have required all Authorities to conduct a survey of direct lenders active in its service area in order to assess the net amount of new student loans expected to be made without regard to the proposed tax-exempt issue. This amount represents the expected net increase in the student loan portfolios of those lenders during the bond-use period. The proposed rule permitted the Authority to conduct the survey by sampling a representative selection of lenders. Because such sampling of lender activity projections, according to some Authority representatives, was already widely used by Authorities in developing their financing plans, and was generally touted as a basis for trusting the decisions made by Authorities regarding the need for, and size of, proposed new tax-exempt issues, the Secretary did not anticipate that such a requirement would impose any significant new burden on Authorities.

To accommodate those Authorities who claimed in comments on the rule that the required survey was unduly burdensome, the final rule provides a simpler option. Under the final rule, an Authority can assess the credit to be made available from direct lenders operating in its area by using data from guarantee agencies on the volume of loans made in its area by all direct lenders in the most recent twelve-month

[1] Guaranteed Student Loan Tax-Exempt Financing: Hearing before the Subcommittee on Oversight of the Committee on Ways and Means, 96th Congress, 2d Sess. 80 (1980) (Statement of Michael Gort, Vice President, Smith Barney, Harris Upham & Co. Inc.)

period and the amount of loans sold to secondary markets by those lenders in that same period. An Authority using this new option must ensure that it secures this information on all lenders it knows to be active in its area, regardless of the location of their principal office, of their guarantor, or of the secondary market to which they sold loans. In addition, under this option an Authority must contact a limited number of lenders not necessarily located in its service area which the Secretary has identified as willing to make a substantial number of loans beyond their immediate area. The Secretary expects that this step will entail relatively little additional burden but will result in a more accurate estimate of the effects on the supply of credit in that area of increases in lending activity by parties with expanding regional or national lending programs.

f. *Estimating credit available from secondary markets other than the Authority*, § 682.813(c). Several commenters objected to the proposed regulation's requirement that a public offer to buy loans at a discount rate not greater than one percent must be taken into account. This provision has been modified in the final regulations, under which an Authority must accept projections of expected loan purchases by secondary markets based not only on the dollar amounts of executed loan purchase contracts and loan purchase contracts under negotiation, but also the amount of loans which a secondary market has made what can be termed a "private offer" to purchase, in contrast to the "public offer" described in the NPRM. The "private offer" concept addresses the concern that a secondary market be allowed by the proposed public offer to preempt other loan purchase programs without regard to the commitment or ability of the offeror to devote the staff and resources needed to consumate the publicized proposal.

Under the final rule, a secondary market may estimate as its expected loan purchases the amounts of specific types of loans or portfolios which it offers to purchase by means of individual, written solicitations to particular lenders. To serve as a basis for this estimate, those solicitations must include the terms on which the offeror will acquire portfolios of loans, and must include a commitment to provide the staff and administrative resources needed to close the loan purchase agreement described in the offer in a timely enough manner to permit the credibility of the offer to be promptly evaluated in the local marketplace. The "private offer" creates inherent economic incentives for the offeror to perform according to its terms, and those incentives make its use a reasonable method of maximizing use of existing taxable credit, and measuring the amount of that credit available for that area. When it makes a "private offer," the offeror commits its name and future credibility in that and other marketplaces. An offering party should recognize that if the "private offer" option is used to the dissatisfaction of the local lenders, their withdrawal from, or reduced lending under, the GSLP program can easily create a vacuum to be filled by both national or regional lenders less dependent on the offeror for financing, and by secondary market competitors of the offeror. Moreover, a failure to perform according to promises can be used by an Authority seeking approval for an additional tax-exempt issue as grounds for discrediting a future estimate by the secondary market which made the offer, as discussed *infra*.

Like the NPRM's "public offer"option, the secondary market may, in the "private offer," propose to purchase loans at par or at a discount not exceeding one percent. Although some commenters felt that this allowance gave an unfair advantage to the secondary market making the offer, none addressed the obvious fact the Congress itself in the 1980 amendments to the HEA allowed Authorities themselves to purchase at a one percent discount while at the same time recognizing the benefits they enjoyed from financing costs well below those incurred by commercial lenders. The one-point premium or discount for Authority loan purchases incorporated in section 438(d)(1)(C) would appear to be Congress' judgment of fair purchase terms, and a party challenging the fairness of a one percent discount offer bears the burden of demonstrating why a standard imposed on Authorities may not be used to measure reasonable offers from other parties. Whether or not the one percent discount provision now allowed in the "private offer" enjoys the Congressional sanction given to Authorities in section 438(d)(1)(C), the Secretary expects that no secondary market will incorporate such a provision in a private offer unless it represents a fair market price. The threat posed by other secondary markets, including an Authority itself, which could respond with competing offers to purchase at little or no discount in that area, should eliminate the use of a "private offer" at a discount greater than that actually dictated by free-market conditions as a predatory tactic to exploit the provisions of these regulations.

The Secretary recognizes that lenders may wish to sell to a secondary market a disproportionate share of their low balance, less profitable student loans, and that under prevalent policies, secondary markets, possibly including certain Authorities, may refuse to purchase such portions of the lenders' portfolios. Such lender policies may significantly affect the credit supply in an area, and the higher relative cost of servicing those low-balance accounts may be prohibitive for some parties operating on taxable credit sources. The Secretary has therefore expanded the "special access credit program" option in § 682.814(b) to allow an Authority to target these lenders which want to sell loans or groups of loans which do not fall within the terms of the "private offer." The Authority bears the burden of identifying this group of loans and it must further demonstrate both its own inability to finance such acquisitions with taxable borrowings, and the need for the additional credit generated by the purchase of such loan portfolios to meet identified loan demand. The Authority would, however, be able to include within this new category those groups of loans which another secondary market would not accept because the loans selected for sale by the lender do not reflect the composition of its loan portfolio as a whole.

Two other considerations support adoption of the private offer as a reasonable means of measuring credit available from secondary markets. First, the final rule recognizes that the amount of secondary market credit measured by the rule is an estimate, and as such, is open to question and revision if the amount of the estimate is implausible in light of past or current performance by that party. Under § 682.815(h)(3), an Authority may propose to the Secretary reasons why it considers a credit estimate received from a lender or secondary market to be overstated. The Secretary does not consider the mere fact that the amount of loans included in the terms of a private offer exceeds substantially the previous purchases of a party to be persuasive evidence that an estimate based in the offer is overstated. However, evidence that the maker of a private offer had not in fact complied with the terms of the offer or committed resources needed to close with willing sellers within a reasonable time could tend to support a charge by an Authority that the estimate provided by that secondary market was exaggerated.

Second, an Authority that does not choose to target its loan acquisition program to less profitable loans not

readily borne with taxable borrowing costs and that wishes to compete directly with the offeror for the same kinds of loans, may proceed to finance its program with taxable borrowings, for which it needs no ED approval. As discussed later in this preamble, the amount of taxable financing by Authorities has grown enormously in only one year, and the additional pressure of new restrictions on private activity bond issuances imposed under the Deficit Reduction Act of 1984 promises to increase the number of consumers of taxable credit and therefore entice more providers of such credit into the market. As the average account size of a portfolio grows, the ability to operate on taxable financing increases, both because full special allowance is paid on such loans and because servicing costs decrease for the same dollar amount of loans. The Secretary therefore expects that any Authority which chooses to compete with the maker of a "private offer" rather than serving a unique role in the local student loan marketplace, can be expected to finance its operations in the same way as its private competitors currently do, by taxable borrowings.

g. *Treatment of the Student Loan Marketing Association (SLMA) as a source of secondary market capital,* § 682.813(c). The preamble to the proposed rule explained the rationale for requiring all Authorities to consider SLMA as a source of secondary market credit. As noted in that preamble, for the Department in these rules to permit a State or its agencies and related non-profit groups directly or indirectly to exclude SLMA would be wholly inconsistent with the dual Congressional intent to provide lenders through SLMA with a source for loan liquidity, and to require Authorities to take into account existing sources of student loan credit before issuing new tax-exempt obligations.

SLMA can be excluded from an area by policies of either a guarantor or an Authority. Whether or not the Authority is directly responsible for the exclusionary policy is, in the first instance, irrelevant to the determination of the amount of credit SLMA could make available if no bar existed to its purchase program. Moreover, whatever the formal ties between an Authority and a guarantee agency in its service area, that relationship is substantial enough to regard the Authority as responsible for maintaining or changing an exclusionary guarantee agency policy or its effects.

If the policy is that of a non-profit guarantee agency, the Authority may not be able to dictate a change in that policy, but it can mitigate its effects by securing the services of a guarantee agency with no such exclusionary policies. If the policy is that of a State guarantee agency, it is one which the State, as the entity controlling both the guarantee agency and the Authority, can change. The Secretary therefore takes into account such exclusionary rules in reviewing the justification from an Authority even if those rules and practices are technically those of another entity. In determining whether exclusionary practices or policies exist, the Secretary will rely on information secured from the Authority, from guarantee agencies, State agencies, and SLMA itself.

The final rule includes specific examples of exclusionary rules which the Department believes do not suffice to allow an Authority to exclude SLMA from its assessment of available loan credit. One example of an indirect exclusion of SLMA from an area is a requirement by a guarantee agency in that area that student loans it guarantees be serviced and collected within that State in order to maintain in effect the guarantee originally given on those loans. While there may be benefits to local servicing of student loans, those benefits do not suffice, for at least two reasons, to support adopting such a rule where it would exclude needed credit from out-of-State secondary markets. First, the guarantee agency retains both the duty to examine all default claims to satisfy itself that the holders have complied with any standards it has adopted for the exercise of due diligence in loan collection, and the right to reject any claims which do not meet those standards. Second, where a holder's loan servicing practices consistently fall below those standards, the agency may take administrative action, with appropriate procedural safeguards for the holder, to limit the latter's participation in its program. These existing remedies, if properly used, should adequately protect the agency's interest without resort to procrustean measures such as requiring in-State servicing of guaranteed loans.

The final regulations explain, in section 682.813(c)(2), how the Secretary reviews justifications for new issues from Authorities which bar SLMA, or which serve areas in which other parties bar SLMA, from freely offering its secondary market program. The dual congressional purpose that no new issue be subsidized where existing credit would suffice to meet need, and that SLMA provide additional credit where needed on a nationwide basis through its loan purchasing program, together strongly indicate that the Secretary should not approve special allowance subsidies for issues generated because of any self-created shortages. The Secretary could reasonably have refused to consider any request for approval from an Authority serving in an area in which SLMA is barred. The Secretary acknowledges, however, that some credit shortage might conceivably exist were SLMA free to operate, and adopts here a rule which seeks to measure the amount of that shortage in the most reliable manner available under the circumstances created by the Authority or its sponsor.

To measure the amount of this conceivable shortage, the amount of secondary market credit SLMA might have made available were it free to operate must be estimated. One possible method of estimating this amount of credit would be to permit the Authority to use, in whole or in part, a survey of its lenders to project the amount of SLMA purchases in the absence of a bar to its operations. This option is not acceptable for at least two reasons. First, since in all likelihood no such sales had taken place in the recent past, and both lenders and Authority (or any other party conducting the survey for the Authority) would know that no such sales were actually to take place, the responses could only be complete speculation, with little economic incentive on the lenders' part to speculate in any direction other than that which would favor the claim of the Authority to minimizing the amount of "hypothetical" sales to SLMA reported to the surveyor. Moreover, not only would such a survey be based on speculation rendered even less reliable by the inherent lack of economic incentive for impartial projections, but the speculation is likely to be uniformed speculation. The Authority has created or inherited a situation in which lenders have been discouraged from dealing with SLMA. As a group, therefore, they have had little reason to familiarize themselves with the specific loan purchase terms SLMA might offer them were it free to operate, and projections based on that unfamiliarity would be unreliable on that ground also. For the reasons, the Secretary considers this method inherently flawed and unacceptable as a means of realistically estimating the amount of secondary market credit available from SLMA.

For these reasons, that only reasonably available means of estimating the credit that SLMA would have provided were it free to operate is to consider its activity on a national

level. To the extent that an Authority might argue that its lenders differ in their willingness to deal with SLMA from lenders in the nation as a whole, that difference cannot be separated in any reliable manner from the exclusionary policy or practice under which, or in response to which, it arose. The rule therefore uses the ratio of SLMA purchases to loan originations nationwide as the more reliable indicator of the credit available to that area from SLMA. Since the Authority or its sponsor is solely responsible for excluding SLMA, and can change that exclusionary policy or practice as it chooses, use of such an inference from the national experience gives an Authority no reasonable ground for complaint.

h. *Credit available to the Authority by means of taxable obligations,* § 682.813(d). The development of taxable credit as a realistic alternative to tax-exempt borrowing for student loan capital has proceeded dramatically since the publication of the proposed rule. According to information received by the Department and reported in the education press, student loan Authorities have arranged approximately $1.8 billion in taxable borrowings since the Department in December 1983 first asked Authorities proposing new tax-exempt issues to explore the possibility of securing credit by taxable obligations. These Authorities included both State instrumentalities and non-profit organizations, and they have used these funds both to acquire loans and to refund outstanding tax-exempt obligations.

In both the comments received on the proposed rule and in justifications submitted for approval of new issues, Authorities have raised certain problems regarding the required consideration of taxable borrowing. The Deficit Reduction Act of 1984 removed some of these problems and the Department has modified the regulations to deal with certain other problems which surfaced in this process. Some Authorities professed great concern about the legality of electing not to report the issuance of an otherwise tax-exempt obligation in order to render the obligation taxable, as well as the consequences of such taxable borrowing on outstanding and future tax-exempt issues. Section 625(c) of Pub. L. 98–369, the Deficit Reduction Act of 1984,

clarifies present law by allowing issuers of tax-exempt student loan bonds to make an election to treat any bond issue as a taxable bond, without prejudice to the status of the issuer's outstanding or future tax-exempt bonds, or the issuer's tax-exempt status.

Sen. Rep. No. 169, 98th Cong. 2d Sess. 708 (1984). Temporary regulations governing the making of such an election were promulgated by the Internal Revenue Service on September 10, 1984. 26 CFR 5h. 4(d), 49 FR 35490 September 10, 1984.

A second category of legal objection to taxable financing comes from those Authorities who claimed that State law prohibits them from issuing taxable debt instruments. Although no Authority or commenter has cited any State statute which specifically prohibits an Authority from borrowing by taxable obligations, the Secretary recognizes that States retain the right to limit the power given to their agencies or to organizations acting by their designation, and that such limits as interpreted by State courts may include restrictions on the types of obligations these agencies may issue. The Secretary also recognizes that such restrictions, whether based on statute or case law, are clearly within the power of the State to change. The issue here is not the right of a State to restrict the borrowing of its agents, but the power of Congress to set conditions on the payment of Federal subsidies. A claim that available credit will not meet student borrowing needs is not credible when a State excludes consideration of otherwise available taxable credit resources; such a claim should not suffice under section 438(d)(1)(G) to justify an asserted need for tax-exempt credit.

However, to accommodate those Authorities which demonstrate that State law presently precludes taxable borrowing, the final rule provides a grace period if two conditions are met. First, an Authority which contends that it cannot lawfully issue taxable obligations must secure a formal opinion from the Attorney General of the State in which it operates that State law prohibits such borrowing. Opinions from bond counsel are not accepted for this purpose. Furthermore, the Secretary agrees in this final rule to accept the opinion of the chief legal officer of a State solely because of the responsibility vested in that officer to interpret and administer State law. That opinion is entitled a presumption of expertise, and to deference appropriate in that expertise, only when it relies upon State law. To the extent that the Attorney General rests his or her opinion on an interpretation of the Federal Constitution to support a claim that the Authority lacks the legal authority to issue taxable obligations, that deference is relinquished. Because the existence of any Federal Constitutional ban on Federal taxation of interest income on State obligations is at this time doubtful, the Secretary does not consider persuasive an opinion which relies on the assertion of such a constitutional ban.

Second, to merit the benefit of the grace period, an Authority which contends that State law prohibits it from using taxable obligations must demonstrate that it seriously seeks to have removed the bar to taxable financing it now faces. The final regulations, therefore, require such an Authority to use its best efforts to have corrective legislation introduced and passed by the State legislature in session on the date these regulations become effective. Since the effective date is, by statute, at least forty-five days from the date of publication of these rules in the **Federal Register**, this rule provides the Authority at least one and one-half months within which to secure such an amendment even if the legislature were to adjourn shortly after that effective date. An Authority which is unwilling or unable to meet these two conditions for disregarding taxable credit must assess its availability like any other Authority.

As Authorities have explored the terms on which taxable credit is available, disputes have arisen regarding their ability to meet certain of those terms. To receive special allowances on loans acquired with an issue, an Authority must demonstrate that it made a good faith effort to use available credit other than tax-exempt credit; to do so, the Authority must demonstrate to the Secretary that it made a good faith effort to negotiate an extension of taxable credit, and that any objections to terms on which such credit was offered were reasonable and made in good faith.

Generally, an Authority shows that its rejection of an offer of taxable credit is reasonable where it demonstrates that it could not meet the terms on which the credit is offered because of factors beyond its control, such as limitations on its ability to meet collateral requirements imposed by State law or prior indentures, or because of higher administrative and servicing costs incurred because of the characteristics of its loan program. An Authority which contends that revenues under the proposed taxable transaction would not suffice to cover debt service and administrative costs must support that claim with cash flow projections based on assumptions appropriate for that transaction. The Secretary recognizes that cash flow projection is not an exact science; therefore, at a minimum, the Authority must show that in making its cash flow projections, it used, to the

extent possible, assumptions based on its own experience or that of similarly-situated holders.

The Secretary also recognizes that it is reasonable for an Authority to expect these cash flow projections to demonstrate some cumulative surplus as a precaution against unpredicted increases in its costs. Because no formula for determining the proper amount of "cushion" has been presented, the Secretary can only review this issue on a case-by-case basis. At a minimum, an Authority that projects a cumulative surplus which it considers inadequate must produce an analysis of the sensitivity of that surplus to changes in the various factors, such as inflation, average account size, etc., on which the cash flow projection rests.

If State law permits taxable borrowing, the Secretary considers it reasonable for an Authority to decline an offer of taxable credit only when the Authority demonstrates that it cannot afford those terms. A variety of other objections have been raised by Authorities to particular proposed taxable financing offers. Some are objections to terms which appear to be readily negotiable, such as acceptable securities to be pledged as collateral; the final regulations require a good-faith effort to reach agreement on such terms. Other objections were made to terms which relate purely to matters of administrative preference, such as the selection of a trustee or the custody of collateral. With regard to this second kind of objection, the Secretary concedes that an Authority retains the legal autonomy to stand on its prerogative to manage its business affairs in all details according to its discretion and not that of its creditors. An Authority which seeks to qualify under section 438(d)(1) for Federal special allowance payments, however, is no longer free to conduct its business entirely according to its preferences. the Secretary believes that insistence by an Authority on such prerogatives in matters which do not directly affect the ability to afford taxable financing tends to undermine any assertion that tax-exempt financing is necessary because credit from taxable financing is not available. The Secretary's reluctance to accept as reasonable those objections to proposed offers of taxable credit which rest on managerial and administrative preference rather than financial or legal inability is not, as some have complained, an unwarranted interference in the "business affairs" of the Authority. An Authority unwilling seriously to consider taxable credit can easily find administrative reasons for declining an offer of taxable credit which it has the resources to afford, and some scrutiny of those reasons is necessary to ensure that a good faith effort has been made to use available credit resources before resorting to tax-exempt borrowing.

By requiring an Authority to take into account existing sources of credit, the statute requires a good faith effort to secure taxable credit: implicit in that responsibility is the duty to enage in reasonable negotiations with parties who may offer such credit. the Secretary recognizes, as discussed earlier in this preamble, that an Authority may be truly unable to afford certain offers of taxable credit, or unable to meet the terms of an offer for reasons beyond its control. A party seeking to borrow a substantial sum would not expect the terms of an initial offer from a lender to be carved in stone; a borrower who could not meet the terms first offered would expect negotiate more favorable terms. A good faith effort to secure taxable credit should meet the same expectation. The final regulations therefore list certain steps which an Authority or other party seriously seeking a loan would be expected to take: To solicit offers of taxable financing; to respond promptly to any specific offer; to realistically measure its ability to meet its terms; and to attempt, where necessary, to negotiate modifications or alternatives to the original terms which could be met and which the lender might find acceptable. For example, an Authority lacking adequate numbers of loans in repayment might offer, as part of the transaction, to purchase from the inventory of the lender enough repayment loans to bolster its immediate revenues.

The final regulations specify some details of these steps in order to help the Authority better control the timing of the approval process. By meeting these elements fully in its initial contacts with its potential financiers, and by providing the specific documentation and explanations described here, an Authority can be assured that the Department will be able to understand and promptly review its justification without the need for extensive supplemental inquiries. The regulations prescribe certain specific details of the cash flow projections used to measure ability to afford taxable financing because ED's experience in reviewing such projections demonstrates the need to be able to compare readily the data elements and assumptions used to develop the projections, such as expected average account size and per-unit servicing costs, with data available to ED from other sources, including other reports from the Authority. Certain minimum standards are also needed to eliminate use of arbitrary and unrealistically dire estimates of reinvestment rates, borrower delinquency rates, Treasury bill rates, and inflationary effects on administrative and servicing costs.

The Secretary does not intend that the process of negotiating taxable financing be an interminable delay for an Authority reasonably unable to afford it. To receive approval for a proposed tax-exempt issue, the Authority must demonstrate, based on the terms of the offer of taxable credit as most recently modified, on its own experience with costs and portfolio composition, and on the standardized assumptions regarding Treasury bill and reinvestment rates set forth here, that the transaction would cause a deficit, or at very least, leave it no reasonable cumulative surplus. If the Authority has proposed to the lender modifications in those financial terms and receives no positive response within a brief but reasonable period, such as two weeks, the Authority may use the terms most recently proposed by that lender as the basis of its revenue projections under this Subpart.

i. *Assessing need in multi-Authority service areas.* § 682.814(c). The assessment of need for additional tax-exempt capital in areas served by several Authorities poses problems not encountered in other areas. To ensure that no overissuance occurs in those jointly-served areas, the Secretary requires those Authorities serving a common area to coordinate their measurement of loan demand and available resources, and to agree on the manner in which each will serve any unmet need identified in that area. These Authorities must agree, first, on the amount of student loans needed in that commonly-served area during the bond-use period of the Authority which applies for approval of a tax-exempt issue (the "applicant Authority"). Therefore, in estimating that need, an applicant Authority which uses a statistical analysis and projection to estimate the need for loans must secure the written concurrence of the other Authorities, in addition to that of the State agencies and groups described in § 682.815(a)(2)(iii). If the other Authorities do not concur, the applicant Authority may only estimate future need as equal to loan volume in its area in the most recent twelve-month period for which it has data. § 682.812(a).

Second, Authorities which share a service area must likewise agree on the amount of credit available from existing

sources of credit, including that to be made available from each other. The applicant Authority must therefore secure the written concurrence of the other Authorities sharing its service area in its estimates of credit to be provided by lenders and secondary markets other than the Authorities. If that concurrence cannot be secured, the applicant must estimate the amount of credit to be provided by those lenders based on their past performance. § 682.815(g).

In estimating the amount of credit to be provided by other Authorities, however, the applicant Authority should not include the amount of loans to be made or acquired with the proceeds of tax-exempt issues which have not been justified and approved by the Secretary under this Subpart, since such amounts are presumably speculative until that approval. To ensure that all Authorities comply with the statutory prohibition on overissuance, each Authority sharing a service area with another Authority must provide the applicant Authority with reliable information to identify any portion of its loan acquisition budget to be financed by tax-exempt issues not yet approved. The Secretary will, where necessary, assist the applicant Authority in determining this amount using information available to the Department from audits, Plans, issue justifications, or other sources.

Third, Authorities sharing a service area must reach agreement on the manner in which each will meet the needs identified there. The statute gives the Secretary no mandate to select one Authority over another to use tax-exempt funds to finance student loans for a commonly-served student population. Therefore, where two or more Authorities propose to finance loans for a commonly-served borrower population, they must agree on the respective portions of that unmet need which each will serve, and where they cannot agree, secure an equitable division by arbitration. Since an apportionment of a State's private activity bond limit among potential issuers is now imposed on State governments by section 621 of the Deficit Reduction Act of 1984, the Secretary expects that in many instances the apportionment required under this Subpart will be governed by the allocation decisions made by the State in which the Authorities operate, and will add no burden beyond that already imposed by these amendments to the Internal Revenue Code.

j. *Review by the Secretary of the Treasury.* § 682.822(c). The final regulations include a new provision which allows the Commissioner of Internal Revenue to review any ED decision regarding a justification for a proposed tax-exempt obligation. This provision implements section 646 of the Deficit Reduction Act of 1984 (Pub. L. 98-369, July 18, 1984, 98 Stat. 941). This right to review given to affected parties applies only to ED decisions regarding approval of new issues, not to other decisions under this Subpart. *See* 130 Cong. Rec. S 4513 (April 12, 1984). The Secretary of Education will consider his decision in light of the report issued by the Commissioner, and will communicate a final decision to the Authority within 30 days of receiving that report.

k. *Payment of special allowances to parties acquiring loans from or on behalf of an Authority.* §§ 682.823, 682.302(e). The regulations clarify the rights of parties which acquire from or on behalf of an Authority loans financed with tax-exempt obligations. Parties which acquire loans on behalf of an Authority using funds advanced by the Authority are acting as its agent and acquire no greater rights than the Authority. § 682.800. On the other hand, parties which acquire loans from an Authority by purchase in a secondary market transaction, or by exercise of a take-out agreement used as a credit support for an issue, typically do so using funds derived from sources other than tax-exempt obligations. The regulations provide that any sanctions or limitations imposed under this Subpart on loans financed by those tax-exempt obligations apply only so long as the loans remain financed by tax-exempt obligations. See §§ 682.823; 682.302(e). Therefore, any party which uses funds derived from sources other than tax-exempt obligations to acquire loans from an Authority, or, if an Authority, to refinance those loans, takes or holds those loans free of any sanctions previously imposed on the Authority.

The regulations do not specifically address the rights of an Authority which uses tax-exempt financing to acquire loans from another Authority. However, only an Authority or an entity acting on behalf of an Authority can issue tax-exempt obligations; loans acquired even from another Authority with the proceeds of a tax-exempt issue qualify for special allowance payments only if the issuing Authority has both an approved Plan and a justification approved under this Subpart for the issue in question.

l. *Special allowance rate payable on taxable financing.* § 682.302(e). The regulations also clarify the closely related issue of the rate of special allowance payable on loans acquired with funds derived from sources other than tax-exempt obligations. The rule implements the Congressional intention in section 438(b)(2) of the HEA to reduce special allowances to parties whose lower cost of borrowing does not justify Federal subsidy at the rate paid commercial lenders. These regulations therefore tie the rate of special allowance to the source of the funds used to acquire or maintain the Authority's interest in a loan, and more particularly, to the financing costs incurred in securing those funds. Congress recognized that a party raising loan acquisition funds by means of tax-exempt borrowings had a financing cost well below that incurred by parties using other sources of funds, and the 1980 amendments to section 438 of the HEA which reduced the special allowance to tax-exempt borrowers reflect a Congressional judgment of the subsidy appropriate to their reduced borrowing costs. A party using taxable financing to make or acquire student loans has a higher cost of funds, and merits, on that accunt, the higher, full special allowance rate. While taxable financing was not generally used by Authorities, there was little need to address the rate payable to a party which shifted from tax-exempt to taxable financing, but that issue must now be addressed. This shift from tax-exempt to taxable financing occurs in two situations. First, a party may use taxable financing to acquire loans from an Authority or its agent by means of a normal secondary market transaction, by exercise of its foreclosure rights under a letter of credit furnished the tax-exempt issuer, or by the exercise of a "take-out" commitment given as a credit support to an issuer. In each of these instances, it is fairly clear that the party acquiring the loans has only one financing cost, and does not share in any way in the reduced borrowing cost enjoyed by the issuer of the bonds. These purchasers therefore receive full special allowance on loans so acquired.

Second, the issuer may shift from tax-exempt to taxable financing when refunding tax-exempt obligations. Here the actual financing cost incurred by that issuer depends on both the interest rate paid on obligations used to effect the refunding, and, if the refunding is an advance refunding, on the yield earned on the investments used to defease the prior tax-exempt bonds. Where a party uses taxable financing to retire tax-exempt bonds, its current borrowing costs is based entirely on the cost of the new funds, and such a party qualifies for full special allowance on loans financed

by such a taxable refunding obligation. However, a party may advance refund a prior, tax-exempt issue with an amount of taxable borrowings far less than the amount needed to pay debt service and, at maturity, the principal on those bonds, unless the yield on the investment used to defease the prior issue is restricted. Unless that yield is restricted, therefore, an issuer using taxable borrowings to advance refund a tax-exempt issue would have financing costs well below those of a party using taxable obligations to finance an amount equal to the amount of the outstanding bonds. That reduced cost of borrowing to defease the outstanding tax-exempt bonds more closely resembles the original financing cost of those bonds, and may in fact be less than that original cost. To pay full special allowance on loans acquired with tax-exempt bonds which have been advance-refunded with taxable borrowings would create the same windfall that Congress sought to prevent in the 1980 amendments.

However, if the yield on the investments used to defease the prior tax-exempt bonds is restricted in the manner specifically required by IRS regulations for investments of proceeds of tax-exempt advance refunding issues, the issuer's borrowing costs are considerably higher, and more closely resemble those of a party financing with taxable borrowings an amount of credit equal to the original tax-exempt issue. If the yield were to be so restricted, that higher cost of borrowing with taxable obligations merits the higher, full special allowance rate.

The Secretary recognizes that the Internal Revenue Service has not, as yet, published any position which would apply to taxable advance refundings the arbitrage limitations applicable under its regulations to tax-exempt refundings. Whether such limitations apply to taxable refundings is an issue within the jurisdiction of the IRS: this final rule does not, on this or any other matter related to matters also regulated by the IRS, purport to promulgate a requirement under Federal tax law. Just as clearly, however, the Secretary has jurisdiction to determine the conditions under which Federal subsidies will be paid. Congress clearly intended the amount of subsidy paid in the form of special allowance to bear a reasonable relation to the cost of borrowing the capital used to finance acquisition of student loans. The statute makes a rough division of financings into taxable and tax-exempt, directing the Secretary to pay a reduced rate on the latter because of their generally lower cost of funds, without individual analysis to determine whether in particular cases a tax-exempt financing cost might not more closely approximate that of a taxable financing. Because a party using proceeds of taxable borrowings invested at unrestricted yields to advance refund tax-exempt bonds will generally incur borrowing costs which do not differ significantly from those that would have incurred had the prior issue not been defeased, the Secretary consider such parties to continue to have the same lower borrowing costs and will pay them no more than the reduced special allowance rate.

The final rule, conversely, allows payment of a full special allowance where taxable borrowings are used to advance refund tax-exempt bonds if the Authority contractually binds itself, in a written certification to the Secretary, to comply with the yield restrictions applicable under IRS rules to tax-exempt refundings. Where questions arise regarding compliance with those rules, the Secretary will rely upon guidance and interpretations provided by the IRS. This rule, moreover, does not purport to establish a right to use any particular type of governmental obligations to defease the prior tax-exempt issue, or to acquire obligations in a manner not sanctioned by IRS interpretations, but merely assures a party which adopts and complies with those yield restrictions that this Department will provide a full special allowance on student loans so financed.

m. *Audit requirements,* § 682.830. The final regulations contain a new section which details areas which must be examined in an audit of an Authority's operation. Not infrequently, audits received from Authorities have shown only the most cursory review, if any, of the Authority's complaince with its Plan for Doing Business. Such a review is expressly mandated by statute, and audits which do no more than review the financial condition of the Authority are not acceptable. The audit must examine the Authority's compliance with each provision required in the Plan and articulate an opinion on the Authority's performance under that provision. The audit must also examine and categorize the expenditures of the Authority using cost categories common to Federally supported programs. The Secretary expects that use of these categories will generate a data base which will permit a comparison of various costs among Authorites and facilitate a determination whether particular new costs are reasonable. *See* § 682.813(d).

n. *Effective date: transition period.* Because several Authorities have already submitted justifications for proposed new issues and *ad hoc* amendments to Plans according to the case-by-case review procedures currently in place, and other Authorities have been developing justifications for review under those procedures, the Secretary will, for a limited time, continue to evaluate such submissions on a case-by-case basis as is currently done, under certain circumstances.

To ease transition into the new requirements for these Authorities, the Secretary establishes a 30-day grace period to begin on the effective date of these regulations. This grace period allows an Authority an additional period of time to collect and submit the materials necessary to complete a justification submitted before the effective date and to have that justification reviewed under the case-by-case, *ad hoc* procedures now used. The Secretary will review the justification according to the *ad hoc* procedures if:

(1) An Authority submits a complete justification before the effective date of these regulations.

(2) An Authority completes, before the effective date, a justification submitted before that date.

(3) An Authority completes, before the end of the grace period, a justification submitted before the effective date.

The Secretary reviews all other justifications, all formal amendments to Plans, and any new Plans, according to these final regulations.

All Authorities must submit new Plans or amendments to their current Plans to comply with these final regulations within 30 days of the effective date of these final regulations.

**Comments and Responses**

A number of comments to the proposed rule were received; the summarized comments and the Secretary's responses to them are found in Appendix A of these final regulations.

**Concurrent Publication as Proposed Rule**

In this issue of the **Federal Register**, the Secretary is also issuing these final regulations as a Notice of Proposed Rulemaking with an additional provision implementing the anti-discrimination requirements of section 438(d)(2) of the HEA. This gives the public an opportunity to comment on these final regulations and allows the Secretary to amend them in a more timely manner than if a Notice of Proposed Rulemaking

were later issued incorporating any revisions.

**Finality of Administrative Decisions Under This Subpart H**

Section 438 of the Higher Education Act describes the holder of an eligible loan as having a "contractual right against the United States during the life of such loan, to receive the special allowance according to the provisions of this section." (20 U.S.C. 1087-1(b)(3)) By describing the relationship between the holder of the loan and the United States as contractual, this language may suggest that judicial review under some standard other than that provided under the Administrative Procedure Act was meant to apply to judicial review of decisions under this Subpart. The Secretary therefore includes in these regulations a finality clause as a term of this contract between the Authority and those taking from or acting on behalf of the Authority, and the United States. Inclusion of such a clause in a contract with the United States brings judicial review of decisions arising under that contract within the provisions of the Wunderlich Act, 41 U.S.C. 321-322, which provides for substantially the same standards of review as those found in section 708 of the Administrative Procedure Act. The Secretary believes that this addition to the regulations clarifies the standard that would ordinarily be expected to apply to his decisions, and precludes application of the *de novo* review standard.

**Executive Order 12291**

These regulations have been reviewed in accordance with the Executive Order 12291. They are classified as non-major because for several reasons they do not meet the criteria for major regulations established in section (1)(b) of the Order.

First, there is no reasonable basis to expect that the regulations will result in an annual effect on the economy of $100 million dollars or more, or in major increases in costs to student loan borrowers, to banks and other lenders extending student loan credit, or to the Authorities themselves. The final regulations have substantially reduced the information-gathering requirements contained in the proposed rule, and permit Authorities, in lieu of conducting their own surveys, to rely mostly upon information available from centralized sources, principally the guarantee agencies serving its area. Issuers of student loan bonds are already required by section 103 of the Internal Revenue Code (IRC) and IRS regulations to gather sufficient information to support a reasonable expectation that proceeds of an issue will be timely spent to make or purchase student loans. The additional cost of the inquiries and reports required solely for compliance with these regulations is not expected to be substantial.

Second, if these regulations are construed to require Authorities which are legally and financially able to use taxable financing to do so, no major net increase in costs is imposed on those Authorities, because they qualify for a higher subsidy in the form of full special allowance payment on loans acquired with taxable financing. The formulas used to calculate special allowances payable where taxable and tax-exempt financing are used have been adopted by Congress based on its judgment of the amount of subsidy needed to meet the differing costs of capital under those two kinds of borrowing. Relying on that Congressional finding, the Secretary believes that any increase in borrowing costs for Authorities using taxable credit is fully offset by the increase in special allowance paid to them, and therefore use of taxable credit causes no major *net* increase in costs to those Authorities.

Third, these regulations are not likely to result in adverse effects on competition. The Authorities are, in most instances, created by or at the invitation of a State or local government unit to fill a need for student loan credit and liquidity in addition to that available from competitive, free market private sources. In most cases each Authority is given what can amount to a limited monopoly in its geographic service area; to the extent that these regulations require Authorities which seek Federal subsidies to assess the availability of private capital, the exercise of that monopoly is limited to situations in which private credit will not suffice to meet borrower needs. To the extent that exercise of such governmentally-supported credit is thus limited, the ability of private credit sources to compete freely is enhanced.

**Regulatory Flexibility Act Certification**

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. All Authorities affected by these regulations are either non-profit organizations or are agencies or subdivisions of State and local governments. Those Authorities which are agencies or subdivisions of State governments are not small entities as defined in the Regulatory Flexibility Act (RFA). 5 U.S.C. 601 (5), (6). Those Authorities which are non-profit organizations do not fit the RFA definition of small entity. 5 U.S.C. 601(4), for two reasons. First, as operators of qualified scholarship funding programs under section 103(e) of the IRC, they function only at the request and designation of the State; they must operate, generally, within that State; and they must pay over to that State any income not used for debt service or student loan purposes. They function more like surrogate government agencies than do other, more independent non-profit organizations and as such, do not merit the consideration given in the RFA to such unrelated and independent organizations. Second, even if non-profit Authorities were considered to be independently owned and operated, most enjoy an exclusive franchise as the only non-profit student loan secondary market in their respective areas, and are therefore the dominant organization of that type in that area. Most, therefore, do not qualify under the RFA for these reasons as small entities.

**Assessment of Educational Impact**

In the Notice of Proposed Rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the absence of any comments on this matter and the Department's own review, it has been determined that the regulations in this document do not require information that is being gathered by or is available from any other agency or authority of the United States.

**List of Subjects in 34 CFR Part 682**

Administrative practice and procedure, Colleges and universities, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

**Citation of Legal Authority**

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these final regulations.

(Catalog of Federal Domestic Assistance Number 84.032, Guaranteed Student Loan Program and PLUS Program)

Dated: February 4, 1985.

**Gary L. Jones,**

*Acting Secretary of Education.*

The Secretary amends Part 682 of Title 34 of the Code of Federal Regulations as follows:

## PART 682—[AMENDED]

1. A new subpart H is added to Part 682 to read as follows:

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### Subpart H—Special Allowance Payments on Loans Made or Purchased With Proceeds of Tax-Exempt Obligations

Sec.



### Subpart H—Special Allowance Payments on Loans Made or Purchased With Proceeds of Tax-Exempt Obligations

#### § 682.800 General.

An Authority that issues tax-exempt obligations in order to make or acquire loans under the Guaranteed Student Loan (GSL) or PLUS programs, or to advance funds to another entity for those purposes, shall submit a *Plan for Doing Business* (Plan) to the Secretary. In order for the Authority, or the recipient of those funds from the Authority, to receive special allowance payments on those loans, the Secretary must approve the Plan. This subpart lists the requirements which must be addressed in the Plan, the procedures for its submission, and the documentation required with the Plan. The Plan must also include provisions that meet the standards established in this subpart.

(20 U.S.C. 1082, 1087–1)

#### § 682.801 Definitions applicable to Subpart H.

The definitions contained in § 682.200 apply to this subpart. In addition, the following definitions apply to this subpart:

*Authority* means any entity, public or private non-profit, which may issue tax-exempt obligations in order to obtain funds to be used for the making or purchasing of GSL or PLUS loans. The term "Authority" includes any agency, including a State postsecondary institution or any other instrumentality of a State or local governmental unit, regardless of the designation or primary purpose of that agency, which may issue tax-exempt obligations. The term also includes any party authorized to issue such obligations on behalf of a governmental agency, and any non-profit organization that issues qualified scholarship funding bonds under 26 U.S.C. 103(e).

*Bond-use period* of an issue means the period in which the lendable proceeds of the obligation or obligations comprising the issue will be used to make or purchase student loans.

*Issuing expense* means the costs of issuing the obligation, including survey costs, advertising and printing costs, fees of financial advisors and counsel, initial fees of trustees, paying agents, certifying or authenticating agents, and similar expenses.

*Loan* or *student loan* means any loan made under the GSL or PLUS programs.

*Lendable proceeds* means that portion of the original proceeds as defined in 26 CFR 1.103–13(b)(2)(i) which is neither deposited in a reasonably required reserve or replacement fund as defined in 26 CFR 1.103–14(d), nor committed, under the terms of the indenture or other agreement governing the issue, to be used for debt service or administrative and servicing costs of the Authority.

*Obligation* means any interest-bearing debt or original issue discount debt incurred by an Authority pursuant to its borrowing powers. As used in this subpart, this term means only an obligation issued to acquire funds for financing or refinancing the making or purchasing of student loans.

*Proceeds* means that term as used in 26 CFR 1.103–13(b)(2).

*Refunding issue* means one described in 26 CFR 1.103–14(e)(2).

*Service area* means the geographic area in which the Authority may do business under the Plan.

*Short-term obligation* means an obligation with a maturity of 270 days or less.

*Source of student loan credit* means a party which may make or purchase student loans, or provide funds to be used for those purposes.

*Tax-exempt obligation* means any obligation, the income from which is exempt from taxation under the Internal Revenue Code of 1954.

(20 U.S.C. 1082, 1087–1)

#### § 682.802 Provisions required in Plan.

(a) Each Plan submitted for the approval of the Secretary must contain provisions necessary to ensure that—

(1) If an Authority acts as a secondary market for student loans, it shall exclude no eligible lender in the service area from participation in its program, and shall permit all eligible lenders to participate in its program on the same terms and conditions;

(2) No director, officer, or staff member of the Authority who receives compensation from the Authority may own stock in, or receive compensation of any kind from, any agency or organization that contracts to service and collect the loans in which the Authority has a legal or equitable interest;

(3) The Authority shall not purchase student loans at a premium or discount amounting to more than one percent of the unpaid principal amount borrowed plus interest accrued to the date of acquisition;

(4) The Authority shall not pay transfer fees in excess of the costs of transferring a loan portfolio or a portion of it from the lender to the Authority;

(5) The Authority shall, within the limits of funds available and subject to applicable State and Federal law, make loans to, or purchase loans made to, all eligible borrowers who are residents of, or who seek loans for a student to attend a school within, the service area of the Authority;

(6) The Authority has a plan under which the Authority shall pursue both the recruitment of new lenders to participate in a continuing program of benefits to students under both the GSL and PLUS programs and the maintenance of existing lender commitments to the program;

(7) The Authority shall secure an annual audit of its loan program operations by a certified public accounting firm which will include a review performed in accordance with the audit standards found in § 682.830 of this subpart; and

(8) The Authority will not issue tax-exempt obligations for amounts in excess of the unmet need determined according to this subpart for student loan credit.

(b) The Secretary approves the Plan if it is submitted in the manner described

in § 682.803, includes provisions needed to implement the requirements in this section and meets the standards set forth in this subpart.

(20 U.S.C. 1082, 1087–1)

**§ 682.803 Submission of Plan for approval—required documentation.**

An Authority shall submit with, or include in, each Plan submitted for the approval of the Secretary the following:

(a) If the Authority is a secondary market, a description of the procedures used to inform eligible lenders of the program of the Authority, samples of announcements to lenders regarding the Program, and a listing of the types of lenders and numbers of each type so informed.

(b) If the Authority contracts with an agent to service or collect loans in which the Authority has a legal or equitable interest, a sample of the form signed by all directors, officers, and staff of the Authority who receive compensation from the Authority certifying that these persons do not own stock in or receive compensation of any kind from that agent and a list of the persons who have signed the form.

(c) If the Authority is a secondary market, a schedule of the amount of loan transfer fees paid or to be paid by the Authority to parties from whom it purchases loans and, if the amount of a loan transfer fee is based on an estimate, an explanation of how that estimated amount was determined.

(d) A copy of any Federal or State law that the Authority believes limits its ability to make or purchase loans made to any eligible borrowers who are residents of, or who obtained loans for a student to attend a school located within its service area.

(e) A copy of the plan under which the Authority pursues both the recruitment of new lenders to participate in a continuing program of benefits to students under both the GSL and PLUS programs and the maintenance of existing lender commitments to the program.

(f) A copy of the most recent independent audit of the Authority performed in accordance with the audit standards found in § 682.830 of this subpart.

(g) A copy of any survey instrument or written inquiry form to be used to solicit from schools, lenders, and secondary markets information from which the Authority measures unmet need for student loan credit.

(h) A certification that the Authority is in compliance with section 438(d)(2) of the Act (regarding patterns or practices resulting in denial of access to student loan credit for certain borrowers).

(20 U.S.C. 1082, 1087–1)

(Approved by the Office of Management and Budget under control number 1840–0554)

**§ 682.804 Amendments to Plan.**

(a) After a Plan is approved, an Authority shall submit to the Secretary amendments to the Plan or such documentation as may be needed to reflect accurately the policy and practice of the Authority within 30 days of the date that—

(1) An Authority amends any provision of a Plan which had previously been approved by the Secretary; or

(2) Any documentation or representation previously submitted pursuant to § 682.803 has been revised or rendered inaccurate in any material aspect.

(b) An Authority shall promptly amend its Plan to comply with changes in applicable statutes and regulations.

(20 U.S.C. 1082, 1087–1)

(Approved by the Office of Management and Budget under control number 1840–0554)

**§ 682.805 Approval of Plan.**

(a) The Secretary promptly reviews a Plan submitted for approval to determine whether or not it is complete. If the Secretary finds that the information or documentation submitted in or with a Plan is not complete, the Secretary provides an explanation to the Authority of why the Plan is incomplete.

(b) The Secretary approves or disapproves the Plan within 30 days after receipt of a complete Plan submission.

(c) A complete Plan submission includes—

(1) A Plan which adopts the specific provisions listed in § 682.802 of this subpart; and

(2) The documentation described in § 682.803 of this subpart.

(20 U.S.C. 1082, 1087–1)

**§ 682.806 Failure to comply with Plan.**

(a) If the Secretary finds that an Authority has failed to comply with any requirement of its Plan or of this subpart, the Secretary takes actions necessary to protect the interests of the United States. These actions may include the following:

(1) Withholding payment of special allowances.

(2) Suspending or revoking approval of the Plan.

(3) Determining that loans made or purchased with the proceeds of a tax-exempt obligation by the Authority or any entity acting for the Authority after the date of suspension or revocation are ineligible for payments of special allowances.

(4) Requiring reimbursement from the Authority of special allowances paid on loans made or purchased by the Authority or any entity acting for the Authority.

(b) The Secretary's decision to require repayment of funds by an Authority, to withhold payments of special allowance, or to suspend or revoke approval of a Plan does not become final until the Secretary provides the Authority with written notice of the intended action and an opportunity to be heard thereon. However, the Secretary may withhold payments or suspend approval of the Plan prior to giving notice and opportunity to be heard if the Secretary finds such emergency action necessary to prevent substantial harm to Federal interests.

(c) Once final, the Secretary's decision to require a repayment of funds or to take other remedial action against an Authority under this section is conclusive and binding on the Authority.

(20 U.S.C. 1082, 1087–1)

**Note.**—A decision by the Secretary under this section is currently subject to judicial review under 5 U.S.C. 706 and 41 U.S.C. 321–322.

**§ 682.807–682.809 [Reserved]**

**§ 682.810 Standards for provisions of Plans for Doing Business—Need for proposed tax-exempt obligation.**

To implement the requirements of § 682.802(a)(8), an Authority shall adopt provisions to determine, according to the standards, methodology, and procedures prescribed in §§ 682.812 through 682.815 and §§ 682.820 through 682.822, that the amount of the lendable proceeds of any proposed issue of tax-exempt obligations does not exceed the unmet need for student loan credit in its service area during the bond-use period of that issue. To make the determination, the Authority shall first estimate the need for student loan credit in its service area according to the standards described in § 682.812, or, in the case of a refunding issue, in § 682.820. The Authority shall then identify the credit resources available to meet that need, and estimate the amount of credit available from those resources, according to the standards described in § 682.813. That portion of the estimated need that exceeds the credit available from these resources is the unmet need, as described in §§ 682.814 and 682.820. The Authority shall include in its Plan provisions to measure those elements which meet the methodology requirements in §§ 682.815 and 682.821. For each particular tax-exempt obligation, the Authority shall

demonstrate to the Secretary its compliance with these requirements in the manner described in § 682.822.

(20 U.S.C. 1082, 1087–1)

**§ 682.811 Timing and advance repayment of tax-exempt obligations.**

(a) *General.* An Authority may issue tax-exempt obligations in order to obtain funds—

(1) To make or purchase student loans, or provide funds to another for the making or purchasing of student loans;

(2) To retire an obligation issued to obtain funds for these purposes; or

(3) To retire an obligation issued to retire a prior retirement issue.

(b) *Time of issuance.* An Authority shall issue no tax-exempt obligation—

(1)(i) Earlier than six months before the bond-use period commences; or

(ii) If the obligation is part of a refunding issue, earlier than thirty days before it retires the prior obligation; and

(2) Except as provided in paragraphs (d) and (e) of this section, later than one year after the Secretary approves the determination of need for the obligation under § 682.822.

(c) *Bond-use period.* (1) An Authority shall issue no tax-exempt obligation for which the bond-use period exceeds—

(i) One year, for those proceeds to be used to make loans; or

(ii) Two years, for those proceeds to be used to purchase loans.

(2) An Authority shall use proceeds of a refunding issue to retire the prior obligation no later than 30 days after the date of issuance of the refunding issue.

(d) *Short-term obligations.* (1) At any time after the approval of an issue and before the end of the bond-use period of that issue, an Authority may, without review by the Secretary, issue a short-term obligation in order to replace or refund—

(i) All or part of that approved issue; or

(ii) A short-term obligation issued to replace or refund all or part of that approved issue.

(2) Short-term obligations issued pursuant to this paragraph retain the same bond-use period as the approved issue, and must be retired in accordance with the provisions of paragraph (g) of this section.

(e) *Credit support obligations.* At any time and without regard to other provisions of this subpart, an Authority may issue an obligation to evidence disbursements made under a credit-support agreement, such as a letter of credit, and promptly used to retire all or part of an issue approved under this subpart.

(f) *Resale of obligations.* At any time and without regard to other provisions of this subpart, a party providing credit support to an Authority, or a marketing agent or similar party, may resell an approved obligation or a short-term obligation described in paragraph (d) of this section which it acquired at the demand of a previous holder of the obligation.

(g) *Advance repayment.* (1) *Unexpended proceeds.* (i) Except as provided in paragraph (g)(1)(ii) of this section, at the close of the bond-use period of an issue, an Authority shall promptly repay obligations comprising that issue with all lendable proceeds of that issue not expended in the bond-use period for the purposes in paragraph (a) of this section.

(ii) An Authority need not use unexpended lendable proceeds to repay its obligations under paragraph (g)(1)(i) of this section to the extent that the Authority can demonstrate an unmet need for the unexpended funds (in accordance with §§ 682.814 or 682.820, as appropriate) by means of—

(A) A justification for another issue; or

(B) A separate justification.

(2) *Loan repayments.* An Authority shall use all loan repayments to repay its obligations in accordance with the requirements of paragraph (g)(3) of this section. For purposes of this section, the term "repayments" includes all payments of principal, interest, and late charges received from borrowers and all payments on default, death, disability, and bankruptcy claims received from a guarantee agency or the Federal government.

(3) (i) An Authority shall use all available repayments on loans acquired with the proceeds of an issue to retire a portion of that issue no later than the earlier of—

(A) Receipt of loan repayments in the amount of at least 20 per centum of the lendable proceeds of the issue; or

(B) Four years after the date of issuance, provided that loan repayments in an amount of at least five per centum of the lendable proeeds of the issue have been received.

(ii) An Authority shall make subsequent repayments of obligations annually on the anniversary of the most recent repayment made pursuant to paragraph (3)(i) of this section, provided that loan repayments in an amount of at least five per centum of the lendable proceeds of the issue have been received since that repayment.

(iii) An Authority need not use to retire outstanding obligations an amount of loan repayments not exceeding the difference between—

(A) The amount of annual debt service due on obligations outstanding after the most recent redemption and an additional one-twelfth of that annual debt service; and

(B) The amount repayments which the authority expects to receive in the twelve months succeeding the most recent redemption.

(20 U.S.C. 1082, 1087–1)

**§ 682.812 Estimating need for student loan credit.**

(a) An Authority shall estimate the reasonable need for student loan credit in its service area during the bond-use period to be equal to—

(1) The student loan volume in that area for the most recent twelve-month period for which actual data is available multiplied by the number of years in the bond-use period; or

(2) An estimated amount of need for student loans for the bond-use period based on a statistical analysis of historical data and credible assumptions regarding changes in the bond-use period.

(20 U.S.C. 1082, 1087–1)

**§ 682.813 Estimating resources available for student loan credit.**

An Authority shall estimate the amount of credit available for student loan credit in its service area during the bond-use period to include credit from the following sources:

(a) *Credit available from direct lenders.* An Authority shall include the total net amount of new credit expected to be made available during the bond-use period in its service area to students by direct lenders other than the Authority without regard to expected purchases by secondary markets as either—

(1) The amount of new student loan credit extended in that service area during the most recent twelve-month period for which data is available by lenders other than the Authority, minus the amount of loans sold to any secondary market during that same period, plus any net increase in student loan credit expected to be made available in the service area by those lenders identified to the Authority by the Secretary; or

(2) the amount of new student loan credit which such lenders represent, or are deemed to represent, that they expect to make available, minus the amount of loans they expect to sell to secondary markets, duirng the bond-use period.

(b) *Credit available from an Authority.* An Authority shall include as an available resource, to the extent that

no statutory, regulatory, or contractual provision bars their use during the bond-use period for new student loan credit, the estimated amount, as of the beginning of the bond-use period, of—

(1) Any unexpended lendable proceeds of prior issues;

(2) Any repayments on loans held by the Authority; and

(3) Any other liquid assets of the Authority.

(c) *Credit available from secondary markets other than the Authority.* An Authority shall estimate the total amount of credit expected to be made available in its service area from all secondary market sources. The amount of credit available from a secondary market is the amount of loans it expects to purchase in the service area over the bond-use period. In making this estimate, an authority shall consider the Student Loan Marketing Association to be an available resource.

(1) An Authority shall include as the total amount of expected loan purchases during the bond-use period by secondary markets active in its service area the sum of the following amounts of loans for borrowers in that area:

(i) Loans included in executed loan purchase contracts.

(ii) Loans included in loan purchase contracts under negotiation.

(iii) Loans included in neither executed loan purchase contracts nor contracts under negotiation which are held by lenders active in its service area to which a secondary market has made both—

(A) An individual solicitation, in writing, to enter into a contract for the purchase of specific types of loans at par or at a discount not exceeding one percent; and

(B) A commitment, in writing, to provide sufficient staff and administrative resources to enable the lender and the secondary market to close a loan purchase agreement within a reasonable time, not exceeding 90 days, from the receipt of the initial positive response of that lender to the solicitation.

(iv) Loans included in neither the actual nor proposed contracts described in paragraphs (c), (1), (i), (ii), and (iii) of this section which a secondary market estimates that it will purchase based on its purchase activity in that area during the most recent three-year period for which data is available.

(2) An Authority operating in a State in which the Student Loan Marketing Association is barred from purchasing loans shall include as an available resource the amount of loans that the Student Loan Marketing Association would be expected to purchase in the service area during the bond-use period if the Student Loan Marketing Association were not barred. The Authority shall deem that the Student Loan Marketing Association would purchase loans in the service area during the bond-use period in the same proportion to the projected student loan volume during that period in that area as the total amount of loan purchases by the Student Loan Marketing Association during the most recent twelve-month period for which data is available bears to the total amount of loans disbursed during that same period in all States except those which the Secretary has found to have barred the Association from purchasing loans during the most recent two years for which data is available. For purposes of this subpart, the Association is barred from purchasing loans in any State in which—

(i) Any State law or guarantee agency policy prohibits the Student Loan Marketing Association from purchasing loans or benefitting from the guarantee of the agency on student loans it purchases which were previously guaranteed by that agency;

(ii) Any requirement exists that loans guaranteed by a guarantee agency be serviced within that particular State; or

(iii) A guarantee agency fails to confirm in writing, upon request by the Association, that the full benefit of its guarantee continue to apply to loans previously guaranteed by that agency which are thereafter acquired by the Student Loan Marketing Association.

(3) A bar exists in a State until an Authority or other party eliminates the exclusionary policy or practice, or takes other action necessary to ensure that the Student Loan Marketing Association is no longer excluded, such as arranging with other agencies or organizations to offer in that area a loan insurance program under which the Student Loan Marketing Association can acquire loans guaranteed under the GSL and PLUS programs.

(d) *Credit available to the Authority by means of taxable obligations.* (1) An Authority shall estimate the amount of any funds reasonably available to the Authority from the Student Loan Marketing Association or other sources by means of taxable obligations. Credit is reasonably available by means of taxable obligations from such sources if—

(i) The Authority will have sufficient assets and revenues to meet the terms on which such credit can generally be obtained, in light of reasonable servicing and administrative costs to be incurred for the portfolio to be financed with that credit; and

(ii) Subject to paragraphs (d) (2) and (3) of this section, State law does not bar the Authority from issuing taxable obligations.

(2) An Authority which contends that State law prohibits it from issuing taxable obligations may, for periods specified in paragraph (d)(3) of this section, disregard credit otherwise available from that source if that Authority—

(i) Submits to the Secretary a written opinion of the State attorney general that State law prohibits the Authority from issuing obligations, the interest income of which is taxable under the Internal Revenue Code. To demonstrate for purposes of this subpart that State law prohibits such borrowing, the opinion must articulate the specific State constitutional provision, statute, or case law which prohibits such borrowing, and cannot rely upon any claim of Federal constitutional or statutory right as a basis for this interpretation of State law; and

(ii) Commits itself to exercise its best efforts to have introduced and passed by the State legislature during the sessions described in paragraph (d)(3) of this section any amendment necessary to enable the Authority to issue taxable obligations.

(3) (i) If State law specifically bars the Authority from issuing taxable obligations, the Authority may disregard this credit source in assessing unmet need for obligations issued before the 90th day after adjournment of that session of the State legislature which includes the effective date of these regulations, or, if none includes that date, the next session after that date.

(ii) If a provision of the State constitution specifically bars the Authority from issuing taxable obligations, the Authority may disregard this source in assessing unmet need for obligations issued within one year after the date described in paragraph (d)(3)(i) of this section.

(4) For purposes of this subpart—

(i) The terms on which credit can generally be obtained by means of taxable obligations are those financing charges, issuing expenses, investment, drawdown, and collateral requirements on which an amount of credit similar to that available from the proposed tax-exempt obligation is available from the Student Loan Marketing Association, or if more favorable, from either of at least two lenders of the Authority's own choosing; and

(ii) (A) Servicing and administrative costs to be incurred are reasonable to the extent that they are similar in amount and type to those determined in

the annual audit of the Authority's operations to be—

(1) Reasonable and allocable to any portfolio of GSL or PLUS program loans held by the Authority which is similar to that portfolio which the Authority plans to acquire with the proposed tax-exempt borrowing; and

(2) Not disallowable under 34 CFR Part 74, Appendix C, Part II, Sections D–3, D–4, D–5, D–6, D–8, or Appendix F, Sections G–2, G–9, G–12, G–14, G–20.

(B) The Authority may not rely upon costs that cannot be justified as provided in this paragraph in demonstrating that it cannot meet the terms on which credit by means of taxable obligations is generally available.

(C) If the Authority expects that its servicing and administrative costs will differ in type and amount from those examined in the audit of the Authority most recently submitted to the Secretary, the Authority shall demonstrate that those costs are reasonable and allocable to its GSL or PLUS loan programs according to 34 CFR Part 74 Appendix C or F, as appropriate, and not attributable to any of the disallowed cost categories listed in this paragraph.

(20 U.S.C. 1082, 1087–1)

**§ 682.814 Unmet need.**

(a) Subject to paragraph (b) of this section, the amount of unmet need for student loan credit in the service area of the Authority is equal to that portion of the need for student loan credit estimated pursuant to § 682.812 which exceeds the amounts of available credit estimated under § 682.813.

(b) *Special access credit programs.* (1) In addition to or in lieu of any unmet need determined under paragraph (a) of this section, an additional amount of unmet need exists if credit which the Authority estimates to be otherwise available under § 682.813—

(i) Will not be extended as loans to or for the benefit of particular classes of students because of prevalent lender limitations based on the school they attend, their place of residence, their academic year or course of study, the amount they wish to borrow, or a requirement that they or their parents have an existing customer relationship; or

(ii) Will not be made available through loan purchases by secondary markets active in that area because the terms or amount of solicitations by those secondary markets exclude loans which lenders active in that area wish to sell.

(2) The amount of unmet need under this paragraph is that amount of loans estimated in accordance with § 682.815 which the Authority demonstrates—

(i) Will not be made or purchased because of those limitations or exclusions; and

(ii) Any additional amount needed to provide a reasonable cumulative surplus for the special access credit program portfolio.

(c) *Overlapping service areas.* (1) If the service area of an Authority overlaps the service area of any other Authority or Authorities, the amount of unmet need for which that Authority may justify the issuance of a tax-exempt obligation is that portion of the unmet need determined under this section which these Authorities concur is to be served by the program of the issuing Authority.

(2) The Authority proposing a new tax-exempt issuance shall obtain the concurrence of the other Authorities in its area that its program serve a specific amount of the unmet need identified in that area.

(20 U.S.C. 1082, 1087–1)

**§ 682.815 Methodology for measuring unmet need—new issues.**

An Authority shall include the steps in this section in the methods used to estimate the reasonable need for student loan credit and the amount of resources available to meet that need.

(a) *Determining need for student loan credit.* (1) In order to estimate reasonable need for student loan credit during the bond-use period pursuant to § 682.812(a), an Authority shall—

(i) Determine from each guarantee agency doing business in its service area the amount of the total student loan volume in its service area for the most recent twelve-month period for which data is available; and

(ii) Multiply that figure by the number of years or fractions of years in the bond-use period.

(2) In order to estimate reasonable need for student loan credit during the bond-use period pursuant to § 682.812(b), an Authority shall—

(i) Determine from each guarantee agency doing business in its service area the amount of the total student loan volume in that service area for the three most recent twelve-month periods for which data is available;

(ii) Analyze that data in light of reasonably-supported economic and demographic projections along with other relevant data and assumptions to project the expected need for student loan credit during the bond-use period;

(iii) Submit its estimate of the expected need for student loan credit, with the documentation and analysis supporting the estimate, to the following organizations operating within its service area:

(A) The guarantee agency or agencies.

(B) The State postsecondary education planning entity (as designated by the State to conform with the requirements of section 1203 of the Higher Education Act of 1965, as amended (20 U.S.C. 1143).

(C) The State's association of student financial aid officers; and

(iv) Secure from each organization listed in paragraph (a)(2)(iii) of this section a written concurrence that the Authority's estimate of need for student loan credit in its service area over the bond-use period is reasonable and justified, based on an independent review of the analysis, data, and methods used by the Authority in light of the expertise and experience of the organization and the information available to it.

(3) An Authority shall, as part of its estimate, identify, explain, and make any corrections warranted by the following:

(i) Any difference greater than five percent per annum between the totals of each of the data elements required in paragraph (a)(2) of this section, in—

(A) The fiscal year immediately preceding the date of the issue; and

(B) The bond-use period.

(ii) Any difference greater than five percent annum between the totals of these data elements—

(A) As projected for any prior issues; and

(B) As actually occurring during the bond-use period for those issues.

(b) *Determining available credit from direct lenders.* (1) In order to estimate the amount of credit available within its service area from direct lenders during each year of the bond-use period pursuant to § 682.813(a)(1) an Authority shall—

(i) Determine from each guarantee agency doing business in its service area and, if necessary, from other sources, including lenders and secondary markets—

(A) The amount of student loans made in that service area during the most recent twelve-month period for which data is available; and

(B) The amount of secondary market purchases for that same twelve-month period of loans made in that service area;

(ii) Deduct from the total determined under paragraph (b)(1)(i)(A) of this section the amount of loans—

(A) Made by the Authority during that period; or

(B) Purchased by secondary markets, including the Authority, as determined

under paragraph (b)(1)(i)(B) of this section;

(iii) Determine from any lender identified by the Secretary to the Authority the net amount of additional new loans it expects to make in the service area during the first year of the bond-use period. That net amount is the amount of new loans in excess of any amount of its loans included in the total determined under paragraph (b)(1)(i)(A) of this section, minus that portion of the amount of loans it made or will make in that service area which the lender expects to sell during that first year of the bond-use period which exceeds the amount of its loan sales included in the amount measured under paragraph (b)(1)(i)(B) of this section;

(iv) Add the amount determined under paragraph (b)(1)(ii) of this section to the amount determined under paragraph (b)(1)(iii) of this section; and

(v) Multiply the amount determined under paragraph (b)(1)(iv) by the number of years in the bond-use period.

(2) In order to estimate the amount of credit available within its service area from direct lenders during the bond-use period pursuant to § 682.813(a)(2), an Authority shall survey lenders reasonably expected to be willing to extend such credit in its service area. In this survey, the Authority shall solicit an estimate from the following lenders of the amount and terms of credit they expect to make available in its service area during the bond-use period:

(i) All direct lenders to students in the highest quartile, by loan volume, active in the service area during the most recent twelve-month period preceding the survey for which data is available.

(ii) A representative sample of all other direct lenders.

(iii) Such other sources as the Secretary may identify to the Authority.

(c) *Determining available credit from secondary markets.* In order to estimate the amount of credit available within the service area from secondary markets during the bond-use period pursuant to § 682.813(c), an Authority shall survey secondary markets reasonably expected to extend such credit in its service area. In this survey, the Authority shall solicit an estimate from the Student Loan Marketing Association and all other secondary market sources known to the Authority to be purchasing or willing to purchase loans made in its service area.

(1) An Authority shall solicit from each of these secondary markets an estimate of the amount of loans made to borrowers in its service area that it expects to purchase during the bond-use period. This estimate must identify and include the following:

(i) The amount of such loans it has committed to purchase during the bond-use period pursuant to executed loan purchase contracts of any kind.

(ii) The amount of such loans included in loan purchase contracts under negotiation.

(iii) The amount of such loans held by lenders active in the service area for which that secondary market has made the written solicitation to enter into a loan purchase agreement and commitment to execute that agreement described in § 682.813(c)(1)(iii), and the specific terms offered in that solicitation.

(iv) The amount of such loans which are not included within the terms of executed or proposed contracts described in paragraph (c)(1) (i), (ii), or (iii) of this section which the secondary market, based on its purchasing activity in that service area during the most recent three-year period for which data is available, expects to purchase during the bond-use period, and the data and assumptions used to make that estimate.

(2)(i) An Authority which pursuant to § 682.813(c)(2) must estimate the amount of loans that would purchased by the Student Loan Marketing Association shall contact the Secretary to obtain, for the most recent twelve-month period for which data is available, the total amounts of—

(A) Loans purchased by the Student Loan Marketing Association; and

(B) Student loans disbursed in all States except those in which the Secretary finds that SLMA was barred from purchasing loans at any time during the most recent two years for which data is available.

(ii) The proportion of loans which would be purchased by the Student Loan Marketing Association in the Authority's service area, for purposes of this paragraph, is deemed to be the quotient of the amount of determined under paragraph (c)(2)(i)(A) of this section divided by the amount determined under paragraph (c)(2)(i)(B) of this section.

(d) *Determining available credit from taxable obligations.* (1) To determine the availability of credit by means of taxable obligations, the Authority shall make a good-faith effort as described in this paragraph—

(i) To determine the terms on which such credit can be secured;

(ii) To assess its ability to meet those terms; and

(iii) Where it cannot meet the terms first offered, to negotiate any changes in those terms which would permit it to meet those terms.

(2) An Authority makes a good-faith effort to determine the terms on which credit can be secured on taxable obligations if it solicits the terms on which credit would be offered to it by written inquiry addressed (unless otherwise directed by that official) to the chief executive officer of—

(i) The Student Loan Marketing Association; and

(ii)(A) Two other parties known to the Authority to have extended or expressed an interest in extending such credit or underwriting an issue to secure such credit; or

(B) Two other credit sources which routinely offer similar or greater amounts of credit to commercial borrowers.

(3) An Authority makes a good-faith effort to assess its ability to meet the terms on which credit can be secured on taxable obligations if it analyzes the cash flow expected from the proposed portfolio under the terms of the financing offered as follows:

(i) Servicing costs are reasonable and expressed on a cost-per-account basis, with separate classifications, if needed, for differences in cost based on account status.

(ii) Only those administrative costs attributed to the proposed portfolio and reasonable as determined under § 682.813(d)(2)(ii) are included.

(iii) Federal interest and special allowance payments are treated as received no later than 30 days after the end of the period for which they were billed.

(iv) Student loan repayments and reimbursements by guarantors are treated as received no later than the average number of days after the due date on which the Authority receives payments on its other portfolios, or, if it has no other, the average number of days experienced for all lenders, as determined by the Secretary.

(v) Average borrower account size of the proposed portfolio is not less than—

(A) The average size as of the date acquired by the Authority or the commencement of repayment status, whichever is later, of accounts acquired in the most recent three year-period; or

(B) For an Authority which has been in operation less than three years, the average size, measured as in paragraph (d)(3)(v)(A), of accounts it expects to acquire for that portfolio.

(vi) Costs of issuance are itemized and documented.

(vii) Any assumed increases due to inflation in administrative and servicing costs do not exceed the average annual increase in the Department of Labor's Consumer Price Index (CPI) over the most recent three-year period for which data is available.

(viii) Projections of the 91-day Treasury bill rate are equal to that rate used by the Secretary to calculate the rate of special allowance payments for the most recent quarter.

(ix) Short-term interest rates used to calculate reinvestment rates for the portfolio and for any other purpose are not less than 75% of the 91-day Treasury bill rate used in paragraph (d)(3)(viii) of this section.

(x) Drawdowns of funds under the proposed taxable financing are scheduled—

(A) On the same day and in the same amount as the loan purchases expected under that financing; or

(B) At the beginning of each month in which the Authority expects to make loans and in the amount expected to be loaned in that month.

(4) An Authority makes a good-faith effort to negotiate terms on which it can secure credit on taxable obligations if it—

(i) Promptly responds to any specific offer of terms;

(ii) Identifies in a timely manner to a party offering those terms any legal or contractual provisions governing its operations which impede its ability to meet the terms offered by that party; and

(iii) Promptly proposes reasonable alternatives or modifications to any terms of the offer to which it cannot legally or financially accede.

(e) *Special access credit programs.* (1) In order to prove need for a special access credit program because of lender limitations under § 682.814(b)(1)(i), the Authority must establish the existence, scope and prejudicial effects of lender limitations on borrowers or potential borrowers by surveying schools and lenders in its service area. The Authority may do so by—

(i) Surveying a sample, representative by type, size, and location, of schools and lenders in its service area; or

(ii) Surveying all schools and lenders in its service area.

(2) The survey of the effects of lender limitations must identify at least—

(i) The incidence of lender limitations in its service area;

(ii) The specific types of lender limitations;

(iii) The number of affected students and potential students; and

(iv) The estimated amount of loans not made and loans made for less than the legal maximum because of these identified lender limitations.

(3) In order to prove need for a special access credit program because of limitations in the terms of a secondary market program as offered to lenders active in its service area under § 682.814(b)(1)(ii), an Authority shall establish the existence and effect of those limitations by means of survey of lenders active in its area. The survey must include—

(i) All direct lenders active in the service area in the highest quartile by loan volume during the most recent twelve-month period for which data is available; and

(ii) A representative sample of all other direct lenders.

(4) The survey of the effects of secondary market limitations must identify—

(i) The specific limitations, other than that of purchase at a discount not exceeding one percent, which preclude a secondary market making the solicitation and commitment described in § 682. 814(c)(1)(iii) from purchasing certain types or amounts of loans; and

(ii) The amount of loans held by lenders active in the service area which have received such a written solicitation and commitment that—

(A) Those lenders wish to sell to a secondary market; and

(B) Do not fall within the terms of the purchase contract offered in that solicitation.

(5) In order to prove a need for an amount of loans in excess of the amount of loans determined to be needed in paragraph (e)(1) of this section, an Authority shall perform a revenue analysis according to the requirements of paragraph (d)(3) of this section.

(f) *Use of written inquiries.* The Authority shall use written inquiries to solicit information from each school, lender, and secondary market source included in any inquiry or survey conducted under this section.

(g) *Record retention.* The Authority shall maintain and make available for inspection records of all written inquiries and of all responses and failures to respond to those inquiries for three years beyond the end of the bond-use period of the issue for which they were gathered.

(h) *Evaluation of responses from direct lenders and secondary markets.* (1) If a response to the survey inquiry of the Authority by a direct lender to students does not clearly state the lender's intentions, or if no response is received from such a lender, the Authority shall consider that lender as intending to make loans in the service area during the bond-use period on the same terms and in an annual volume equal to that amount of credit extended by that lender in the most recent twelve-month period for which data is available, increased or decreased according to the average annual rate of change in the total loan volume in that area over the most recent three-year period for which data is available.

(2)(i) If a response to the survey inquiry of the Authority by a secondary market does not clearly state both the amount of loans to borrowers in the service area of the Authority which that party expects to purchase during the bond-use period and the basis for that estimate in accordance with § 682.815(c)(1), or if no response is received from that party, the Authority shall consider that secondary market as intending to purchase during each year of the bond-use period an amount of loans for borrowers in its service area equal to the amount of those loans it purchased in the most recent twelve-month period for which data is available, increased or decreased according to the average amount of annual change in that figure over the most recent three-year period for which data is available.

(ii) In determining for purposes of this estimate the amount of loans made for borrowers in its service area which were purchased by a secondary market, an Authority shall use information reasonably available from that secondary market, from appropriate guarantee agencies, and from the Secretary.

(3) If an Authority concludes that, in responding to its survey, a lender or a secondary market overestimated or underestimated its future activity in the service area by more than 5%, the Authority may revise the estimate of the respondent in light of—

(i) Recent performance by that respondent;

(ii) Past discrepancies between projection and performance by that respondent; and

(iii) Data and analyses which the Authority demonstrates will support a realistic estimate.

(i) *Overlapping service areas.* (1) If the service area of an Authority overlaps the service area of any other Authority or Authorities, the Authority proposing issuance of a tax-exempt obligation shall consult with each of those Authorities in order to obtain their written concurrence that assumptions and methodology used by the issuing Authority and the resulting estimates of need for student loan credit and resources available for student loan credit within the Authority's service area over the bond-use period are reasonable and justified, based on the concurring Authority's expertise and experience.

(2) The Authority proposing a new tax-exempt issuance shall obtain the concurrence of the other Authorities in

its area that its program is to serve a specific amount of the unmet need identified in that area.

(3) If the issuing Authority cannot secure the concurrences described in paragraphs (c) (1) and (2) of this section, the Authorities shall select a neutral arbiter to resolve their differences.

(20 U.S.C. 1082, 1087–1)

**§§ 682.816–682.819 [Reserved]**

**§ 682.820 Unmet need—refunding issues.**

(a) An Authority shall determine whether the lendable proceeds of any proposed refunding issue exceed the unmet need for student loan credit in its service area by dividing the amount of the lendable proceeds into two portions, and assessing the availability of credit from the resources described in § 682.813 to meet the need for which each of these portions is to be used in the following manner:

(1) (i) An Authority shall determine according to paragraph (a)(1)(ii) of this section whether an unmet need exists for that portion of the lendable proceeds of a proposed refunding issue equal to the sum of—

(A) The amount of the outstanding balances, including principal and interest, of all student loans made or acquired with proceeds of the issue to be refunded; and

(B) The amount of the issue to be refunded spent or to be spent on—

(*1*) Issuing expenses and debt service for the prior issue; and

(*2*) Administrative costs and servicing expenses for loans made or acquired with the proceeds of the prior issue.

(ii) An Authority establishes an unmet need exists for the amount determined in paragraph (a)(1)(i) of this section, if credit is not reasonably available by means of taxable obligations to refund that portion of the prior issue.

(2) An Authority demonstrates that an unmet need exists for that portion of the lendable proceeds of a proposed refunding issue in excess of the amount included in paragraph (a)(1)(i) of this section, only to the extent that the Authority could demonstrate under § 682.814 that an unmet need exists for a new issue.

(b) An Authority shall comply with the provisions of § 682.811 regarding the timing and use of proceeds of refunding issues.

(20 U.S.C. 1082, 1087–1)

**§ 682.821 Methods for measuring unmet need—refunding issues.**

(a) The Authority shall use the methods prescribed in § 682.815 to measure the unmet need for that portion of the proceeds of a refunding issue treated as a new issue under § 682.820(a)(2).

(b) An Authority shall use the methods prescribed in § 682.815 (d), (f), and (g) to measure unmet need for that portion of the proceeds of a refunding issue described in § 682.820(a)(1).

(20 U.S.C. 1082, 1087–1)

**§ 682.822 Required documentation and procedures for approval of justification of need for a tax-exempt obligation.**

(a) An Authority shall, for any proposed issue of tax-exempt obligations—

(1) Compile and maintain a record of any survey, the responses to the survey, the sources of any other data, and the assumptions on which it bases its estimates of the reasonable need for student loan credit and the amount of credit available from sources of student loan credit;

(2) Submit for approval by the Secretary, no earlier than six months nor later than 30 days before the proposed date of issue—

(i) A statement of the expected amount and terms of the issue;

(ii) A copy of any official statement regarding the issue, statements of sources and application of funds for the proposed issue and any prior issue (unless already submitted), and a copy of the most recent audit of the Authority's activities;

(iii) An explanation of the estimated need for student loan credit and resources available for student loan credit in that service area, determined according to the standards established in this subpart;

(iv) A detailed description of the data and assumptions on which its estimates of need and available resources are based; and

(v) If the Authority has received an offer of taxable financing, copies of the contract offered, all correspondence between the Authority and the offeror, any cash flow analyses supplied to the Authority by the party offering the credit, and any other supporting analyses and explanations provided by the party offering the credit or developed by the Authority of the feasibility for the Authority of the taxable financing offered.

(3) If the Authority proposes to issue a tax-exempt obligation to meet an unmet need determined under § 682.814(b) (Special access credit programs), the Authority shall submit, along with the information listed in paragraph (a)(2) of this section—

(i) A certification that it will use that portion of the proceeds of the issue justified under § 682.814(b)(1) solely to make available loans for that class of borrowers determined to have limited access to student loan credit, or acquire loans subject to those secondary market limitations;

(ii) A specific plan of action to implement this certification; and

(iii) A copy of any revenue analyses performed with regard to the need for issuance of an amount necessary to acquire loans other than those included in paragraph (a)(3)(i) in order to assure a reasonable cumulative surplus for the special access credit program portfolio.

(b)(1) The Secretary approves the determination of the Authority that the lendable proceeds of a proposed tax-exempt obligation do not exceed the unmet need for student loan credit for the bond-use period in that service area if the documentation submitted under paragraph (a) of this section demonstrates a reasonable estimate based on the standards and methods in this subpart of both the need for student loan credit and of the amount of such credit available from other resources.

(2) The Secretary approves the justification of the Authority within 30 days after he receives documentation specified in this section which establishes an unmet need for a tax-exempt obligation.

(3) The Secretary may disapprove a justification, or may require additional information, if documentation submitted by an Authority does not establish an unmet need for a tax-exempt obligation.

(4) If an Authority submits a single justification for an issue to be used to finance acquisition of new loans and to refund outstanding obligations, the Secretary may treat the submission as two separate requests.

(c)(1) Any Authority adversely affected by a decision of the Secretary concerning whether that Authority will issue tax-exempt obligations for amounts in excess of the unmet need determined according to this subpart H may request that the Commissioner of Internal Revenue review that decision. The review by the Commissioner of Internal Revenue will not affect the exemption from income taxation of interest on any student loan bond or any issuer of such bonds.

(2)(i) A request for review by the Commissioner must be submitted to the Secretary and must include the following information:

(A) The Authority's request for review.

(B) A summary statement of facts from the Authority concerning its need to issue tax-exempt obligations and a memorandum of law supporting its position.

(ii) This information, together with a copy of the Secretary's decision and, if not included in the decision, a summary statement of facts and a memorandum supporting that decision, will be forwarded to the Commissioner of Internal Revenue. The Authority may not present information to the Commissioner that had not been submitted to the Secretary prior to the Secretary's decision (other than the information specified above).

(3)(i) The Commissioner will review the Secretary's decision in light of the applicable regulations of the Department of Education and determine whether that decision was reasonable. The Commissioner will review questions of law concerning the need to issue tax exempt bonds arising under—

(A) Section 682.810, relating to standards for provisions of plan for doing business;

(B) Section 682.811, relating to timing and advance repayment of tax-exempt obligations;

(C) Section 682.812, relating to estimating need for student loan credit;

(D) Section 682.813, relating to estimating resources available for student loan credit;

(E) Section 682.814, relating to unmet needs;

(F) Section 682.815, relating to methodology for measuring unmet need;

(G) Section 682.820, relating to unmet need—refunding issues;

(H) Section 682.821, relating to methods for measuring unmet need—refunding issues; and

(I) Section 682.822, relating to required documentation and procedures for approval of justification of need for a tax-exempt obligation.

(ii) The Commissioner's review will be based exclusively on the information submitted pursuant to paragraph (c)(2). The Commissioner will not review findings of fact. An Authority is not entitled to a conference with representatives of the Commissioner.

(4) Within 60 days of the Secretary's receipt of a request for review by the Commissioner, the Commissioner will issue a report to the Secretary and the Authority. An Authority may waive the 60-day requirement for issuance of a report. The report will contain an advisory opinion as to whether the Secretary's decision was reasonable. The Secretary is not bound by the Commissioner's report. Once a decision of the Secretary has been reviewed by the Commissioner, no further review will be given to any aspect of that decision by the Commissioner. A report issued pursuant to this paragraph may not be used or cited as precedent and is not subject to further administrative or judicial review.

(5) Upon receipt of a written appeal report from the Commissioner of Internal Revenue, the Secretary will review his decision relating to the Authority in light of that report. The Secretary will issue a final decision to the Authority within 30 days of receipt of the report of the Commissioner of Internal Revenue.

(20 U.S.C. 1082, 1087–1; Pub. L. 98–369, § 646, 98 Stat. 941 (1984))

(Approved by the Office of Management and Budget under control number 1840–0554).

**§ 682.823 Sanctions for material misrepresentation regarding unmet need.**

(a) If at any time the Secretary determines that the submission for approval required under § 682.822 contains or contained a material misrepresentation, the Secretary may to the extent provided in paragraph (b) of this section—

(1) Require reimbursement from the Authority of special allowance payments to the Authority or to any other party on loans made or purchased with the proceeds of the issue with respect to which the misrepresentation was made; and

(2) Determine to be ineligible for special allowance payments any loans to be made or purchased by the Authority or any entity acting for the Authority with the unexpended proceeds of the issue with respect to which the misrepresentation was made.

(b) If an Authority uses funds from sources other than a tax-exempt obligation to retire an issue with respect to which the Secretary has determined that a material misrepresentation was made, the Secretary takes the adverse actions described in paragraph (a) of this section only with regard to those special allowance payments which accrued earlier than ninety days before that issue was retired.

(c) The Secretary's decision to require repayment of funds by an Authority, to withhold payments of special allowance, or to take any of the actions in § 682.806 does not become final until the Secretary provides the Authority with written notice of the intended action and an opportunity to be heard thereon. However, the Secretary may withhold payments or suspend approval of the Plan prior to giving notice and opportunity to be heard if the Secretary finds such emergency action necessary to prevent substantial harm to Federal interests.

(d) Once final, the Secretary's decision to require repayment of funds or to take other remedial action against an Authority under this section is conclusive and binding on the Authority.

(20 U.S.C. 1082, 1087–1)

**§§ 682.824–682.829 [Reserved]**

**§ 682.830 Audit standards.**

The Authority shall have an annual financial and compliance audit by an independent certified public accounting firm of its loan and/or loan purchasing program. The audit shall be conducted in accordance with the general standards and the standards for financial and compliance audits in the U.S. General Accounting Office (GAO) publication, *Standards for Audit of Governmental Organizations, Programs, Activities and Functions.* The Authority shall submit a copy of the audit report within 30 days after the completion of such report to its regional office of the Education Department's Office of Inspector General.

(a) The audit must examine the activities of the Authority for compliance with the provisions of the Plan, and must specifically articulate, with appropriate substantiation, its conclusions regarding compliance with each of the provisions of § 682.802 and with the Plan of the Authority.

(b) The audit must also examine the expenditures of the Authority using the cost principles found in Appendix C of 34 CFR Part 74 if the Authority is an agency or instrumentality of a State or local government, or Appendix F of that Part if the Authority is a non-profit corporation, as follows:

(1) The GSL and PLUS loan programs of the Authority are treated as the Federal grant or contract with regard to which costs are allocated.

(2) All costs incurred by the Authority are attributed to a cost category identified in the appropriate appendix.

(3) Each cost is examined to determine whether it is reasonable and allocable to the GSL and PLUS loan programs of the Authority.

(4) Although costs must be attributed, where warranted, to categories of costs characterized in that Appendix as unallowable, no determination is to be made that a cost is disallowed merely because such cost was one for which the Appendix requires advance approval by the Secretary or because the Appendix classifies that cost as unallowable.

(20 U.S.C. 1082, 1087–1)

2. Section 682.302 is amended by revising paragraph (a) and (c) and by adding a new paragraph (e) to read as follows:

**§ 682.302 Special allowance payments to lenders.**

(a)(1) The Secretary pays a special allowance to lenders on—

(i) GSLP loans disbursed prior to October 1, 1981; and

(ii) GSLP loans disbursed on or after October 1, 1981 that qualify for interest benefits.

(2) The special allowance is equal to a percentage determined under paragraph (c) of this section of the average unpaid balance, including capitalized interest, on those GSLP loans described in paragraph (a)(1) held by a lender during any three-month period ending on March 31, June 30, September 30, or December 31 of each year.

* * * * *

(c)(1) The percentage rate for the special allowance for a loan for a three-month period is determined by—

(i) Determining the average of the bond equivalent rates of the 91-day Treasury bills auctioned during the three-month period;

(ii) Subtracting the applicable interest rate for that loan, as specified in the Act;

(iii) Adding 3.5 percent to the resulting percentage;

(iv) For a loan made prior to October 1, 1981, rounding the result upward to the nearest one-eighth of one percent; and

(v) Dividing the resulting percentage by four.

(2)(i) Subject to paragraph (c)(2)(ii) of this section, the percentage rate for the special allowance is one-half the rate determined under paragraph (c)(1) for a loan disbursed on or after October 1, 1980 and made or purchased with funds obtained by the holder from—

(A) Issuance of obligations, the income from which is exempt from taxation under the Internal Revenue Code;

(B) Funds obtained from collections or payments by a guarantor on a loan described in paragraph (c)(2)(i); and

(C) Interest or special allowance payments on a loan described in paragraph (c)(2)(i).

(ii) The special allowance rate used for loans described in paragraph (c)(2)(i) is not less than—

(A) 2.5 percent per year on a loan for which the applicable interest rate is seven percent;

(B) 1.5 percent per year on a loan for which the applicable interest rate is eight percent; or

(C) 0.5 percent per year on a loan for which the applicable interest rate is nine percent.

* * * * *

(e)(1) Except as otherwise provided in Subpart H of this Part, the Secretary pays a special allowance on a loan made or acquired with the proceeds of an obligation the interest income from which is exempt from taxation under the Internal Revenue Code only if the Secretary has approved—

(i) The *Plan for Doing Business* of the Authority which issued the obligation, if the obligation was issued after December 31, 1980; and

(ii) The justification of need for the obligation, if the obligation was issued after August 14, 1983.

(2) As used in this paragraph, proceeds of a tax-exempt obligation include collections, reimbursements from guarantors, interest received, and receipts from the sale of loans financed with the original proceeds of that obligation.

(3) The Secretary pays a special allowance at the rate prescribed in paragraph (c)(1) of this section on a loan made or acquired with the proceeds of a tax-exempt obligation after the loan is pledged or otherwise transferred in consideration of funds derived from sources other than a tax-exempt obligation and—

(i) The prior tax-exempt obligation is retired; or

(ii) The prior tax-exempt obligation is defeased by means of obligations which the Authority certifies in writing to the Secretary bear a yield which does not exceed the yield permitted under 26 CFR 1.103–14 with regard to investments of proceeds of a tax-exempt refunding obligation.

(20 U.S.C. 1082, 1087–1)

**Appendix A—Comments and Responses**

**Note.**—This appendix is not to be codified in the Code of Federal Regulations.

*General*

*Comment.* Several commenters objected to the requirement that the Student Loan Marketing Association (SLMA) be taken into account as a source of credit and alleged that the Department is favoring SLMA at the expense of the Authorities.

*Response.* No change has been made. As discussed in the preamble to the proposed rule, *supra,* SLMA must be taken into account by all Authorities as an existing source of student loan credit because it is chartered by Congress to operate and provide secondary market and warehousing advances in any State without regard to State limitations. The Department must therefore treat SLMA differently than other lenders without such a Congressional mandate; however, the rules do so only to the extent needed to ensure that Authorities or their host States which erect arbitrary barriers to its operations do not receive subsidies. See § 682.813(c)(2). Where taxable credit sources are considered, the regulations require Authorities to contact SLMA not because the Department is attempting to prefer SLMA over other sources of such credit, but because SLMA's taxable lending program is large enough and generally available enough to serve as an indicator of market terms and rates.

*Comment.* Several commenters stated that the NPRM did not adequately provide for reserve funds, operating funds, surplus funds or costs of issuance.

*Response.* A change has been made. The commenters who stated that the NPRM did not include such provisions are mistaken. However, the misunderstanding should be eliminated by revisions in this final rule, as discussed in the explanation of the term "lendable proceeds" found in the preamble to this rule.

*Comment.* Several commenters disputed the Department of the Treasury's estimates of the relative cost to the Federal government of making special allowance payments at the full rate on eligible loans made or acquired with taxable financing, as opposed to making special allowance payments at the reduced rate on eligible loans made or acquired with tax-exempt financing.

*Response.* In most instances, the existing sources of credit which section 438(d)(1)(G) requires Authorities to take into account are those which derive their loan capital from sources other than tax-exempt financing, and therefore the statute in effect requires resort to taxable sources of credit first. That preference implicit in the statute is, in the first instance, a Congressional preference, and arguments about the relative amounts of revenue losses and subsidy costs to the Federal government in taxable and tax-exempt student loan financing must obviously be addressed to Congress. To the extent that the Secretary considered the relative tax-revenue losses and subsidy costs attending the two kinds of financing, he relied on the assessment of this comment furnished by the Treasury Department. The full text of that analysis is included here in Appendix B.

*Executive Order 12291*

*Comment.* One commenter disagreed with the Secretary's determination that these regulations are non-major regulations under Executive Order 12291. The commenter believes that the regulations are likely to result in a major increase in costs for State or local government agencies and will have significant adverse effects on

competition between student loan Authorities and SLMA.

*Response.* No change has been made. The costs imposed on State and local government agencies are based on statutory requirements. As explained in the preamble, no major increases in costs are likely to occur because of these regulations; certainly none are required. Furthermore, the statute requires Authorities to take into account any existing source of credit *before* it can justify a need for new tax-exempt financing. SLMA is obviously an existing source of credit, established by Congress precisely for the purpose of increasing student loan credit. To the extent that this requirement has an adverse effect on competition, it is one caused in the first instance by the statute, not the regulations. To implement that requirement and the unequivocal Congressional intent that SLMA be able to operate in every State, the regulations exclude from eligibility for Federal subsidies those Authorities which operate in States in which SLMA is directly or indirectly barred, to the extent that SLMA could have provided the capital alleged to be needed there for student loans. This rule, which at least indirectly requires consideration of SLMA, is established by regulation and not by the statute, is plainly anti-monopolistic rather than anti-competitive.

The Secretary therefore affirms his classification of the regulations as non-major regulations under Executive Order 12291.

*Regulatory Flexibility Act*

*Comment.* Several commenters stated that many Authorities issuing tax-exempt obligations appear to meet the definition of small entities contained in the Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.* The commenter believes the regulations do more than "simplify and clarify the provisions in the statute" and would have a significant economic impact on the small entities affected.

*Response.* No change has been made. The reasons for this decision are set forth in the preamble under this topic. For the reasons stated there, the Secretary therefore affirms his previous certification that these regulations will not have a significant economic impact on a substantial number of small entities.

*Section 682.800 General.*

*Comment.* One commenter suggested that it be clarified that loans purchased after August 15, 1983, the effective date of the Student Loan Consolidation and Technical Amendments Act of 1983, with original proceeds from obligations sold before that date should be exempt from these regulations.

*Response.* The requirements of section 438(d)(1)(G) apply only to tax-exempt obligations issued after August 15, 1983, the date that provision became law. The specific provisions of these regulations which implement section 438(d)(1)(G) of the HEA apply to requests for approval of tax-exempt issues received by the Department after the effective date of these regulations. The Department has reviewed on a case-by-case basis the compliance by Authorities with the statute for obligations issued after August 15, 1983 but submitted to ED for review before the effective date of these regulations.

However, these regulations address other aspects of the Authority's compliance with its Plan besides the prohibition against overissuance in section 438(d)(1)(G). These provisions, governing audits (§ 682.830), conflict of interest (§ 682.803(b)), and other requirements imposed in section 420 of the Education Amendments of 1980, apply from the effective date of these regulations to Authority activities on all loans, whenever acquired.

*Comment.* Several commenters suggested that the first sentence of § 682.800 of the NPRM should state that an Authority is not required to submit a Plan in connection with loans purchased with funds not derived from tax-exempt obligations or loans for which an Authority does not seek special allowance payments.

*Response.* No change has been made. The commenter is correct in stating that Authorities need not submit a Plan if they finance their program from sources other than tax-exempt borrowings, or if they seek no special allowance payments on loans they acquire. The submission requirement is to be read with the approval provision in the succeeding sentence; no further elaboration is considered necessary.

*Section 682.801 Definitions applicable to subpart H.*

*Service Area*

*Comment.* One commenter suggested that the definition of "service area" should be clarified to provide that, with respect to any particular issue of obligations, an Authority may select as the service area a geographical area which is less than the entire service area in which the Authority may operate under its charter or designation.

*Response.* No change has been made. Although division of a service area into smaller areas may be useful in assessing need in particular areas, it has less use in determining the amount of credit to be made available by direct lenders located in other parts of the larger service area, some of which may require no customer relationship and may aggressively promote their lending program in all parts of the service area, even where they maintain no branches.

Subdivision of service areas is also less useful in assessing credit available from secondary market sources, since their activities affect direct lenders in any part of the entire service area. Lastly, division of service areas appears to bear no relation to assessment of credit available by taxable financing. Under the special access program alternative, the regulations permit an Authority to exclude consideration of any credit theoretically available as loans to students because of specific lender limitations on borrower eligibility. § 682.814(b). The Secretary believes that this provision provides adequate protection for students with particular problems, regardless of their location in the service area, and eliminates any need to divide a service area to meet those needs.

*Utilization Rate*

*Comment.* Several commenters were very critical of the definition and concept of "utilization rate."

*Response.* A change has been made. The Secretary has simplified the process for assessing need and eliminated the requirement that all Authorities determine the utilization rate for their areas. Obviously, Authorities which determine need as provided in § 682.812(b) by using a projection based on statistical analysis must use some form of utilization rate in constructing that analysis, but are free to choose any supportable, realistic method for determining that rate. The Secretary will review the method selected and the results of that method.

*Section 682.802 Provisions required in Plan.*

*Comment.* A commenter objected to the phrase, "provisions necessary to (sic) insure" (§ 682.802(a) of the NPRM) because it differs from the statutory phrase, "provisions designed to assure" (§ 438(d)(1) of the HEA) which the commenter believes connotes a "forward-looking, reasonable expectations-type provision in a Plan, which establishes the framework within which the statutory requirements of a Plan will be satisfied."

*Response.* No change has been made. The Secretary agrees that the relevant starting point for any interpretation is the wording of the statute; it requires the Plan to "contain provisions designed to

assure that" specific actions are taken as amended. 20 U.S.C. § 1087–1(d)(1). The word "assure" may connote many things to different readers; however, Webster's defines "assure," as that word can be attributed to a provision of a Plan, to mean ". . . to make sure or certain; to put beyond all doubt; . . . to make certain the coming or attainment of; *ensure* . . ." Webster's Third International Dictionary (1976), p. 133. Hewing to this denotation, the Secretary understands "assure" to mean "ensure" or "make certain". These regulations therefore require the adoption in a Plan of provisions which can be reasonably expected to "make certain" that goals described in the statute are attained, by requiring both supported estimates of the need for loans and the credit expected to be available to meet that need, and revisions to that assessment methodology as needed. As discussed in detail here and in the NPRM, these regulatory requirements are adopted as reasonable means to implement the statutory directive. In short, nothing in the dictionary definition of the term "assure," in the legislative history of this statute, or in the subsequent discussion by Congressional Committees of the Department's implementation of the law supports the commenter's suggestion that the term "assure" connotes standards inconsistent with the rules here adopted to "ensure" that the statutory goal is met.

*Comment.* Several commenters suggested a wording change in § 682.802(a)(1) of the NPRM, to clarify that only eligible lenders in the service area must be permitted to participate in the program on the same terms and conditions.

*Response.* No change has been made. The statute clearly states that "all eligible lenders may participate in the program on the same terms and conditions . . . ." 20 U.S.C. 1087–1(d)(1)(A).

*Comment.* Several commenters pointed out that the Act does not prevent officers of the Authority from owning stock in, or receiving compensation from any organization that would contract to service and collect the loans of the Authority, though § 682.802(a)(2) of the NPRM does.

*Response.* No change has been made. The regulations include the word "officers" in order to clarify that Congress intended the statutory term "staff members" to include officers. As Senator Pell explained in proposing this provision in the 1980 Education Amendments.

This plan would assure that no officers of the Authority also receive compensation from another agency which collects loans. 126 Cong. Rec. S 7856, June 23, 1980.

*Comment.* Several commenters noted that § 682.802(a)(3) of the NPRM does not allow purchasers to pay a reasonable transfer fee, which is allowed in § 438(d)(1)(C) of the HEA.

*Response.* The Secretary has changed the regulation accordingly.

*Comment.* Several commenters asked whether the audit requirement found in § 682.802(a)(6) differs from the audit performed in accordance with generally accepted accounting principles used by an Authority in connection with its public offering of a tax-exempt obligations. One commenter opined that the standards adopted for audits of compliance with the Plan were likely to be inconsistent with generally accepted standards and practices, costly and burdensome.

*Response.* The audit requirement of § 682.802(a)(6) of the NPRM is indeed different from a mere audit of the Authority's financial condition. Whether a mere financial audit is a generally accepted practice among Authorities is irrelevant; section 438(d)(1)(F) of the HEA specifically requires each Authority to secure an audit of the Authority's compliance with the provisions of its Plan. The audit standards adopted in part here have been followed by thousands of large and small entities, both governmental and non-profit, which receive Federal financial assistance. Nothing in the Department's experience in administering similar audit requirements for these recipients suggests that they will prove an unduly costly means of compliance with the statutory audit requirement. Like all other audits of government supported programs, the audits must be performed in accordance with generally accepted accounting principles and audit standards.

*Comment.* One commenter suggested that Authorities issuing a small amount of tax-exempt obligations in any year should not be required to secure ED review and approval of that issue.

*Response.* The Secretary believes that the revisions in these final regulations substantially reduce the time and cost entailed in demonstrating a need for a new issue, and reduce or eliminate the need for a separate approval procedure for small issues.

*Comment.* Several commenters suggested that secondary markets be excluded from the survey of available credit and that only those direct lenders be surveyed which are located and doing business in the Authority's service area.

*Response.* No change has been made. Section 438(d)(1)(G) of the HEA requires the Authority to take into account "sources of student loan credit in that area." Obviously credit can be made available in that area by a credit source that does not maintain an office there. It is reasonable to assume that Congress was aware that some of the largest direct lenders in the Guaranteed Student Loan Program extend credit in States far from their main offices, as discussed *infra*, and that it had established SLMA, with its main office in Washington, as a national secondary market. The statutory language is most naturally read to require Authorities to take such sources into account.

*Section 682.803 Submission of Plan for approval—required documentation.*

*Comment.* One commenter asked whether § 682.803 of the NPRM requires all Authorities to file entirely new Plans, or if new Authorities must comply with this section and existing Authorities must comply with § 682.804 of the NPRM.

*Response.* In order to qualify to receive special allowance payments, all Authorities which issue tax-exempt obligations in order to make or acquire GSL program or PLUS program loans or to advance funds to another entity for that purpose must submit Plans for Doing Business to the Secretary. As noted in section (n) of the preamble, all Authorities which have previously-approved Plans must comply with § 682.804 by submitting to the Secretary any amendments to those Plans; Authorities with no previously-approved Plan must submit a Plan meeting the standards in this subpart.

*Section 682.804 Amendments to Plan.*

*Comment.* Several commenters suggested changing the wording of § 682.804(a) of the NPRM to require an Authority to submit only documentation submitted pursuant to § 682.803 of the NPRM, in addition to amendments to the Plan, in order to remove the implication that the Secretary will require documentation not specified in § 682.803 of the NPRM.

*Response.* No change has been made. Section 682.804(a) does not imply that the Secretary will require documentation not specified in § 682.803. It does require an Authority to inform the Secretary of changes in policy or practice in a timely manner.

*Comment.* Several commenters stated that § 682.804(b) of the NPRM is vague and too broad. An Authority may be legally or contractually prohibited from complying with certain changes in "applicable statutes and regulations," particularly if such changes are of a non-

mandatory or prospective nature. An Authority's inability to comply with such changes should not affect its eligibility for special allowance payments on loans financed from tax-exempt obligations issued before such changes became effective.

*Response.* No change has been made. Authorities are obviously bound to comply with statutory changes effecting the Plan according to the terms of the statute. Generally specific changes which are required by regulation rather than by statute apply prospectively only as is customarily explained in the "Effective Date" section of the preambles to final rules.

*Section 682.805 Approval of Plan.*

*Comment.* Several commenters expressed dissatisfaction with the provisions of § 682.805 of the NPRM, stating that it fails to set forth an orderly and date-certain review procedure. Several commenters suggested patterning this section after the Federal Trade Commission's pre-merger notification rules or the Securities and Exchange Commission's proxy rules. Other commenters suggested that the regulations should require a specific number of days in which the Secretary must determine that the submission is incomplete.

*Response.* A change has been made. Section 682.805 has been rewritten to clarify what is considered to be a complete Plan. The final regulations echo the statute in stating that the Secretary will approve or disapprove a Plan within 30 days of receipt of a complete Plan. A similar provision has been adopted for review of justifications of need for a proposed tax-exempt issue. § 682.882(b)(2).

The Secretary does not at this time adopt a specific deadline for determining whether either a Plan or a justification for a new issue is complete, since the thirty-day time-frame applicable to approval or rejection of complete submissions dictates a prompt review for completeness. Moreover, in response to the urgings that ED establish and comply with deadlines, it should be noted that in the case-by-case review process used until these rules become final, ED repeatedly refrained from prompt final decisions where those final decisions would have been disapprovals of proposed issues. Obviously not every delay was due to an incomplete or unpersuasive submission, but many were, and repeated requests for additional information were needed in more than a few cases to elicit a reasonably responsive reply from an Authority which had made no credible showing of unmet need in its initial submission and even in modifications prompted by earlier ED questioning.

*Comment.* One commenter stated that this section should provide for the Secretary's *final* approval of a Plan.

*Response.* The Secretary's approval of a Plan is final until the Plan is changed: the Authority must then submit the amended Plan for approval.

*Section 682.806 Failure to comply with Plan.*

*Comment.* Several commenters stated that the sanction for material failure to comply with a Plan should be suspension of the Authority's Plan, after adequate procedural safeguards have been followed. They also voiced their belief that § 682.806 of the NPRM lacks procedural protections, thus raising questions under the due process clause of the Fifth Amendment to the Constitution.

*Response.* No change has been made. The regulations assure an Authority an opportunity to be heard before any of the adverse actions described in § 682.806 are taken, unless immediate action is needed to safeguard Federal interests. This section thus incorporates the traditionally-recognized elements of procedural safeguards. Moreover, the regulation specifically notes that the Department's actions are reviewable under the Administrative Procedure Act and the Wunderlich Act.

*Comment.* One commenter suggested that the Secretary consider including among the actions listed in § 682.806(a) of the NPRM, warnings, censure, and suspension of the right to receive special allowance payments on loans purchased during a reasonable suspension period.

*Response.* The Secretary considers the list of action now found in § 682.806(a) to include the actions suggested by the commenter. The list in this section is not intended to be all-inclusive.

*Comment.* Several commenters asked that the Secretary clarify which payments may be withheld under § 682.806 and what constitutes "substantial harm to Federal interests," as those terms are used in § 682.806(b) of the NPRM.

*Response.* The payments which may be suspended pursuant to § 682.806 are special allowance payments, the only payments for which eligibility is conditioned by statute on compliance with the Plan. However, where the Secretary collects a debt owed by an Authority, he may do so by offsetting against the debt any payments due that Authority. Those payments might include not only special allowance payments but also interest subsidies, and, if the Authority is also a guarantee agency, reinsurance claim and administrative cost allowance payments. In cases in which the Secretary collects by offset, these payments are not merely withheld, but are applied as credits against the outstanding indebtedness to the government.

Substantial harm to Federal interests cannot be precisely defined in advance. The term includes either significant financial loss or harm to important program goals. In determining whether significant financial loss is likely to be caused by actions of an Authority, the Secretary considers both the amount of the expected liability and the ability of the Authority to reimburse the government for expenditures likely to be caused with regard to loans affected by the particular conduct of the Authority which violates the statutes, the regulations, or the Plan.

*Comment.* Several commenters assert that the holder of an eligible loan has a contractual right against the United States for special allowance payments, and that the regulations should not compromise that right. Several commenters argued that, in any event, subsequent holders should be entitled to special allowance payments. One commenter suggested establishing a 90-day period in which the Authority could cure the defect and have special allowance payments reinstated.

*Response.* As change has been made. The final regulations confine the consequences of adverse actions taken by the Secretary under §§ 682.806 and 682.823 to the Authority itself, not subsequent holders of its loans. Because the Secretary has discretion under § 682.806 to choose the type of sanction and manner of applying it, he has the discretion under the regulation as written to permit a cure and a reinstatement of benefits.

*Comment.* One commenter suggested that, since Authorities often buy loans at a given time with proceeds from different issues, it would make sense to distinguish between those loans made or purchased with proceeds of an issue which is in compliance and loans made or purchased with proceeds of an issue that is not in compliance, so that the former would not be penalized.

*Response.* No change has been made. Where the adverse action is taken because of a violation which affects loans without regard to the issue by means by which they were acquired, the sanction affects those loans in the same manner; where the violation is confined to a praticular issue, the sanction would ordinarily apply to loans acquired with proceeds of that issue. In either case, a sanction could apply, if warranted, to

future issues and loans acquired with those issues.

*Section 682.811 Term, timing, and advance repayment of tax-exempt obligations.*

*Comment.* Many commenters objected that the proposed ten-year limit on the term of a tax-exempt obligation was too short to match the 15–17 year term of the student loan assets from which payments will be used to repay the obligation. The commenters state that this mismatch will require credit support agreements on every issue, and thereby increase issuance costs. Several commenters insisted that § 682.811(a) of the NPRM be deleted entirely, as it is already addressed in IRS arbitrage regulations (26 CFR 1.103–13(j)). Other commenters suggested that a requirement of a mandatory call in all tax-exempt bond issues would eliminate the need for a specific term limitation.

*Response.* A change has been made. The Secretary considers these comments to be well taken, and has revised this section in light of these suggestions. First, the final rule imposes no limitations on the nominal term of tax-exempt obligations. Second, all future issues must include call provisions needed to use unexpended proceeds and loan repayments to retire outstanding obligations. § 682.811(g).

*Comment.* Several commenters proposed that the limits placed on the time of issuance of an obligation in § 682.811(b)(1) of the NRPM be deleted, and that the bond-use period be deemed to commence on the sale date of the bonds or on the date of the first acquisition of student loans with the bond proceeds.

*Response.* A change has been made. To increase the period within which an Authority can market bonds to its best advantage, the final regulation in § 682.811(b)(1) permits the issuance of tax-exempt obligations as early as six months before the bond-use period commences, instead of the three months allowed in the NPRM, and as late as one year after the approval of the issue under § 682.822.

*Comment.* Several commenters objected that one-year bond-use periods for direct lenders and two-year periods for secondary markets are too short. They argued that these short bond-use periods will require smaller, more frequent issuances, with the relatively higher costs of issuance associated with small issues, and will limit an Authority's ability to time an issue to its advantage. Many commenters preferred a three-year bond-use period. Commenters suggested that the Secretary could require that proceeds to be expended on a schedule, and that secondary markets could be required to have executed loan purchase contracts in amounts totaling at least 80% of the expected spendable proceeds of an issue before the obligation is issued.

*Response.* No change has been made. The requirement that Authorities which seek special allowance for their loans must limit the amount of funds raised by tax-exempt offerings to that needed for one or two years may cause some increase in the amount of issuance costs incurred to raise those funds compared to those needed for larger, less frequent issues. However, the Secretary believes that requiring a specific expenditure schedule, or the execution of loan purchase contacts covering a large portion of the proceeds, would not satisfy the concerns giving rise to the rule, and would cause other problems for many Authorities. Many Authorities could be expected to object that a schedule of required expenditures would remove their flexibility and force them to attempt to acquire loans at times and in amounts contrary to the wishes of their clientele. Similarly, Authority representatives have asserted that many Authorities do not rely heavily upon loan purchase contracts in operating their purchase programs and sizing their issues, and would object to a requirement that contracts be heavily used to support assertions of need.

Two considerations support continued use of these limited bond-use periods. First, as discussed in the NPRM, the closer the forecast of need and available credit is to the period for which the forecast is made, the more accurate that forecast is likely to be. Moreover, even when that gap is short because the projection was made only months before bond-use period, the Secretary has observed substantial variations between projected and actual lending activity in an area. This potential for discrepancies between prediction and performance supports continuing the limits on the length of the period with regard to which the forecast is made, and the time between the forecast and the bond-use period.

Second, limiting the periods for which funds can be raised to one or two years ensures that Authorities seeking additional tax-exempt financing will reexamine on a recurring basis their ability to use taxable financing. That ability, as several Authorities have acknowledged, may change substantially even over a two-year period, both because an Authority's resources can grow during that period, and because potential lenders and underwriters can over that period develop greater familiarity with, and interest in offering, taxable financing alternatives.

*Comment.* One commenter asked how an Authority which is both a lender and a secondary market would comply for a particular issue with the different bond-use period requirements.

*Response.* An Authority which is both a direct lender and a secondary market must justify and expend those portions of the proceeds of the issue which it intends to use in each part of its program in accordance with the regulations governing each type of activity.

*Comment.* Several commenters criticized the requirement in § 682.811(b) of the proposed rule that proceeds of a tax-exempt refunding issue be used promptly to retire the prior obligation as prohibiting advance refundings. The commenters argue that such a rule is unauthorized by current provisions of the Internal Revenue Code (IRC).

*Response.* The Secretary has revised the proposed rule to clarify that proceeds of a proposed tax-exempt refunding issue are to be used to retire, and not merely defease, the prior tax-exempt obligation within 30 days of the date of issuance of the refunding issue. The comment assumes that these regulations prohibit advance refunding, while the IRC does not. These regulations do not prohibit any practice by an Authority which either seeks no Federal subsidy on student loans financed with tax-exempt obligations, or uses taxable obligations to finance its loan acquisition. The regulations impose conditions on qualification for a Federal subsidy. These conditions are authorized, not by the IRC, but by section 438(d) of the HEA. Section 438(d)(1)(G) requires an Authority to take into account existing sources of credit before issuing new tax-exempt obligations. The disqualification for special allowance for advance refundings follows from the application of that requirement to such issuances.

Credit is the agreed-on deferment of payment for a benefit, such as an advance of funds or a purchase of property. An Authority which successfully issues obligations has secured credit, and has an "existing source of credit" in the obligations until they mature, when that credit or ability to defer payment ceases. So long as the debt instrument by its terms has not matured, payment is not due and credit exists by means of that instrument. Until its maturity, therefore, no new credit is "*necessary* to serve the legitimate educational credit needs of students" (emphasis added), 129 Cong. Rec. H6121, August 1, 1983, since no new agreement

or debt instrument is needed to continue deferment of repayment of those funds used to acquire a particular portfolio. Issuance of a refunding obligation before the maturity date of the prior issue doubles the obligations outstanding to finance that same portfolio of loans. Whatever the benefit to the U.S. Treasury from the use of government securities with restricted yields to defease prior tax-exempt obligations, this doubling of the amount of tax-exempt obligations outstanding always and inevitably increases the tax revenues lost in order to finance that same amount of loans. Therefore, because an advance refunding is the issuance of a second credit instrument or obligation while credit remains available under the terms of an existing credit instrument, the Secretary considers any advance refunding with tax-exempt obligations to entail failure to make use of credit currently available under that outstanding instrument. The Secretary recognizes that advance refunding may not cause revenue losses drastic enough to prompt Congress to revoke the tax-exemption for *all* advance refunding issues, although in the Deficit Reduction Act, as interpreted by recent IRS regulations to require that longer-term advance refundings be counted against a State's private activity bond limit, Congress plainly seeks to curb this double tax loss. *See*: A–13 of 26 CFR 1.103(n)–2T, 49 FR 39320, October 5, 1984. However, the Secretary also recognizes that his responsibility under section 438(d)(1)(G) of the HEA does include dicouraging such revenue losses by preventing the further cost to the government of a direct Federal subsidy to support issues such as advance refunding issues which would supplant, but not discharge, existing, available tax-exempt credit. The rule denying special allowance to Authorities on loans refinanced by a tax-exempt advance refunding issue is adopted to prevent that supplanting of existing credit, just as the denial of special allowances on loans financed by tax-exempt issues where commercial lending would have met the identified borrower demand is adopted to prevent the supplanting of private credit.

*Comment.* Several commenters urged that the bond-use period should apply only to "original proceeds," not merely to "proceeds."

*Response.* The regulations now state that the bond-use period is the period in which the lendable proceeds of an issue will be used to finance student loan acquisitions. § 682.801.

*Comment.* Several commenters stated that programs operating under prior indentures should be exempt from the advance repayment requirements of § 682.811(d) of the NPRM.

*Response.* Provisions in these rules such as those regarding advance repayment which an Authority cannot implement because of statutory or contractual requirements on outstanding obligations apply prospectively to future issues.

*Comment.* Several commenters asserted that the term "proceeds" as used in § 682.811(d) of the NPRM should be changed to "original proceeds" or "spendable proceeds." One commenter recommended requiring "uncommitted spendable proceeds" to be used to prepay obligations instead of unspent "proceeds."

*Response.* A change has been made. The final regulations require that at the end of a bond-use period of an issue, an Authority must use unexpended *lendable* proceeds to repay obligations comprising that issue unless it demonstrates a continuing unmet need. If the Authority demonstrates at the end of the bond-use period an unmet need sufficient to justify a new issue, the regulations now permit that Authority to retain and use those unspent proceeds. The existence of loan purchase commitments does not by itself suffice to demonstrate an unmet need under section 438(d)(1)(G) of the HEA. If the Authority arranged those commitments in the expectation that it could demonstrate an unmet need for tax-exempt capital to finance those loan purchases, the Authority can demonstrate that need pursuant to § 682.811(g), and retain those funds. If the Authority had not expectd to finance those commitments with tax-exempt borrowings justified to the Department, prohibiting use of proceeds approved for a preceding period does not appear to be disruptive to the planning or marketing activities of that Authority.

*Comment.* Several commenters objected to the advance repayment requirement of § 682.811(d) of the NPRM [§ 682.811(g) of the final regulations] because it requires the Authority to issue only bonds callable at the end of the bond-use period; callable bonds may cost the Authority a premium, both in interest paid on the bonds and in premiums paid if the call is exercised.

*Response.* No change has been made. The Secretary recognizes that use of callable bonds may cause some increase in financing costs, but considers the need to limit the amount of tax revenues lost on outstanding tax-exempt issues which are not wholly justified to warrant that slight increase in costs to the issuers. Moreover, Authorities may avoid use of callable bonds by using debt instruments with maturities shorter than, or equal to, the bond-use period, and by refinancing at the end of that period only that portion of the prior issue actually used. A number of Authorities have already used such short-term issues. In addition, an Authority can lessen the need to exercise a call provision at the close of the bond-use period by careful planning and management.

*Section 682.812 Estimating need for student loan credit.*

*Comment.* One commenter suggested that the need for student loan credit should be calculated differently for secondary markets than for direct lenders.

*Response.* No change has been made. The Secretary does not believe that the measurement of student loan credit differs with the party making the measurement, and therefore there is no need for a distinction between the criteria used by secondary markets and direct lenders to determine that need. The term "need for student loan credit," as used in § 682.812, and as most easily understood in section 438(d)(1)(G) of the HEA, refers to the total amount which students and parents need to borrow. That total amount of capital or credit needed to make loans for students in a particular area is determined by the financial needs of students and their families, not by the type of Authority found in that area. Insofar as the commenter refers to measurement of *unmet* need for student loan credit, that comment is addressed under § 682.814.

*Comment.* Several commenters questioned the usefulness of HEGIS data in determining the postsecondary student population in the service area. One commenter stated that the Secretary already has the data bases (*e.g.*, GSL, Pell Grant and HEGIS figures) needed to determine the unmet need for student loan credit on a State-by-State basis. Several commenters claimed that the NPRM ignores both the need for parent borrowing under the PLUS program, and the lack of need analysis for a borrower with an adjusted gross income under $30,000 per year.

*Response.* A change has been made. This section has been revised to permit an Authority to use either a simplified measurement of need or to develop a reasonably supported projection acceptable to the Secretary and to authoritative sources in its service area. § 682.812.

*Comment.* Several commenters stated that the data required in § 682.812 of the NPRM is difficult to obtain and compile.

Some commenters suggested that the Secretary should provide schools with guidelines to ensure uniform preparation of data. Some commenters suggested that guarantee agencies should be included as resources to estimate the need for student loan credit.

*Response.* A change has been made. As noted, the procedures of § 682.812 of the final regulations have been simplified to address these concerns, and the role of guarantee agencies as a resource for the Authority in estimating the need for student loan credit has been formally recognized.

*Comment.* Several commenters asserted that the utilization rate establishes a required ratio which arbitrarily benefits more established Authorities rather than newer Authorities. One commenter said that the proposed utilization rate perpetuates the historical utilization rate, thereby inhibiting growth by artificially restricting the amount of credit available for growth; the commenter urges that Authorities should be allowed to assume an increase in the utilization rate equal to the average increase in utilization during the previous five years, subject to adjustment for unusual circumstances. Another commenter suggested that the utilization rate should be the ratio of qualified applicants to total postsecondary enrollment which is eligible to receive assistance under the Authority's GSL program.

*Response.* A change has been made. Authorities projecting a need for loan credit greater than that shown in the past in that area are free to develop such a larger estimate, if the Authority demonstrates to the Secretary that this estimate is reasonably based and is accepted by State authorities.

*Section 682.813 Estimating resources available for student loan credit.*

*Comment.* One commenter suggested that rather than specifying the methods for estimating resources, the Secretary could determine the reasonableness of an Authority's projections by requiring the Authority to submit the assumptions and records upon which it based its projections.

*Response.* The regulations do require submission of assumptions and records used to measure credit. § 682.822(a)(2). These regulations provide for some flexibility in measuring credit resources, but continued use of a case-by-case review procedure is undesirable because it tends to lessen the ability of Authorities to plan and support the need for a new issue by leaving unpublished the standards against which the issue must be justified.

*Comment.* Some commenters urged that § 682.813(a), and its related section, § 682.815(b), be revised to require Authorities to survey and estimate credit available only from those lenders and secondary markets located and presently doing business in the service area of the Authority. A commenter asserts that requiring Authorities to consider credit available from sources outside the service area runs counter to what the commenter sees as a strong emphasis under the Higher Education Act on decentralization. This commenter believes that to require an Authority to take into account of credit available from such out-of-State lenders and credit sources would favor the provision of student loan capital by those parties rather than by issuers of tax-exempt bonds. The commenter sees no support in the legislative history for such a preference. This commenter considers such a regulation monopolistic in its effect and contrary to Congressional intent as that intent appears in Congressional debate over proposals to extend the loan consolidation program to parties other than SLMA, in statutory provisions limiting the amount of funds SLMA may advance to guarantee agencies and those Authorities which are direct lenders, and in statutory limits placed on SLMA's ability to function in exceptional circumstances as a direct lender.

*Response.* As noted elsewhere in these comments, the regulations no longer require a general survey of direct lenders if an Authority can determine from other sources, including guarantee agencies, the total amount of loans made for borrowers in its service area by *all* lenders, not merely those using the guarantee of the State guarantee agency or those located within the service area. However, the statute provides no support for the suggestion that the Authority need only estimate the amount of credit available from those lenders and secondary markets both located and presently doing business in the service area of the Authority. The simple, natural reading of the language of section 348(d)(1)(G) of the Act, giving the customary effect to normal rules of grammar, fully supports this regulatory provision: The statute directs a "taking into account;" this language requires some inquiry, measurement, and estimation. It directs an assessment of "existing sources of student loan credit in that area." An "existing source of student loan credit" is one which exists, which now extends credit, and which, therefore, can be identified as a potential resource, and can be contacted to determine whether it intends to continue to offer credit, and if so, in what amount. The phrase "in that area," immediately following the words "student loan credit," would normally be expected to modify that phrase, not the word "source," as suggested by this commenter. The natural and grammatically correct reading of section 438(d)(1)(G) of the HEA is that Authorities must take account of credit available in their area for student loans from those sources which are inexistence and known to offer that credit, regardless of the location of those sources.[1] This reading is completely consistent with the expressed legislative intent of this section:

> . . . that the amount of tax-exempt bonds issued are not in excess of the reasonable needs for student loan credit . . . the Federal revenue foregone because of the tax-exempt status of these bonds increases the Federal deficit. This Federal cost should not be incurred beyond the level necessary to serve the legitimate educational credit needs of students.

Remarks of Cong. Ford, 129 Cong. Rec. H6121, August 1, 1983. The inquiry directed here is to the credit needs of students; there is no suggestion of any intent to protect local banks—or Authorities—from competition.

The inconsistency between the commenter's suggestion and the statute is all the more apparent if that suggestion is stated in positive terms. The commenter suggests that an Authority properly "takes into account existing sources of student loan credit in (its) area" although it ignores any student loan credit source which does not maintain an office in that area, regardless of the size of that lender's program, its commitment to providing loan credit in that area, and even the amount of loans it has already made or purchased in that area. Congress must be presumed as a matter of law to know at least one major source of student loan credit created by statute with no office in most states, SLMA, and can be further assumed to know of the substantial amounts of student loans made by regional and national lenders to borrowers in States in which they were not located. Nothing in section 438(d) or its legislative history suggests

[1] Conversely, an Authority should take care to exclude from the amount of loans which a direct lender represents that it will make those loans to be made to borrowers who neither reside nor attend school in that area. The Secretary expects that such an allocation of expected loan volume will be needed only in those relatively few cases in which a lender with a regional or national student lending program is located in the service area of an Authority.

that Congress there chose to exclude these sources from consideration.[2]

The Secretary sees no reason to believe that Congress enacted a law in which it mandated consideration of existing credit sources to ensure that Federal revenue losses from tax-exemptions on student loan bond interest were "not incurred beyond the level necessary to serve the legitimate educational needs of students," but still intended that only local lenders be considered. The comment imputes to Congress not an intent to decentralize, but an intent to protect "domestic" banks against out-of-State competition.

The legislative provisions in which the commenter finds support for this protectionist theory of student lending in fact relate mostly to SLMA, not to regional and national lenders; the Secretary has considered these provisions, but does not believe they support the commenter's reading of section 438(d)(1)(G). First, the legislative debates over extension of the loan consolidation program, heretofore exclusively a SLMA function under section 439(o) of the HEA, evidence, first, an obvious desire to extend this power not only to State guarantee agencies, as the commenter cites, but to all "private lenders." These debates accordingly offer no support to a theory that Congress intended section 438(d)(1)(G) to protect tax-exempt bond issuers and local banks from out-of-State student lending competition. Indeed, H.R. 3394, 98th Cong. 1st Sess. (1983), the bill under consideration, specifically forbade guarantee agencies from using tax-exempt bond proceeds to acquire at any time a portfolio of consolidation loans exceeding 15% of the cumulative total of loans financed by such obligations, even if these bonds were later retired. H.R. Rep. No. 324, 98th Cong. 1st Sess. 4, 13, 25 (1983). The apparently reluctant acceptance of the use of tax-exempt financing for loan consolidation evident both in this House Committee Report on H.R. 3394 and in the 15% cap itself is more consistent with the interpretation of section 438(d)(1)(G) taken by the Secretary in these regulations: Tax-exempt financing has an important but limited role in student loan financing, if private capital sources do not suffice to meet borrower need.

The second Congressional action cited by the commenter to demonstrate the perceived intent to limit the lending activity and impact of out-of-State credit sources deals, again, not with out-of-State lenders, but only with SLMA. Section 428(h) of the HEA provides that SLMA may lend to guarantee agencies and to State agency and designated non-profit agency lenders an amount for loans to students of up to 25 percent of the average amount of loans guaranteed by that agency over the preceding three fiscal years. The legislative history of this provision, however, demonstrates Congressional solicitude only for the students in States with credit shortages, not for issuers of tax-exempt student loan bonds. The Senate report on S. 1839, the bill in which this limitation originated, stressed that the limitations on SLMA advances were addressed first to the State Authorities, which must demonstrate "pressing circumstances" to receive such advances for students in their States who are "otherwise unable to obtain guaranteed student loans from commercial lenders." S. Rep. No. 733, 96th Cong. 2nd Sess. 41 (1980) Congress specifically directed that this borrowing authority be understood as a "guarantee of access to funds" for these State agencies. Because it reduces the amounts SLMA may be called upon to advance on that "guarantee", the 25 percent limitation can therefore readily be seen, in light of Congressional concern over future availability to funds to SLMA, as a protection for SLMA, not the Authorities. The legislative history indeed describes this program of advances to guarantee agencies as a "last resort alternative" not because of any articulated concern for protecting State lenders from the power of a centralized lender but because, as the Senate report states

> This program [of SLMA advances to guarantee agencies] is intended as an alternative source of funds for student loans where there is an actual and substantial shortage of loan capital . . . it should be considered as a last resort alternative *to the statutory policy of encouraging loan availability by stimulating new sources of non-Federal financial investment in student loans through guarantees, special allowance payments, and the secondary market provided by Sallie Mae.* (Emphasis added.)

S. Rep. No. 733, 96th Cong. 2nd Sess. 42 (1980).

Lastly, the commenter cites statutory restrictions in section 439(q) of the Act on SLMA's ability to make loans directly to students as evidencing a Congressional desire to limit SLMA's intrusion into the lending arena of the student loan Authorities. In light of the explicitness of the Congressional approbation of SLMA's secondary market activities, and "guarantee of access to [SLMA] funds" provided by SLMA as advances, *supra*, the limitations placed on direct student-loan-making by SLMA imply nothing more than Congressional reluctance to have SLMA divert capital from its secondary marked and warehousing advance activities and displace direct lenders unless asked to do so by local authorities.

In summary, the Secretary has carefully considered the comments raised regarding the alleged inconsistency between the policy adopted in the proposed rule and in this final rule and that inferred by the commenter from these provisions of the Higher Education Act. For the reasons expressed here, the Secretary finds no support in them for the commenter's restrictive reading of section 438(d)(1)(G) of the HEA, and therefore no need to revise the rule in light of this comment.

*Comment.* Several commenters urged that § 682.813(b)(1) of the NPRM be revised to require an Authority to consider as an available credit source unspent original proceeds, rather than unspent proceeds.

*Response.* A change has been made. Section 682.813(b)(1) of the final regulations uses the term "lendable

[2] The facts presented by one Authority lend particular support to the reading of the statute taken in these regulations, and the difficulty in supporting, or even applying, the interpretation suggested by the commenter. Chase Manhattan Bank and Citibank [Citibank (New York State) N.A.] together made more than one billion dollars in GSLP loans to California in the past four years (1979–80 through 1982–83), according to information supplied to ED by one California Authority. That total exceeded the combined loan volume of all California lenders by more than $140 million. During the four years in question, Citibank maintained no corporate office in California; during the same period, Chase Manhattan made its student loans exclusively from its student lending offices in New York, but made mortgage loans, consumer loans, and commercial loans through its California offices. Both banks are national, money-center banks, and presumably the commenter believes that on that ground alone, Congress would not have intended a California Authority to take either bank into account. If the location of corporate offices rather than the national character of the lender's program is the key, the commenter's suggestion still defies clear application. Although neither bank made student loans from a California office, must an Authority take Chase Manhattan into account because it maintained in California some corporate offices which were unrelated to its student loan program? Must a California Authority take into account credit from Citibank (New York State) N.A., the corporate entity making student loans, because it contracted with another Citicorp subsidiary for student loan marketing services in California to be performed from a California office? Does this connection, under the commenter's reading of the statute, suffice to make Citibank an "existing source of student loan credit" in California? These difficulties in applying the commenter's reading of section 438(d)(1)(G) would apply anywhere an out-of-State lender has made or purchased student loans; this recent history in California merely presents sharply the illogic of the commenter's suggestion when applied to a large State with substantial loan volume, and the inconsistency of such a reading of the statute with the articulated Congressional intent.

proceeds," which includes only original proceeds.

*Comment.* One commenter argued that the unexpended proceeds of prior issues should not be included as assets available for student loans by the Authority as provided in § 682.813(b)(1) of the NPRM, because those funds were already earmarked to fill the loan demand for which a prior obligation was issued, and therefore cannot be used to meet new estimates of unmet need.

*Response.* An Authority must count only credit expected to be available at the beginning of the bond-use period for the proposed issue. So long as bond-use periods do not overlap, the Authority can retain and use proceeds of the prior issue and can exclude them from consideration for the new issue unless it does not expect to use those proceeds before the close of the first bond-use period. Any proceeds then unspent must be used to retire that prior issue, or be justified as if they were proceeds of a new issue.

*Comment.* Several commenters suggested that, in § 682.813(c) of the NPRM, Authorities should be required to consider as credit available from secondary markets only that amount of loans committed to be sold to secondary markets during the bond-use period pursuant to executed loan purchase contracts.

*Response.* A change has been made in this provision, but this suggestion has not been accepted. In order to estimate credit available from secondary markets as realistically as possible, the final regulations allow secondary markets to estimate their purchase activity based on executed loan purchase contracts, on contracts under negotiation, and on contracts proposed to lenders in a written solicitation by the secondary market. To require *only* executed loan purchase contracts to be considered in making the estimate would result in unrealistically low estimates of available credit, since marketing practices and lender preferences regarding the duration of contracts and timing of their execution will vary even within service areas; counting only loans included in contracts already signed would exclude far too many loans that might be purchased by a party to serve as a reasonable measure of its likely acquisitions.

*Comment.* One commenter stated that § 682.813(c)(1) of the NPRM, which required the Authority to count as available credit the amount of loans which secondary market has committed to purchase, provided no alternative method of estimating the amount of that credit if a secondary market refused to reveal its contractual agreements.

*Response.* The comment raises an issue which is addressed in both the proposed and final regulations, but deserves additional explanation. Section 682.815(h)(2) of the final regulations specifically states that if a secondary market does not respond to the inquiry of the Authority, the Authority may estimate the expected amount of loan purchases by that party by extrapolating from the past performance of that secondary market. The comment raises the issue, however, of what constitutes an adequate response to an inquiry from an Authority. To be adequate, the basis for a response must be intelligible; at a minimum, therefore, an adequate response is one which contains not simply the total amount of loan purchases which the secondary market expects to make of loans made to borrowers in that service area, but also the specific amounts of loans covered under executed purchase contracts, contracts under negotiation, and written solicitations to enter into loan purchase contracts, as well as the specific data regarding the secondary market's purchase activity in that area over the past three years which it believes supports its projection of total loan purchases. If the amount of loans included in executed or proposed contracts has been expressed in terms of a range of amounts rather than a specific fixed amount, that contract or response should be treated as including the average amounts of loans included in that range of amounts.

In providing this minimum information, the Secretary expects a secondary market which purchases significant amounts of loans from regional and national lenders to exclude from its projection the amounts of their loans to students who are neither residents of, nor enrolled in schools in, the service area of the Authority making the inquiry, and include the amount of loans from these lenders which will be made to or for students enrolled in schools in, or residing in, that service area and sold to the secondary market. This allocation of secondary market purchases is like the allocation of direct lending volume discussed earlier in footnote 1 of these comments and responses.

*Comment.* One commenter stated that § 682.813(c), which requires an Authority to consider as credit available for student loans in the bond-use period the amount of capital received by direct lenders in that area from sales to secondary markets, assumes, unrealistically, that direct lenders will use all proceeds of sales to secondary markets to make to make new loans.

*Response.* No change has been made. Determining the amount of direct lending generated by a given amount of loan sales to a secondary market is not a simple matter. Obviously not every direct lender will relend during a bond-use period an amount equal to the amount of its sales in that same period to a secondary market. On the other hand, some lenders may make and retain more loans if they are assured of adequate secondary market support than if none were available, even if they sell no loans at all during the period being measured. Moreover, in presentations regarding their need for proposed new issues, secondary market Authorities have explained that lenders in their areas would increase their lending by an amount closely approximating the amount of loans that these Authorities are able to purchase from them. The same assertion has been made by both Authorities which require a relending commitment from their lenders and those which do not. The Secretary therefore concluded, first, that direct lenders could generally be expected to react in the same way to loan purchases by any secondary market source, not merely by Authorities; and second, that even if some direct lenders would disproportionately increase their lending, and others decrease lending, in response to a given amount of secondary market purchases, these effects will offset one another. The net effect, therefore, would be an increase in direct lending equal to the amount of loan purchases during the period in question.

Moreover, the Secretary considers it practical to attribute a direct, dollar for dollar relationship between purchases by secondary markets and new loans because no alternative method of measuring the effect of those purchases has been proposed. Moreover, because any significantly different alternative method would presumably depend on lending patterns, market conditions, competition, and other factors in effect in a particular locale at a particular time, it is unclear how useful such an alternative would prove in measuring that effect in a different period even for the same service area.

*Comment.* Several commenters expressed belief that because of the provisions of § 682.813(c)(2)(ii) of the NPRM, a rating agency in analyzing a financing, would have to assume the value of each loan portfolio at 99% of par, which would have the effect of increasing the cost of the offering and hence the cost to the Federal government.

*Response.* The final regulations do not require an Authority proposing a tax-exempt refunding issue to accept an offer to purchase its portfolio at a 1% discount. Problems associated with the discount have thus been eliminated.

*Comment.* One commenter raised several concerns regarding the "public offer" described in § 682.813(c), noting that the NPRM does not require any disclosure of specific requirements, terms or procedures which explain "public offer" in order to allow a meaningful comparison to other sources of credit; that a "public offer" is seldom, if ever, quantifiable; that the NPRM does not guarantee that a public offer will be acted upon; and that there are no provisions for a reasonable follow-up to determine if "public offers" result in contracts or actual purchases.

*Response.* A change has been made. For some of the reasons advanced by the commenter, the "public offer" as a method of measuring secondary market credit as has been modified in the final regulations. As discussed in section (f) of the preamble to this final rule, an Authority must count as available credit the amount of loans which a secondary market offers to purchase from lenders active in its service area by means of what can be called a "private offer", in contrast to the "public offer" critized by the commenter. This "private offer" must include a written commitment by the offeror to provide the staff and administrative resources necessary to close a loan purchase agreement within a reasonable time with any lender which expresses interest in accepting the offer. The offer must disclose the terms of the proposed agreement, and unless the offeror provides that information to the Authority, the Authority need not take the "private offer" estimate into account. § 682.815(h)(2). Moreover, the final regulations provide that an Authority which believes that an estimate of expected loan purchases by a secondary market is overstated can demonstrate to the Secretary why the estimate is exaggerated, § 682.815(h)(3), and can propose a more realistic estimate. As noted in the preamble, the performance of a secondary market which makes a "private offer" is a relevant consideration is assessing the estimate of that secondary market. Lastly, in response to the claim that the "public offer" is seldom quantifiable, the Secretary notes that the amount of loan purchases estimated by a secondary market on the basis of a "private offer" would be expected to be quantified at least on a State-wide basis. An offeror could hardly propose to purchase more loans than lenders hold or would be likely to hold in their portfolios, and the latter figure, as estimated from available sources, would serve as an absolute ceiling on the estimate. Furthermore, the Authority has the option of demonstrating that the amount of proposed purchases will fall short of the offeror's estimate. The Authority can do so both by demonstrating that the past performance of that offeror belies the current estimate, and by demonstrating, on the basis of its own survey, that lenders hold significant amounts of loans which are not eligible for purchase under the terms of the "private offer" either because the offer excludes the loans themselves, or because the loans are not a representative selection of the lenders' portfolio and such a selection is a term of the offer. For these reasons, the Secretary believes that the shortcomings described by the commenter in the "public offer" have been more than adequately dealt with in the revisions in this final rule.

*Comment.* Several commenters pointed out that formula proposed in § 682.813(c)(3)(ii) of the NPRM for measuring the expected amount of loan purchases by secondary markets which are not covered by executed loan purchase contracts underestimates the growth (or decline) in that amount by incorrectly dividing the difference between loan purchases in the first and third years preceding the bond-use period by three instead of two.

*Response.* A change has been made. The secondary market may now propose a projection based on its performance in the past three years in the service area of the Authority, but need not rely on an assumption of a straight-line growth or decline in that performance. §§ 682.813(c)(1)(iv); 682.815(c)(1)(iv). The Authority is free to contest that estimate on the same historical record. § 682.815(h)(3). The final regulation requires application of a strict formula only where an Authority receives no response, or an inadequate response, from a secondary market; the Authority is then to assume a growth or decline equal to the average annual change demonstrated over the past three years. § 682.815(h)(2).

*Comment.* Several commenters suggested that § 682.813(c) of the NPRM should permit adjustments when there is reason to believe that a secondary market might or will reduce or discontinue activities in certain areas.

*Response.* A change has been made. Projections of secondary market activity can be revised under the provisions of § 682.815(h)(3), if the Authority can justify its assertion that a secondary market's projection of activity varies from the Authority's projection of that secondary market's activity by more than five percent.

*Comment.* Several commenters objected to the requirement in § 682.813(d) of the NPRM that an Authority include in its estimate of available credit that credit available to the Authority by means of taxable obligations. Several commenters argued that this requirement interferes with the constitutional prerogatives of the States by penalizing States which are unwilling to waive their right to have interest on their obligations exempted from Federal taxation.

*Response.* The commenters misconceive the basic relationship between the Authorities, their sponsoring governmental units, and the Department. By these regulations, the Secretary does not require a State or its political subdivisions to use taxable obligations, or, for that matter, to take any other specific action. Congress itself in section 438(d) does not order Authorities or their sponsors to take specific actions. Rather, both the statute and the regulations establish the conditions which those Authorities and their sponsors must meet in order to qualify for a direct Federal subsidy. The power of Congress to set such limits on its largesse is beyond question. An Authority which seeks no subsidy need not comply with any of the provisions of section 438(d)(1) regarding the Plan, or section 438(d)(2), regarding various kinds of prohibited discrimination. Such an Authority may therefore discriminate based on length of the borrower's educational program, or exclude some local lenders from its program. Clearly, these practices would disqualify the Authority for Federal special allowances by virtue of sections 438 (d)(1)(A) and (d)(2); the Authority would have no valid claim that such a disqualification violates prerogatives guaranteed by the United States Constitution.

Section 438(d)(1)(G) imposes similar conditions on an Authority seeking Federal subsidies: it may issue tax-exempt obligations only when existing sources of student loan credit do not suffice to meet borrower demand. In these regulations, the Secretary does no more than categorize the possible sources of student loan credit, and require Authorities to assess the amount of credit expected to be available from each source or in each category. Since credit by means of taxable obligations had been offered by at least one substantial credit source (SLMA) and at least one regional credit source (a

consortium led by BayBank Boston, N.A.), this category of credit exists, and an Authority can no more rationally exclude it from its assessment of available credit than it can exclude consideration of credit generated by direct lenders active in its area.[3]

Those commenters who assert that they need not include taxable credit in their assessment because the States retain a right to freedom from Federal taxation on their bond interest raise a red herring: whether or not the States continue to enjoy an immunity from Federal taxation which extends to interest paid to the private parties on State bonds, no one suggests that any State lacks the power to waive this alleged immunity and issue taxable obligations. The regulations cannot force any State to issue such taxable obligations; the regulations make explicit what is already implicit in the statutes: an Authority cannot qualify for a Federal subsidy if after a short grace period it—or its sponsoring government—refuses to permit use of this type of existing credit resource for its borrowers. The regulations require an Authority to consider seriously taxable financing; if it demonstrates that because of legitimate program costs, it cannot afford such borrowing, despite the increased subsidy of higher special allowances, tax-exempt financing will be approved to meet the unmet need in that area.

*Comment.* One commenter recommended developing a mechanism to protect Authorities which operate in the same service area as the Student Loan Marketing Association from potential predatory practices by SLMA using information secured from the Authority in order to evaluate its request for taxable credit.

*Response.* The Secretary has revised the specific provisions detailing the assessment of taxable credit, in an attempt to clarify what he considers a bona-fide effort to secure such credit. § 682.815(c). These provisions require a bona-fide, but not interminable, effort at negotiating affordable terms, and do not require disclosure of those details of an Authority's marketing program which would permit interference with that program.

*Comment.* Several commenters suggested that § 682.813(d)(2)(ii) of the NPRM, which describes the costs which can support a claim that taxable financing cannot be afforded, is an unauthorized attempt to regulate servicing and administrative costs incurred by Authorities, and should be eliminated.

*Response.* Authorities must determine, under § 682.813(d) of the final regulations, whether taxable credit is reasonably available for their use. Taxable credit is reasonably available if an Authority can afford the terms on which it is offered; to determine whether the Authority can afford those terms, one must know the nature and amount of expenses the Authority bears. The regulation obviously makes no attempt to *prohibit* any particular kind or amount of servicing costs, and the commenter of course cites no such prohibition. The regulation actually requires Authorities which assert that they cannot afford taxable financing to base that assertion on "reasonable" servicing and administrative costs, as those are determined by the Authority's own auditors using cost principles and auditing standards applied by thousands of public, private non-profit, and proprietary institutions of higher education, as well as every State and local government receiving Federal education funds. Under these regulations the Authority remains free to incur the number and amounts of expenses it chooses; the selective use of ED cost principles does no more than provide ED and the Authority with some guidance in determining whether an offer of taxable financing has been responsibly taken into account by the Authority. The statute and its legislative history make clear that this determination is well within the Secretary's responsibility and authority.

*Comment.* One commenter recommended that in measuring the reasonableness of an Authority's operating and servicing costs to determine whether taxable credit can be afforded as required in § 682.813(d) of the NPRM, the regulations should permit Authorities to use State audit controls rather than the Federal procedures.

*Response.* No change has been made. Because these cost principles are used by all State agencies receiving Federal education funds, State auditors should be sufficiently familiar with them to easily use them in their reviews of Authority operations.

*Comment.* One commenter argued that § 682.813(d) of the NPRM unnecessarily expects competitive bids for loan servicing contracts. Directors and staff members of an Authority are barred from owning stock in or receiving compensation from a loan servicer or collector, and therefore no possibility of a conflict of interest exists; few if any servicing contracts are awarded through competitive bidding, and therefore leaving no basis for a comparison of costs between non-competitively-awarded service contracts and competitively-awarded contracts.

*Response.* A change has been made. The reference to competitive bidding has been deleted.

*Section 682.814 Unmet need.*

*Comment.* One commenter suggested that an Authority should not be required to demonstrate an unmet need for that portion of spendable proceeds of the issue which will not be used to make or purchase student loans.

*Response.* A change has been made. The final regulations (§ 682.810) requires an Authority to demonstrate that unmet need is not exceeded by the "lendable proceeds" of the proposed issue; this term includes only funds which are expected to be used to make or purchase student loans.

*Comment.* Several commenters pointed out that the list of lender limitations in § 682.814(b) of the NPRM is not all-inclusive and should include a catch-all category to cover other types of borrowers with access problems. One commenter suggested that direct lenders of last-resort should be allowed to demonstrate need based on historical records and adjusted by trends.

*Response.* No change has been made in this part of the "special access credit program" option, other than the addition of a prexisting customer relationship as an additional lender limitation. Based on more than a year's experience in reviewing on a case-by-case basis justifications for new issues, the Secretary believes that the list of lender limitations found in § 682.814(b) includes those practices alleged to occur now and to restrict loan access. As explained in section (f) of the preamble, the "special access" alternative now includes secondary market limitations as well as direct lender limitations.

*Comment.* One commenter suggested that in order to finance successfully a "special access credit program" to generate loans for a specific class of borrowers, particularly those with low average borrower indebtedness, as

[3] According to information secured from Authorities directly and from the press, multi-year taxable financing agreement totalling over 1.8 billion dollars have been executed in the past year; 560 million dollars of this total has been committed to State Authorities, and the remainder to non-profit student loan funding programs. Most of this amount of taxable financing was provided by SLMA, which was publicly offering such financing before the NPRM was published, and has done so quite successfully in the succeeding year. Since other financial institutions were still developing their plans at the time of the NPRM, and through the date of this final rule are still in the early stages of marketing their taxable financing proposals, the Secretary obviously looked to SLMA as the market-maker in taxable student loan financing for Authorities at this time.

provided in § 682.814(b), an Authority may need to acquire loans with larger average balances made to borrowers not subject to the lender limitations on which that special access credit program was justified.

*Response.* A change has been made. Under § 682.815(d), an Authority may acquire that amount of loans needed to supplement its special access loans which it demonstrates are necessary to achieve a reasaonable cumulative surplus.

*Section 682.815 Methodology for measuring unmet need—new issues.*

*Comment.* Several commenters objected to the survey of schools and direct lenders prescribed in § 682.815 of the NPRM because of the paperwork burden and because, they assert, the schools do not have the information required.

*Response.* A change has been made. Under § 682.815(a) of the final regulations, an Authority need not ordinarily survey schools.

*Comment.* Several commenters stated that the school survey required by § 682.815(a)(1) of the NPRM would not include and indentify those residents of an Authority's service area attending schools outside that service area who need to borrow in the service area.

*Response.* A change has been made. Under § 682.815(a) of the final regulations, residents of an Authority's service area attending schools outside that service area would now be included in either of the two measurements described there. If the Authority believes that the number of graduating in-State borrowers attending out-of-State schools equals the number of incoming student borrowers in this group, use of the total volume of loans guaranteed in the preceding year as the amount of loan demand during each year of the bond-use period will suffice to estimate loan demand for these students. § 682.812(a). If the number of those borrowers is expected to change, an Authority can develop its own method to project the amount of that loan demand. § 682.812(b).

*Comment.* One commenter requested an explanation of the term "representative sample" of lenders, as used in § 682.815(b)(1)(ii) of the NPRM.

*Response.* A "representative sample" of lenders is one which includes that selection of lenders appropriate to support an inference that conclusions drawn from study of that group are reasonably likely to be true of the larger universe of lenders. The Secretary expects Authorities to use the principles of statistical sampling to justify the sample selected and the conclusions drawn from that sample.

*Comment.* Several commenters objected to the requirement found in § 682.815(f) of the NPRM that in evaluating the credit expected to be made available by a lender which does not respond, or does not respond clearly, to a survey inquiry, the Authority is to assume that the lender intends to make the same annual volume of loans as it made in the most recent twelve-month period for which data is available. Several commenters suggested instead that an Authority be permitted to disregard such a lender as a source of credit for the bond-use period.

*Response.* No change has been made. As noted earlier, Authorities which choose to measure credit from direct lenders pursuant to § 682.813(a)(1) need not conduct a general survey of direct lenders for this purpose and therefore do not evaluate survey responses from these lenders. Moreover, it is more reasonable to expect a lender to act in a manner which is at least generally consistent with its own most recent pattern of lending activity, than to assume that it will abruptly cease making student loans. There may be many reasons why a lender would not timely or unequivocally disclose its lending plans, yet would still make substantial amounts of student loans. Obviously, if a lender states unequivocally that it will make or purchase *no* new loans, the Authority may disregard it as a credit source. Where such an intention is not expressed, it appears more likely that future lending will follow past practice than that it will differ markedly.

*Comment.* Several commenters expressed the concern that the Secretary could curtail an Authority's program by setting unfavorable standards for tolerances for inflation of costs and available aid, under § 682.815(g) of the NPRM.

*Response.* A change has been made. The provision of the regulations allowing the Secretary to establish standards for inflation in education costs and student aid has been eliminated.

*Section 682.820 Unmet need—refunding issues.*

*Comment.* Several commenters charged that § 682.820(a)(1) of the NPRM, by requiring Authorities to sell their loan portfolios at a one percent discount, unduly benefits the Student Loan Marketing Association and injures Authorities. One commenter suggested that the one percent discount would be structured into Plans, thus generating a greater surplus at maturity of the original obligations, thus increasing Federal tax revenue losses. One commenter stated that § 682.820 of the NPRM will effectively prevent refundings of bonds supported by takeout agreements, since the loans held by an Authority could be sold pursuant to such agreements.

*Response.* A change has been made. This provision has been deleted from the final rule.

*Comment.* One commenter stated that the provisions of § 682.820 of the NPRM would eliminate student loan commercial paper programs, since outstanding commercial paper could not be replaced (or "rolled over") if the loans could be sold.

*Response.* A change has been made. Provisions have been added to § 682.811 in the final regulations to allow replacement or resale of commercial paper within the bond-use period without additional review or justification.

*Section 682.822 Procedures for approval of determination of need for a tax-exempt obligation.*

*Comment.* Several commenters observed that an official statement could not be submitted to the Secretary with the request for approval of a new issue, as required in § 682.822(a)(2)(ii) of the NPRM, perhaps months before the date of that issue, because it may not be available in final form at that time. Several commenters suggested that a draft official statement should be required when available and that the Authority should be allowed to modify the draft, before it becomes official, without affecting the 30-day Plan approval period.

*Response.* No change has been made. The regulations state that a copy of "*any* official statement regarding the issue" is to be submitted no later than 30 days before the date of issue. § 682.822(a)(2). If no official statement exists at that time, none can be submitted; if only a draft statement exists, only a draft can be submitted.

*Comment.* Several commenters asked whether § 682.822(c)(1) of the NPRM was intended to prevent the holder from relying on an approval with respect to entitlement to special allowance payments on loans that it holds on its own behalf, as opposed to loans it holds on behalf of or for the sole benefit of an Authority or bondholders, since most Authorities have trustees that hold loans on behalf of bondholders.

*Response.* A change has been made. The final regulations clarify that the sanctions for misrepresentation under

§ 682.823 apply generally only against the Authority itself or its agent, and only so long as the tax-exempt issue with respect to which the misrepresentation was made remains outstanding.

*Comment.* One commenter suggested that the Secretary adopt an alternative procedure to monitor compliance with section 438(d)(1)(G) which would rely on audits submittted by the Authorities rather than the pre-issue reviews prescribed in § 682.822 of the proposed rules. The commenters admits that the substantive requirements of section 438(d)(1)(G) differ from those of IRS regulations regarding arbitrage bonds, but states that the surveys and other means already used by Authorities to comply with IRS rules could be adopted for use for compliance with section 438(d)(1)(G). The commenter believes that the Authorities have an excellent track record of compliance with IRS arbitrage rules, and that this record, together with the sanction of disqualification of future issues for special allowances, makes reliance on post-issue audit review more reasonable. The commenter contends that reliance on past-issue audit review is consistent with prior interpretation and implementation of the provisions now found in section 438(d)(1), and that Congress would have specifically mandated pre-issue review were it dissatisfied with what the commenter describes as prior operating procedure.

*Response.* No change has been made. The Secretary concludes, for several reasons, that pre-issue review is a reasonable procedure to monitor compliance with section 438(d)(1)(G), particularly in light of simplifications adopted in this final rule. The Secretary has considered the commenter's arguments that Congress intended no change from existing procedures to monitor Plans, but sees no indication in the statute, in its legislative history, or in subsequent Congressional action in this area to suggest that Congress intended section 438(d)(1)(G) to be implemented only through post-issue audits.

The Secretary considers the pre-issue review procedure mandated in § 682.822, contrary to the commenter's arguments regarding Congressional intent, to be entirely consistent with that intent as manifested first with regard to section 7 of Pub. L. 98–79, the Student Loan Consolidation and Technical Amendments Act of 1983, which enacted this requirement, and second, as necessarily implied in section 646 of Pub. L. 98–369, the Deficit Reduction Act of 1984. Under section 438(d)(1) of the HEA, submission and approval of a Plan for Doing Business is clearly a prerequisite for qualification for any special allowance payments on loans financed with tax-exempt obligations. The legislative history of section 7 of the 1983 amendments describes the process of justification of the need for new tax-exempt obligations as part of the process of approving Plans:

> The bill also requires that (Authorities) . . . must justify to the Secretary of Education *in* their plan for doing business that the amount of bonds issued *are not* in excess of the reasonable needs for student loan credit. . . . (Emphasis added.)
>
> 129 Cong. Rec. H6121 August 1, 1983.

The implication that Congress understood and intended that the Secretary's review of new issues would occur before the bonds were sold is reinforced by the Further description of the Secretary's responsibility "under this law . . . to *police* the amount of capital raised through tax-exempt bonds to *insure* that excessive amounts beyond the reasonable needs of student credit *are not being sold.*" *Idem.* The Secretary does not consider this direction as permitting him to adopt a review procedure described by the commenter under which he could take no enforcement action until months or even years after the excess bonds were sold, and even then, could use administrative sanctions that would affect not the excessive issuance itself, but only future actions of the issuer. Morever, it is clear that Congress was well aware of the procedures contemplated under the proposed rule and those used until these rules took effect, and did nothing either to require a change in those procedures or to indicate its disapproval of those procedures.[4] The Senate Finance Committee specifically cites, the proposed rule with apparent approval or at least acquiescence, in its discussion of tax-exempt bonds in its report on H.R. 4170, the Deficit Reduction Act of 1984. The Conference Report on the Deficit Reduction Act in fact succinctly describes the present law as requiring the Department to "approve the issuance of the bonds," an obvious reference to the sort of pre-issue review procedure already used by this Department and adopted in these regulations. 130 Cong. Rec. H6703, June 22, 1984. In section 646 of the Deficit Reduction Act, Congress, rather than rejecting the procedures already used by this Department, gave Authorities an opportunity to have any pre-issue decision by this Department reviewed by the Secretary of the Treasury.[5] The sponsor of that provision expressly stated that its adoption did not affect this Department's authority to monitor the issuance of tax-exempt bonds. 130 Cong. Rec. S4513, April 12, 1984.

In summary, contrary to the opinion of the commenter, the Secretary finds nothing in any Congressional action regarding section 438(d)(1)(G) of the Higher Education Act to suggest Congressional disapproaval of ED's pre-issue review procedure; if anything, these actions imply Congressional acquiescence in, or approval of, this procedure.

Moreover, whether or not at some point in the future reliance solely on annual audits to enforce section 438 (d)(1)(G) would be appropriate, ED's experience in reviewing justifications for new tax-exempt issues has demonstrated the usefulness of this procedure now. The number of instances in which Authorities through this review process were able to identify and use taxable credit resources, as well as those instances in which demand projections were overstated and existing sources of credit overlooked or underestimated, attests to the value of the pre-issue review process. With regard to the commenter's assertion that Authorities have an excellent record of compliance with IRS rules on overissuance, the Secretary knows of no extensive governmental monitoring or investigation of compliance with those IRS rules, and does not, therefore, either concede or dispute the claim.[6] That alleged proficiency in compliance with IRS rules, developed through years of experience with a relatively unchanged set of regulations and repeated formal interpretations through rulings, might be equalled in the future with regard to compliance with these ED regulations. It is reasonable, however, to defer reliance on post-issue reviews, which are more dependent on self-enforcement, until

[4] Although a few members of Congress, months after the amendment was enacted, expressed their individual opinions criticizing these procedures, neither Congress itself through legislation nor any Congressional committee in reporting on bills which relate to tax-exempt student loan financing have rejected ED's pre-issue review procedure.

[5] The sponsor of this amendment ascribed the need for this provision for consideration by the Treasury Department not to any disapproval of ED's pre-issue review procedure, but:

". . . because so many of the technical concerns in this area (sic) matters where the Treasury Department has special expertise and experience. . . ."

130 Cong. Rec. S4513, April 12, 1984.

[6] One not-infrequently-used element of that self-policing procedure is the securing of a pre-issue ruling from the Internal Revenue Service regarding the properity of particular aspects of the proposed transaction. It appears that Authorities do not regard every sort of pre-issue review as unduly burdensome.

both ED and the Authorities more fully assimilate the requirements of section 438(d)(1)(G) and the changes in the student loan financing market brought on by recent increases in taxable funding options and recent changes in tax law.

**Appendix B.**

Note.—This Appendix is not to be codified in the Code of Federal Regulations.

The Department of the Treasury response to comments related to the cost of tax-exempt student loan bonds.

The Office of Tax Analysis of the Department of the Treasury provided the Department of Education with a short analysis of the relative cost of tax-exempt and taxable financing of guaranteed student loans (GSL's) on January 9, 1984. That analysis estimated that over the historical range of interest rates, taxable financing of student loans is less expensive than using tax-exempt financing, even with conservative assumptions.

Some commenters critique the Treasury estimate of the revenue loss from tax-exempt bonds. The commenters conclude that at best the Treasury should be indifferent between whether GSL's are financed with taxable or tax-exempt securities. The commenters also suggest that, to the extent that arbitrage profits are used to retire outstanding tax-exempt debt or originate new GSL's, the cost of the program to Tresury would decrease.

The commenters raise several issues about the Treasury calculation of revenue loss from tax-exempt bonds which are worthy of discussion. As they have noted, the complexity of the relationships makes it difficult to create a formula that can capture all of the economic effects. However, as the discussion below will indicate, the Office of Tax Analysis believes that the Treasury estimates capture the major effects. Although the estimates may not include some of the third and fourth order effects, many of those effects would offset each other. The major difficulty in the estimation is the scarcity of empirical data on the portfolio shifts of individuals as a result of a change in the composition of differentially-taxed assets.

The Treasury Department stands by the estimates of the relative cost of tax-exempt and taxable financing of GSL's presented in the January 9, 1984 analysis. Under current laws and plausible interest rate levels, tax-exempt financing of GSL's will always be more expensive than taxable financing.

**I. Estimation of the Revenue Loss**

The commenter's major criticism of Treasury's revenue loss estimate is its assumption that a reduction in tax-exempt securities results in an equivalent increase in taxable securities. They believe that a reduction in tax-exempt bond volume results in a large increase in partially-taxed assets, with small increases in both tax-exempt and taxable securities.

*Substitution of Other Investments for Tax-Exempt Bonds*

The commenters argue that because investors holding tax-exempt securities consider partially-taxed securities as close substitutes, a decrease in tax-exempt bonds will result in a large increase in partially-taxed assets as high-bracket investors seek more partially-taxed assets. It is certainly true that as more investors demand partially-taxed assets, the price of those assets will be bid up and the yields will decline. As yields on partially-taxed assets decline relative to taxable instruments, businesses will have an incentive to issue more partially-taxed securities, such as corporate equity, in lieu of taxable debt. The magnitude of the increase in the supply of partially-taxed securities as a result of changes in yields depends on a number of factors, including the responsiveness of businesses to expand output or alter their debt/equity ratio due to changes in the relative cost of differentially-taxed securities.

The commenters view the changes in supply of differentially-taxed securities occurring only as a result of investors' portfolio adjustment. They do not mention that the issue surrounding tax-exempt student loan bonds concerns Congressional legislation that eliminates special allowance payment on GSL's financed with tax-exempt bonds for which alternative taxable financing is readily available. This is important because, as the commenters and the Treasury analysis note, the demand for GSL's by students is unaffected by the source of the financing since the students borrow at a fixed rate. Thus, the underlying activity in the economy would be unchanged initially by a reduction in tax-exempt student loan bonds. The same level of borrowing for educational purposes would occur, but more of that borrowing would be from taxable rather than tax-exempt sources.

Thus, for a reduction of $1 billion of tax-exempt student loan bonds, there would initially be $1 billion more of taxable student loans.[1] This does not mean that tax-exempt bond holders switch directly to taxable securities. After the change in the source of financing of student loans, investors would restructure their portfolios as a result of the change in relative yields that the commenters describe. Lower tax-exempt yields may induce State and local governments to issue more tax-exempt bonds for purposes other than student loans, but the commenters note that any such change would be slight. Similarly, changes in the yields for taxable and partially-taxed securities may induce changes in their supply, but again any such changes would be small relative to the initial substitution of taxable for tax-exempt debt instruments used to finance student loans.

While the commenters describe in detail the portfolio adjustment process of individual investors, their analysis of the supply of securities is incomplete. In the case of tax-exempt student loan bonds, exactly the same amount of the underlying economic activity would be completed with taxable or tax-exempt financing. In the case of other types of tax-exempt financing, most of the underlying economic activity, such as business investment with small issue Industrial Development Bonds (IDB's) or roads financed with general obligation bonds, would be undertaken even in the absence of tax-exempt bonds. Economic activity that would not occur without tax-exempt financing would free up savings to finance other investments, most of which would be from taxable sources, but some would be financed with partially-taxed assets. The changes in supply described by the commenters would occur as a result of changing yields, but such changes would be quite small relative to the initial substitution of alternative financing for tax-exempt financing of the underlying economic activity.

*Appropriate Marginal Tax Rate.* The commenters argue that the appropriate tax rate to apply for the revenue loss from tax-exempt bonds could be no greater than 25.5 percent, which they claim is the maximum rate on the closest alternative investment. They calculate a maximum effective tax rate on corporate equity equal to a weighted average of the 20 percent maximum rate on capital gains and ordinary rates on dividends. Alternatively, they suggest the average tax rate of the financial

[1] This assumes that all of the tax-exempt bond proceeds are invested in student loans. Typically a portion of the tax-exempt student loan bond proceeds are invested in taxable Treasury securities, in which case there is a direct one-for-one substitution of tax-exempt for taxable debt.

institutions that would finance the taxable student loans.

The commenters agree with the Treasury analysis that the marginal tax rate should be a weighted average of the investors making the portfolio adjustment. Their calculation rests on the faulty assumption described above that a reduction in tax-exempt volume would be replaced primarily by partially-taxed investments. Thus, they ignore the revenue loss that occurs from investors who shift from partially-taxed investments to taxable investments. Including the additional tax loss from these additional investors making portfolio changes would increase the weighted marginal tax rate.

The commenters argue that if there is any shifting between partially-taxed and taxable investments, it would only be investors with low or zero income tax rates, such as pension funds. However, a change in the relative yield ratio between taxable and partially-taxed investments would make taxable investments more attractive to all investors. Certainly, pension funds and other low-bracket taxpayers would shift, but so would other taxpayers holding partially-taxed securities.

The appropriate weighted average marginal tax rate is an empirical issue, which the Office of Tax Analysis is preparing to simulate with a general equilibrium model of investors' portfolios and capital users' supply of differentially-taxed securities. Simulations could show the appropriate marginal tax rate to be higher or lower than the percentage spread between taxable and tax-exempt yields. In the meantime, we believe that the spread is a good approximation.[2] In the case of student loan bonds issued in 1983, the average maturity was 4 years, and the spread on obligations with maturities of 5 years was roughly 40 percent. Even if a lower rate of 30 percent were used, the commenter's analysis indicates that Treasury would be better off with GSL's financed with taxable instruments.

[2] Harvey Galper and Eric Toder, "Modelling Revenue and Allocation Effects of the Use of Tax-Exempt Bonds for Private Purposes", OTA Paper 44, December 1980.

The commenters suggest using the average tax rate of the banks that finance GSL's as an alternative approach to the tax rate. Use of an average tax rate is completely inappropriate for this analysis. One of the reasons that banks have lower average tax rates is their holdings of tax-exempt bonds, but they hold-exempt bonds with below-market yields because they face high marginal tax rates.

*Other Issues.* The commenters argue that recent experience in the tax-exempt bond market indicates a flaw of the Treasury analysis. They cite as contrary to the Treasury analysis the stability of the short-term taxable/tax-exempt yield ratio and term structure in light of increases in tax-exempt bond volume and reduced purchases of tax-exempts by financial institutions. Both of these arguments, however, have no relevance to the Treasury analysis of the revenue cost of tax-exempt bonds.

The commenters compare changes in the yield ratio to the volume of tax-exempt bonds issued in recent years and find no clear relationship between the two. Such simple comparisons are not accurate tests, because not all factors are held constant. All empirical studies that hold other exogenous factors constant have found that an increase in the stock of outstanding tax-exempt bonds raises long-term tax-exempt interest rates. The magnitude of the increase in the long-term tax-exempt yield for an additional $1 billion of tax-exempt bonds ranges from 1 basis point to 7 basis points.

The commenters describe the relative stability of the short-term taxable/tax-exempt yield ratio during a period of reduced institutional demand for tax exempts. The large demand for short-term instruments by commercial banks relative to their outstanding supply is the reason that their taxable/tax-exempt yield ratio is close to 54 percent, or one minus the maximum corporate tax rate. Competitive demand for short-term tax-exempt bonds drives prices up (and yields down) to where most of the benefits of the tax exemption on short-term bonds accrue to the issuers, rather than the holders.

**II. Arbitrage Profits**

The commenters argue that issuers of student loan bonds may use some of the arbitrage profits to finance other GSL loans. Because arbitrage profits are considered proceeds of tax-exempt bonds, GSL's financed with arbitrage profits would earn reduced special allowance payment. At the present time, there is no requirement in the Internal Revenue Code that issuers use arbitrage profits to retire outstanding debt or originate new GSL's.

Although cost savings may occur if issuers use the arbitrage profits in these ways, the Treasury Department has several fundamental concerns about arbitrage profits that are not addressed in the paper. First, arbitrage profits provide an incentive for issuers to sell bonds earlier than needed and to hold excessive reserve funds. Thus, the issuance of bonds to earn arbitrage profits, irrespective of their ultimate use, increases the total amount of tax-exempt bonds outstanding and the revenue loss. The additional issuance of tax-exempt bonds to earn arbitrage profits more than offsets any budgetary savings from lower special allowance payments on GSL's financed out of arbitrage profits.

Second, it would be difficult to require all arbitrage profits to be used to finance GSL's. To administer such a requirement, limitations would have to be placed on the allowable costs of the issuers. Otherwise, any arbitrage profits could simply be expended on higher salaries and benefits for issuing Authority's officials or higher charges by bond counsel and underwriters.

Finally, even greater cost savings would occur if the special allowance payment rate was reduced so that arbitrage profits on student loan bonds were lower. Tax-exempt bond issuers are currently earning arbitrage profits with half the regular special allowance payment. Additional cost savings could be achieved if the special allowance rate was further reduced on GSL's financed with tax-exempt bonds, or alternatively if any arbitrage profits were rebated to the Treasury.

[FR Doc. 85-3254 Filed 2-7-85; 8:45 am]
BILLING CODE 4000-01-M

**DEPARTMENT OF EDUCATION**

**34 CFR Part 682**

**Guaranteed Student Loan Program**

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Secretary of Education issues proposed regulations to govern the approval for the *Plan for Doing Business* submitted to the Department of Education by Authorities which issue tax-exempt obligations in order to secure funds to make, purchase, or provide financing for loans under the Guaranteed Student Loan Program (GSLP) and PLUS Program. Specifically, because of the complexity of this subject, the Secretary is interested in learning the opinions of the public concerning various provisions contained in the final regulations which are published in this same issue of the **Federal Register.** The text of those final regulations also serves as the comment document for this proposed rulemaking. In the event the final regulations result in unanticipated consequences, the Secretary will amend the final regulations accordingly. The Secretary also proposes to add an additional provision not contained in those final regulations; only this new provision is set forth in full.

**DATE:** Comments must be received on or before March 11, 1985.

**ADDRESS:** Comments should be addressed to Mr. David C. Bayer, Guaranteed Student Loan Program, Office of Postsecondary Education, 400 Maryland Avenue, S.W. (Room 4310, ROB-3), Washington, D.C. 20202.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Bayer or Mr. Andrejs Penikis, telephone (202) 245-2475.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 420(b) of the Education Amendments of 1980 (Pub. L. 96-374, October 3, 1980, 94 Stat. 1427) imposed the requirement that student loan Authorities must submit a *Plan for Doing Business* (Plan) and receive the approval of the Secretary for that Plan in order to receive special allowance payments on loans acquired with tax-exempt financing.

Section 7 of the Student Loan Consolidation and Technical Amendments Act of 1983, Pub. L. 98-79, imposed on student loan Authorities two new requirements as conditions for qualification for special allowance payments on loans financed with tax-exempt borrowings. The first, that Authorities justify the need for the amount of any new tax-exempt issuance, has been discussed at length in the NPRM of February 10, 1984, 49 FR 5330, and in the final rule published in this issue of the **Federal Register.** The second condition, new found in section 438(d)(2) of the Higher Education Act of 1965, as amended (HEA), disqualifies for special allowance payments loans held by an Authority which adopts a policy or engages in a practice which results in a denial of access to student loans to a borrower on the basis of any of eleven grounds. In addition to incorporating the final rule published in this issue of the **Federal Register,** the Secretary proposes this rule to implement this non-discrimination provision.

Discrimination on the basis of any of seven of the classifications enumerated in section 438(d)(2), namely, race, sex, color, religion, national origin, age, and handicapped status, is also prohibited for all GSLP lenders by section 421(a)(2) of the HEA as amended by section 6 of Pub. L. 98-79. Authorities are also prohibited from discriminating on the basis of income. These additions to the HEA reflect statutory antidiscrimination prohibitions under the Equal Credit Opportunity Act (ECOA), 15 U.S.C. 1691 *et seq.*, which already governed credit practices of GSLP lenders. *See* 34 CFR 682.104; 48 FR 20115, May 4, 1983. The last three classifications contained in section 438(d)(2) of the HEA are new: attendance at a particular institution within the service area of the Authority, length of the borrower's program, and the borrower's academic year in school. The statute deferred the effective date of this condition for two years in the case of Authorities which adopted an exclusionary policy based on the default rate of the borrowers attending certain schools.

The Secretary recognizes that in some cases a loan acquisition policy of an Authority may exclude all loans made to members of classes defined by one of the categories listed in section 438(d)(2) without resulting in a denial of access to loan credit for borrowers in that class. Where the borrowers excluded from the benefits of an Authority's program have ready access to student loan credt, discrimination by the Authority in favor of a class of borrowers with less access cannot be reasonably expected to result in a denial of access to members of those classes not served by the Authority. Consistent with the Congressional policy regarding discrimination in consumer credit as that policy was made explicit in the ECOA, the Secretary interprets section 438(d)(02) of the HEA to prohibit discrimination against any class of borrowers on any of the grounds listed in that section, unless the exclusion is part of a program designed to increase access to credit for disadvantaged classes of borrowers. This echoes the exception under the ECOA for denials of credit pursuant to a requirement of a program "expressly authorized by law for an economically disadvantaged class of persons." 15 U.S.C. 1691(c)(1). Such programs are designated "special purpose credit programs" in Federal Reserve Board regulations. 12 CFR 202.8.

However, although this rule echoes the ECOA, it must go beyond the ECOA exceptions. ED had recently redesignated the entire GSLP to be a special purpose credit program, as Congress was well aware when it enacted Pub. L. 98-79. *See:* H.R. Rep. No. 324, 98th Cong. 1st Sess. 11 (1983). If section 438(d)(2) were to permit Authorities to justify any exclusion from their programs merely by asserting that their programs, as GSLP programs, were special purpose credit programs, the new non-discrimination provision would be rendered completely ineffectual precisely in those cases in which the exclusion was a matter of formally-adopted policy and, presumably, most pervasive in effect. Indeed, if any Authority uses any exclusionary policy, section 438(d)(1)(D) of the HEA requires it to do so by formal rule. That section requires Authorities, funds permitting, to serve all students residing in and enrolled in schools within its service area *unless* applicable State law provides otherwise; therefore, no exclusionary policy can be lawfully used by an Authority unless it was dictated by State law. Congress could not have intended in new section 438(d)(2) to sanction exclusionary Authority policies merely because they were based on State law, even if such a rationale would have sufficed to protect those policies from challenge pursuant to the ECOA as requirements of special purpose credit programs. 15 U.S.C. 1691(c)(1).

In short, section 438(d)(2) would have little or no effect if Authorities could discriminate with impunity both under the ECOA because their programs were special purpose credit programs and under section 438(d)(1) of the HEA if the discrimination was required by State law. In order to give effect to the non-discriminaton provisions of section 438(d)(2) in light of both this legislative precedent in the ECOA and the legislative approbation already required by section 438(d)(1)(D) for exclusionary policies, the Secretary here proposes to distinguish those exclusionary policies which discriminate under one of the

grounds proscribed in the HEA in favor of a class of borrowers who have been "disadvantaged" with regard to access to student loan credit, from policies which discriminate on other grounds. The Secretary therefore proposes to assure an Authority which excludes certain classes of borrowers from the benefits of its program in order to focus its efforts on borrowers with less than average access to loan credit that ED will not consider such an exclusionary practice a violation of section 438(d)(2) of the HEA.

An Authority which seeks to demonstrate that an exclusionary policy it has adopted is justified in order to serve a class of disadvantaged borrowers must produce a credible analysis of the existence and degree of disparity in access to loan credit between the groups included within the Authority's program and the borrower population as whole in its service area. Facts establishing a need for a special access credit program, as described in § 682.815(d), could justify an exclusionary policy in favor of a group of borrowers if the Authority further showed that the average borrower in that service area had greater access to student loan credit than members of the class served by the Authority. However, the Secretary recognizes that the facts, methodologies, and analyses used to demonstrate this disparity may, depending on the type of disadvantage being assessed, differ from those used to justify a special access credit program. He therefore prescribes no particular method of analysis or quantum of evidence that will be required to justify an exclusionary practice. Supportive data may be found in the legislative history of the Authority's enabling law. Some States, when enacting legislation establishing a student loan Authority or designating a non-profit organization to operate a qualified scholarship funding program in that State, may have made specific findings regarding the need to enhance access to student loan credit for particular classes of borrowers. Where such statements merely address a general need for improving or maintaining access to student loan credit, they give no support for any exclusionary policy. However, if the legislative findings are in fact based on empiric data regarding a lack of access to credit for particular classes of borrowers, those findings would tend to justify exclusionary policies adopted to focus the Authority's efforts on those disadvantaged classes.

Section 438(d)(2) proscribes not only discriminatory policies, but also any "practice which results in a denial of borrower's access to loans under this part." Many activities might be considered practices which could result in a denial of access to credit for a class of borrowers, and no attempt will be made here to identify and describe all such practices. One practice, however, is clearly the equivalent of adopting an exclusionary policy, and merits particular comment. If a guarantee agency adopts a policy of discriminating on any of the grounds enumerated in section 438(d)(2), an Authority which deals exclusively with that guarantor has adopted the exclusionary policy of the guarantor. Therefore, an Authority which makes or acquires loans guaranteed principally by one guarantee agency must either make provisions for securing a guarantee from another agency whenever necessary to enable it to provide the benefits of its program to a class of borrowers excluded from the benefits of the guarantee agency with which it ordinarily operates, or must justify the exclusionary policy of the guarantee agency as if it had formally adopted that policy itself.

**Executive Order 12291**

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

**Regulatory Flexibility Act Certification**

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities for the reasons discussed in detail in the preamble to the final regulations published in this issue of the **Federal Register**.

**Invitation to Comment**

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. The Secretary particularly invites comments on the following:

1. *Plan provisions.* § 682.802. This section contains the minimally required contents of a Plan. Are there any other requirements which might be added in order to enhance the approval process or to assist the Secretary in reviewing an Authority's operations?

2. *Transfer fees.* § 682.802(a)(4). The final regulations allow Authorities to pay transfer fees not in excess of the actual costs of transferring loans. How might these costs be determined without requiring lenders to account for their costs on every transaction? Is it feasible to determine a national or State median cost and require a justification for any fee payment in excess of that median figure?

3. *Overlapping service areas.* § 682.814(c). When an Authority plans to issue tax-exempt obligations and its service area overlaps with that of one or more other Authorities, all those Authorities must concur with the submitting Authority's assessment of unmet need. How might this procedure be simplified?

4. *Good-faith effort to secure taxable financing.* § 682.815(c). This paragraph details those actions which constitute a good-faith effort on the part of an Authority to obtain taxable financing of its operations. In what ways might this area be made more specific?

5. *Discrimination Prohibition.* § 682.840. An Authority which discriminates against certain classes of borrowers is prohibited from receiving special allowance payments. How might this proposed rule be revised to explain further practices which the Authority must avoid?

Written comments and recommendations may be sent to the address given at the beginning of this document

All comments submitted in response to these regulations will be available for public inspection, during and after the comment period, in Room 4310 ROB-3, 7th & D Streets, S.W., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

**Assessment of Educational Impact**

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

**List of Subjects in 34 CFR Part 682**

Administrative practice and procedure, Colleges and universities, Education, Loan programs-education, Student aid, Vocational education.

**Citation of Legal Authority**

A citation of statutory or other legal authority is placed in parentheses on the

line following each substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance Number 84.032, Guaranteed Student Loan Program)

Dated: February 4, 1985.

Gary L. Jones,

*Acting Secretary of Education.*

## PART 682—[AMENDED]

The Secretary proposes to amend Subpart H of Part 682 of Title 34 of the Code of Federal Regulations as follows:

A new § 682.840 is added to read as follows:

**§ 682.840 Prohibition against discrimination as a condition for receiving special allowance payments.**

(a) Except as described in paragraph (b) of this section, in order for an Authority to receive special allowance payments on loans made or acquired with the lendable proceeds of a tax-exempt obligation, the Authority or its agent shall not engage in any pattern or practice which results in a denial of a borrower's access to loans under the GLS or PLUS programs because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular institution within the area served by the Authority, length of the borrower's education program, or the borrower's academic year in school.

(b) An authority that excludes from its program loans made for the benefit of one or more groups or classes of borrowers based on distinctions enumerated in paragraph (a) of this section does not violate the requirements of this section if—

(1)(i) State law expressly requires the exclusion; and

(ii) The Authority demonstrates to the satisfaction of the Secretary that the classes of borrowers for whose benefit the Authority makes, purchases, or finances loans have had less access to student loan credit in relation to their need than the borrower population as a whole in the State served by the Authority; or

(2) The exclusion results before August 15, 1985 from a rule adopted before August 1, 1983 which restricts the benefits of the Authority's program to students not enrolled in institutions for which the default rate of their student borrowers exceeds rates specified by that Authority.

(c) The Secretary considers an Authority which makes or acquires loans guaranteed by an agency or organization which discriminates on one or more grounds listed in paragraph (a) of this section to have adopted a practice of denying access to loans on that ground unless—

(1) The Authority makes provision for loan guarantees from other sources necessary to serve the borrowers excluded by that discriminatory policy; or

(2) The Authority justifies the discriminatory policy pursuant to paragraph (b)(1) of this section.

(20 U.S.C. 1082, 1087–1, Pub. L. 98–79, Section 7(d), 97 Stat. 483 (1983))

[FR Doc. 85–3257 Filed 2–7–85; 8:45 am]

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federal register

Friday
February 8, 1985

Part VI

# Environmental Protection Agency

40 CFR Part 30

General Regulation for Assistance Programs; Proposed Rule With Request for Comments

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 30

[OA-FRL-2775-6]

### General Regulation for Assistance Programs

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to revise 40 CFR 30.802 (b) and (c), and 30.1230(a) of EPA's General Regulation for Assistance Programs (40 CFR Part 30) for collecting interest, processing and handling (collection), and penalty charges on recipients' debts under EPA assistance agreements.

The current regulation requires EPA to collect interest and collection charges on debts under assistance awards if the debts are not paid within 30 days of the final Agency decision that the recipient owes a debt.

Under the current regulation, the final agency decision date may vary based on whether the recipient requests administrative review of the decision that it owes a debt. This proposed amendment will make interest accrue from the date of the determination that a debt is due, even if the recipient requests administrative review of the decision.

The current regulation requires EPA to charge recipients other than State and local governments a penalty for failure to pay a debt within 30 days of the final Agency decision. However, the Debt Collection Act of 1982 (Pub. L. 97-365) requires charging the penalty on debts which are more than 90 days past due. This proposed amendment will require EPA to charge the penalty on debts not paid within 120 days of the determination by an EPA disputes decision official that the debt is due.

This rule will apply to all debts that EPA determines are due after this rule becomes effective, regardless of when EPA made the assistance award.

**DATE:** Comments are due on this proposed rule by March 11, 1985.

**ADDRESS:** Please submit your comments in duplicate to: Central Docket Section (A-130), Docket No. G-84-02, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:** Scott McMoran, Grant Administration Division (PM-216), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382-5293.

**SUPPLEMENTARY INFORMATION:** The Environmental Protection Agency's (EPA) General Regulation for Assistance Programs (40 CFR Part 30, September 30, 1983) provides general administrative requirements for all EPA assistance programs. We are proposing to revise the interest provisions of the regulation (40 CFR 30.802 (b) and (c), and 30.1230(a)).

40 CFR 30.802(b) and 30.1230(a) state that EPA will charge recipients interest, the cost to process and handle the debt, and a 6% penalty if the debt is not paid within 30 days from the date of EPA's final decision. Under EPA's dispute resolution process (40 CFR Part 30, Subpart L), the date of EPA's final decision depends on whether recipients request review. After a disputes decision official issues a final decision, the recipient may, within 30 days of the decision, request review of that decision. In such cases, interest is not charged between the date of the disputes decision official's decision and the review decision issued by the Regional Administrator or the Assistant Administrator.

Delays in repaying debts adversely affect the Agency's assistance program resources, and result in an undue financial loss to the Government and taxpayers in general, by reducing the Department of Treasury's investment opportunities and increasing its borrowing costs.

We are proposing to amend §§ 30.802(b), and 30.1230(a) to make interest accrue from the date of the disputes decision official's final decision, even if the recipient requests review of the decision, and to require recipients other than State and local governments to pay the cost of collecting the debt for all debts not paid within 30 days of the date of the disputes decision official's decision.

Under § 30.802(b) of the current regulations, EPA must charge recipients other than State and local governments a penalty of 6% of the amount of the debt each year if the recipient does not pay the debt within 30 days of the final agency decision. The Debt Collection Act of 1982, however, requires agencies to charge these recipients a penalty on debts which are more than 90 days past due. This proposed amendment will require EPA to charge the penalty on debts not paid within 120 days of the disputes decision official's decision.

### Regulation Development.

Under Executive Order 12291, EPA is required to judge whether a regulation is "major" and, therefore, subject to the regulatory impact analysis requirements of the Order. We have determined that this regulation is not "major" as it will not have a substantial impact on the Nation's economy or a large number of individuals or businesses. There will be no major increase in costs or prices for consumers, individuals, industries, or Federal, State, or local governments.

Under the Regulatory Flexibility Act (5 U.S.C. 601) I hereby certify that this regulation will not have a significant impact on a substantial number of small entities. This rule is designed to reduce regulation burden to a minimum.

This proposed regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

### List of Subjects in 40 CFR Part 30

Administrative practice and procedure, Intergovernmental relations, Grant programs, Inventions and patents, Copyright, Reporting and recordkeeping requirements.

Dated: December 27, 1984.

**Alvin L. Alm,**

*Deputy Administrator.*

### Part 30—[AMENDED]

EPA is proposing to amend 40 CFR Part 30 as follows:

1. In section 30.802 paragraphs (b) and (c) are revised to read as follows:

**§ 30.802 Under what conditions will I owe money to EPA?**

* * * * *

(b) EPA will charge you the accured interest if you fail to pay within 30 days from the date of the disputes decision official's final decision (see Subpart L). The interest rate will be established by the Secretary of Treasury in accordance with the Treasury Fiscal Requirements Manual 6-8020.20. The rates are published quarterly in the **Federal Register.**

(c) If you are not a State or local government, EPA will charge you its cost to process and handle the overdue debt at the end of each 30-day period the debt is overdue, and a penalty of 6 percent on debts not paid within 120 days of the disputes decision official's final decision.

2. Revise 40 CFR 30.1230(a) to read as follows:

**§ 30.1230 Will I be charged interest if I owe money to EPA?**

(a) Interest will accrue on any amounts of money due and payable to EPA from the date of the disputes decision official's final decision, even if you request review of the decision under this subpart. Only full payment of the debt within 30 days of the dispute decision official's final decision will prevent EPA from charging interest. If you pay a debt but request review under

this subpart and the amount of the debt is reduced as a result of the review, EPA will refund the interest and penalty charges that you paid on the adjustment. However, processing and handling charges which you may have paid are refundable only if EPA determines that the entire amount of the debt is not owed.

* * * * *

[41 U.S.C. 501, 33 U.S.C. 1251, 42 U.S.C. 7401, 42 U.S.C. 6901, 42 U.S.C. 300f, 42 U.S.C. 9601, 7 U.S.C. 136, 15 U.S.C. 2601]

[FR Doc. 85-3231 Filed 2-7-85; 8:45 am]
BILLING CODE 6560-50-M

# Reader Aids

Federal Register

Vol. 50, No. 27

Friday, February 8, 1985

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| | |
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| | |
|---|---|
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**Laws**

| | |
|---|---|
| Indexes | 523-5282 |
| Law numbers and dates | 523-5282 |
| | 523-5266 |

**Presidential Documents**

| | |
|---|---|
| Executive orders and proclamations | 523-5230 |
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| Weekly Compilation of Presidential Documents | 523-5230 |

**United States Government Manual** 523-5230

**Other Services**

| | |
|---|---|
| Library | 523-4986 |
| Privacy Act Compilation | 523-4534 |
| TDD for the deaf | 523-5229 |

## FEDERAL REGISTER PAGES AND DATES, FEBRUARY

| | |
|---|---|
| 4621-4846 | 1 |
| 4847-4956 | 4 |
| 4957-5058 | 5 |
| 5059-5224 | 6 |
| 5225-5362 | 7 |
| 5363-5546 | 8 |

## CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

**3 CFR**

**Executive Orders:**
12504 ..... 4849

**Proclamations**
5295 ..... 4621
5296 ..... 4623
5297 ..... 4847
5298 ..... 5059
5299 ..... 5363

**7 CFR**

Ch. XXXII ..... 5498
Ch. XXXIV ..... 5498
301 ..... 4851
354 ..... 4625
443 ..... 4625
449 ..... 4629
504 ..... 5365
701 ..... 4634
907 ..... 4853, 4957
910 ..... 4634, 5365
920 ..... 4854
1136 ..... 5061
1434 ..... 4635
1711 ..... 5366

**Proposed Rules:**
Ch. IV ..... 4693
1004 ..... 4694
1789 ..... 5395

**8 CFR**

100 ..... 5063
238 ..... 5369

**Proposed Rules:**
103 ..... 4957
212 ..... 4865, 5396

**9 CFR**

81 ..... 5225
113 ..... 5063
318 ..... 5226

**10 CFR**

210 ..... 4957

**Proposed Rules:**
71 ..... 4866

**12 CFR**

561 ..... 5232
563 ..... 5232
701 ..... 4636

**Proposed Rules:**
701 ..... 4698

**14 CFR**

21 ..... 5369
39 ..... 4857, 5374, 5375, 5376
71 ..... 4857, 4966, 5377, 5378, 5379
73 ..... 4966
97 ..... 4639
103 ..... 4968
150 ..... 5063

**Proposed Rules:**
39 ..... 4867-4870, 5396, 5397
65 ..... 5046
71 ..... 5046, 5398, 5399
91 ..... 5046, 5054
93 ..... 5046
103 ..... 5046
105 ..... 5046
251 ..... 5214
261 ..... 5214
287 ..... 5214
291 ..... 5214
296 ..... 5214
298 ..... 5214
299 ..... 5214
303 ..... 5214
380 ..... 5214

**16 CFR**

**Proposed Rules:**
13 ..... 4980, 4983, 4987, 4990

**17 CFR**

1 ..... 5380
143 ..... 5383
200 ..... 5064
249 ..... 5234
270 ..... 5234

**18 CFR**

35 ..... 4970
271 ..... 4640, 5384

**Proposed Rules:**
157 ..... 4871
271 ..... 5384
284 ..... 4871

**19 CFR**

101 ..... 4973

**20 CFR**

345 ..... 5234

**Proposed Rules:**
404 ..... 4948, 5264

**21 CFR**

5 ..... 4858
81 ..... 4641, 4642
175 ..... 4643
176 ..... 4643
178 ..... 4859
510 ..... 5385
520 ..... 5385
544 ..... 5385
864 ..... 5352, 5358

**Proposed Rules:**
341 ..... 4872

**24 CFR**

205 ..... 4646
207 ..... 4646
213 ..... 4646
220 ..... 4646
221 ..... 4646
232 ..... 4646
234 ..... 4646
242 ..... 4646
244 ..... 4646
250 ..... 4646
251 ..... 4646
255 ..... 4646

**26 CFR**

**Proposed Rules:**
1 ..... 4701, 4702

**29 CFR**

20 ..... 5202, 5204, 5209
1601 ..... 4648
1910 ..... 4648

**30 CFR**

935 ..... 5236

**Proposed Rules:**
104 ..... 5470
936 ..... 5080
942 ..... 4704

**31 CFR**

103 ..... 5064, 5065

**33 CFR**

100 ..... 4860
165 ..... 4860

**34 CFR**

222 ..... 4862
682 ..... 5506

**Proposed Rules:**
327 ..... 5080
682 ..... 5539

**36 CFR**

**Proposed Rules:**
223 ..... 4992

**37 CFR**

1 ..... 5158
2 ..... 5158
10 ..... 5158

**38 CFR**

17 ..... 4974

**Proposed Rules:**
14 ..... 4708

**39 CFR**

**Proposed Rules:**
111 ..... 4709

**40 CFR**

52 ..... 5236, 5237, 5246
60 ..... 4975
61 ..... 5190
65 ..... 5251, 5252
81 ..... 5069
145 ..... 5253
180 ..... 4975, 5070
271 ..... 5259, 5260

**Proposed Rules:**
30 ..... 5544
52 ..... 5265
65 ..... 5267
155 ..... 5084
264 ..... 5268
468 ..... 4872
471 ..... 4872
761 ..... 5401
799 ..... 5084

**41 CFR**

Ch. 101 ..... 5386

**43 CFR**

**Public Land Orders:**
2634 (Revoked in part by 6587) ..... 5262
6586 ..... 5262
6587 ..... 5262

**Proposed Rules:**
2720 ..... 5269

**44 CFR**

65 ..... 5071, 5072

**Proposed Rules:**
67 ..... 5084, 5105, 5270

**46 CFR**

**Proposed Rules:**
12 ..... 4875
67 ..... 4877
572 ..... 5401

**47 CFR**

1 ..... 4649
2 ..... 4650–4658
15 ..... 4664
73 ..... 4658–4685, 5073, 5391, 5392, 5393, 5394
74 ..... 4655
76 ..... 4658
81 ..... 5073
95 ..... 5074
97 ..... 4686, 4976, 5079

**Proposed Rules:**
Ch. 1 ..... 4711
73 ..... 4712, 4713, 5402, 5404

**48 CFR**

Ch. 5 ..... 4862

**49 CFR**

1312 ..... 4863

**Proposed Rules:**
531 ..... 4993, 5405
533 ..... 4993
172 ..... 5270
173 ..... 5270

**50 CFR**

17 ..... 4938
661 ..... 4977

**Proposed Rules:**
20 ..... 4994
21 ..... 4877
23 ..... 5279

## LIST OF PUBLIC LAWS

**Note:** No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

**Last List January 14, 1985**