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Friday
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Briefings on How To Use the Federal Register—
For information on briefings in Chicago, IL, New York, NY, and Washington, DC, see announcement on the inside cover of this issue.

Selected Subjects

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THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

CHICAGO, IL

WHEN: July 8 and 9; at 9 a.m. (identical sessions)

WHERE: Room 1654, Insurance Exchange Building, 175 W. Jackson Blvd., Chicago, IL.

RESERVATIONS: Call the Chicago Federal Information Center, 312-353-4242.

NEW YORK, NY

WHEN: July 9 and 10; at 9 a.m. (identical sessions)

WHERE: 2T Conference Room, Second Floor, Veterans Administration Building, 252 Seventh Avenue (between W. 24th and W. 25th Streets), New York, NY.

RESERVATIONS: Call Arlene Shapiro or Steve Colon, New York Federal Information Center, 212-264-4810.

WASHINGTON, DC

WHEN: September (two dates to be announced later).

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 520]

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 345,000 cartons during the period June 16–22, 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.

DATE: Effective for the period June 16–22, 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 June 11, 1985, at Sherman Oaks, 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.

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]

1. The authority citation for 7 CFR Part 910 continues to read as follows:

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

2. New § 910.820 is added to read as follows:

§ 910.820 Lemon Regulation 520.

The quantity of lemons grown in California and Arizona which may be handled during the period June 16, 1985 through June 22, 1985, is established at 345,000 cartons.

Dated: June 12, 1985.

William J. Doyle,

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

[FR Doc. 85–14463 Filed 6–13–85; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 930

Cherries Grown in Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland; Amendment of Subpart—Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule amends rules and regulations pertaining to procedures for cherry growers' applications to divert cherries from reserve pool participation, and methods of sale by which cherries are released from reserve pools. The revisions are designed to enable growers to make management decisions with respect to diverting or placing cherries in the reserve pool, and handlers to make necessary decisions pertaining to the sale of reserve pool cherries.

DATES: Effective date: June 14, 1985. Comments due by July 15, 1985.

ADDRESS: Send two copies of comments to: Docket Clerk, F&V, AMS, Room 2069–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written material shall be submitted and they will be made available for public inspection at the office of the Docket Clerk during regular business hours.

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 interim 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.

These rules and regulations are issued under Marketing Order 930 (7 CFR Part 930), regulating the handling of tart cherries grown in eight states. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). These actions are based upon the recommendation and information

submitted by the Cherry Administrative Board (hereinafter referred to as the "Board") and upon other available information, at its April 10, 1985 meeting. It is hereby found that this action will tend to effectuate the declared policy of the act.

This interim final rule amends §§ 930.101, 930.102, 930.103, and 930.591 under Subpart—Rules and Regulations issued under M.O. 930. Section 930.101 pertaining to producers' diversion applications, is amended to provide that each producer who elects to divert cherries by other than leaving them unharvested, when making application to the Board for such alternate means of diversion, shall specify the percentage of such cherries to be so diverted in relation to total deliveries packed and utilized, rather than the approximate number of pounds of cherries to be diverted as is now required. The Board recommended this change recognizing that producers often do not know the actual number of pounds of cherries which they will want to divert prior to harvest, but they do know the relative percentage of their total cherry deliveries which they want to divert. Section 930.102 pertaining to producers' diversion fees, which are based on the total acres of cherry trees diverted, is amended to exempt blocks of cherry trees aged 4 years or younger. Likewise, § 930.103 pertaining to methods of accomplishing diversion is amended to provide that blocks of cherry trees 4 years or younger shall not be designated by the Board in its approval of cherry trees eligible for diversion. The Board recommended such amendments to §§ 930.102 and 930.103 because cherry trees 4 years or younger are either nonbearing or are not commercially significant in production and they should not be included in calculating diversion fees. Section 930.591, which establishes conditions governing the sale of reserve pool cherries by the Board, is amended to provide an additional method of selling such cherries, and also makes minor changes pertaining to the time periods which the Board must notify handlers of cherry purchases, and which handlers must notify the Board of their desire to purchase second offering cherries. This action was recommended by the Board to help assure that reserve pool cherries will be returned to the market at market clearing prices in years of undersupply.

Accordingly, the Secretary finds that upon good cause shown it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in other public procedures, and postpone the effective date of this interim final rule 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 rule is based and the effective date necessary to effectuate the declared policy of the act. The harvesting of cherries is expected to begin on or about mid June, and the rule should be in effect sufficiently prior to such date to enable growers and handlers to make any necessary decisions prior to harvest. Interested persons were given an opportunity to submit information and views on the specified requirements for the 1985 season cherry crop at an open meeting at which the committee without opposition recommended implementation of such requirements.

Cherry growers and handlers have been apprised of the provisions of the amended rules and regulations to be in effect for the 1985 season cherry crop. The rule provides a 30-day comment period. A longer comment period would be contrary to the public interest, as any comments on the effect of the rule need to be received within 30 days, so that any necessary changes can be made promptly in the regulatory requirements. All comments received will be considered prior to finalization of this rule. It is found that this rule will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 930

Marketing agreements and orders, Cherries.

1. The authority citation for 7 CFR Part 930 continues to read as follows:

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

2. Section 930.101 is amended by revising paragraph (c) to read as follows:

§ 930.101 Diversion application.

* * * * *

(c) Each producer who elects to divert cherries by other than leaving such cherries unharvested, shall include with such producer's application for diversion, a copy of an agreement between such producer and the processor to whom such producer will deliver diverted cherries. Such agreement, signed by the producer and the processor (or such processor's designated representative) shall indicate the method of diversion to be utilized, the percentage of delivered cherries to be diverted, and the processor's agreement to supply the Board with documentation sufficient to prove that such percentage of the total deliveries were packed and utilized in the indicated manner.

3. Section 930.102 is amended by revising the introductory text in paragraph (a) to read as follows:

§ 930.102 Diversion fees.

(a) Each producer who makes application to divert cherries pursuant to § 930.56 shall pay to the Board the direct cost of supervision of the diversion as specified in the order: *Provided*, That no costs shall be incurred for blocks of cherry trees aged 4 years or younger. Such direct costs are hereby established as follows:

* * * * *

4. Section 930.103 is amended to read as follows:

§ 930.103 Diversion.

Diversion shall be accomplished by: Processing restricted percentage cherries into juice or juice concentrate by pressing such cherries fresh or freezing them unpitted; processing restricted percentage cherries into dried products; or leaving restricted percentage cherries unharvested: *Provided*, That such cherries shall remain on the tree until final inspection and shall not be removed from the premises other than by record approval: *Provided further*, That unless an alternate method of tree selection is requested by an applicant and is approved by the Board, the trees involved with non-harvest shall be designated on a random basis by the Board through its authorized representatives. Trees involved with non-harvested diversion shall not be designated by the Board from blocks of trees aged 4 years or younger. Diversion may also be accomplished by exporting restricted percentage cherries to foreign countries other than Canada or Japan.

5. Section 930.591 is amended to read as follows:

§ 930.591 Conditions governing the sale of reserve pool cherries.

The procedure set forth in this section shall be applicable to cherries released from the reserve pool as a result of a revision of percentages pursuant to § 930.53(a) or release of reserve pool cherries pursuant to § 930.53(b).

(a) The Board, prior to any 10 day reserve pool release period, shall notify each handler of record by telephone, which notification shall be confirmed by registered letter, of the: method of sale; time and date of the release period; quantity of said handler's share of the reserve pool release which may be purchased by such handler; specific prices of such cherries if determined in

advance, and the terms of the sale. Such terms of sale may include, but are not limited to: A delayed payment schedule; a discount based on the percentage of a handler's total share purchased; or a percentage allowance for brokerage fees. This shall be designated as the first offering.

(b) *Method of purchasing first offering cherries.* (1) If the price for first offering cherries has been established by the Board, each handler wishing to purchase such reserve pool cherries shall notify the Board, in person or by telephone, of the number of 30-pound containers or the percentage of this portion of reserve pool cherries such handler desires to purchase. Such handler shall confirm this offer in writing by letter or telegram at the Board's office or at such other location as may be designated by the Board. The confirmation shall be accompanied by a deposit of an amount to be determined by the Board, but not to exceed 30 percent of the estimated value of such cherries, for each 30 pounds of cherries such handler offers to purchase. Both the confirmation and the deposit must be received at the office of the Board or at other locations within the production area as designated by the Board, within the first 72 hours of the release period. The total amount of the purchase price of such cherries shall be due within the payment schedule established by the Board. No cherries shall be released by the Board until after it has received payment of the full amount due for such cherries. If the full amount is not paid within the payment schedule established by the Board, the entire deposit for each 30 pounds of cherries shall be forfeited to the Board for the reserve pool account and the cherries shall remain in the reserve pool.

(2) If the method of sale is by bid basis, each handler wishing to purchase first offering reserve pool cherries shall notify the Board in person or by telephone, and confirm in writing by letter or telegram, of the number of 30 pound containers of reserve pool cherries such handler desires to purchase and the price per pound such handler offers to pay. Such bids shall be accompanied by a deposit of an amount to be determined by the Board, but not to exceed 30 percent of the estimated value of such cherries, for each 30 pounds of cherries such handler offers to purchase. Both the bids and the deposit must be received at the office of the Board or at other locations within the production area as designated by the Board, within the first 72 hours of the release period. After this period the Board shall specify the minimum acceptable price per pound of reserve pool cherries. All bids equal to or higher than the minimum acceptable price shall be confirmed at such minimum price. Deposits for bids lower than such minimum price shall be promptly returned to the handlers making such unaccepted bids. The total amount of the purchase price of all confirmed sales of cherries shall be due within the payment schedule established by the Board. No cherries shall be released by the Board until after it has received payment of the full amount due for such cherries. If the full amount is not paid within the payment schedule established by the Board, the entire deposit for each 30 pounds of cherries shall be forfeited to the Board for the reserve pool account and the cherries shall remain in the reserve pool.

(c) In the event there remains for sale a portion of first offering cherries, the Board shall, in the next 96 hour period within the 10 day release period, notify all handlers who purchased their portion of first offering reserve pool cherries, by telephone or telegram, of the quantity, the price, the grade composition of cherries remaining for purchase, and the terms of sale. Such terms of sale may include, but are not limited to: A delayed payment schedule; a discount based on the volume of cherries purchased, or a percentage allowance for brokerage fees. This shall be designated as the second offering.

(d) Each such handler who desires to purchase second offering cherries may do so within the remaining 72 hours of the 10 day release period. Such offer shall be made in the same manner as such handler's offer to purchase first offering cherries or at the minimum price established by the Board and the deposit amount established by the Board shall also apply to the offer to purchase second offering cherries. If the full amount is not paid within the aforesaid payment schedule, the entire deposit for each 30 pounds of cherries shall be forfeited to the Board for the reserve pool account and the cherries shall remain in the reserve pool. In the event offers to purchase exceed the quantity of cherries offered, the quantity each handler may purchase shall be prorated in accordance with the handler's participation in the reserve pool as compared with the total participation in the reserve pool by all handlers who have made an offer to purchase second offering cherries: *Provided*, That if the proportion of any handler exceeds the quantity such handler desires to purchase, such excess shall be apportioned on the foregoing basis among the remaining handlers who have expressed a desire to purchase second offering cherries.

(e) All monies due to handlers from any allowance or discount shall be refunded to such handlers after distribution of reserve pool proceeds in accordance with § 930.109.

Dated: June 11, 1985.

William J. Doyle,

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

[FR Doc. 85-14398 Filed 6-13-85; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Parts 101 and 114

[Docket No. 85-041]

Viruses, Serums, Toxins, and Analogous Products; Amendment To Production Requirements for Biological Products; Expiration Date and Reprocessing

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: These revisions will amend the production requirements pertaining to establishing and extending expiration dates and reprocessing biological products. Currently, the earliest date of harvest and the date of a satisfactory potency test are used to establish and to extend the expiration date of a product. Current regulations only permit the reprocessing of product which is in liquid form. The revision will: Delete the use of the harvest date in computing the expiration date; relax the current restrictions on the movement of biological products between licensed establishments for the purpose of relabeling; and permit reprocessing of biological products in other than liquid form.

EFFECTIVE DATE: These amendments will become effective June 14, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Peter L. Joseph, Chief Staff Veterinarian, Veterinary Biologics Staff, VS, APHIS, USDA, Room 836, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-7760.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This final rule contains no new or amended recordkeeping, reporting or application requirements or any type of information collection requirement subject to the Paperwork Reduction Act of 1980.

Executive Order 12291

This final action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 to implement Executive Order 12291 and has been classified as a "Nonmajor Rule."

The final rule will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises, in domestic or export markets.

Certification Under the Regulatory Flexibility Act

The Administrator of the Animal and Plant Health Inspection Service has determined that this action will not result in an adverse economic impact on a substantial number of small entities. Small entities are defined as independently owned firms not dominant in the field of veterinary biologics manufacturing.

Background

As presently written, the date of harvest for any component of a biological product and the date of satisfactory potency test are the major considerations in 9 CFR 114.13 for establishing the dating period for a product in accordance with procedures contained in the Outline of Production. In the case of components which are stored prior to production of a biologic, the date such components are removed from storage may also be used as a starting point in determining the expiration date. In this case, the length of storage has always been considered to be a critical factor. At the time the regulations were written, the length of storage which relates back to the harvest date was thought to have a significant influence on quality of the product. Improvements in storage conditions and increased accuracy of test methods employed to monitor product potency have made the storage factor much less important. When production materials are properly stored, it can be expected that a reasonable length of storage would not adversely affect the quality of the final product. If improper storage adversely affects a product, this can be detected through potency tests which are required for each serial or subserial. Therefore, it is not necessary to use the date of harvest in establishing the maximum allowable dating for the product. This amendment deletes the requirement that the harvest date or storage time be used in computing expiration date. Determination of the expiration date will be based on potency testing. Accordingly, all references to harvest date are deleted from 9 CFR 114.13. The definition of harvest date, which appeared in that section, is moved to 9 CFR 101.3.

Currently, the initial dating permitted in the Outline of Production of nonviable biological products is confirmed by potency testing samples of the prelicense serials on or after the stated expiration date. Subsequent changes in expiration date may be granted based on potency tests on five consecutive serials at least 6 months beyond the date requested. Originally the five consecutive serial testing requirement was adopted because potency tests in use were thought to be inadequate to detect minor losses. Satisfactory testing 6 months beyond the dating requested was considered necessary before an increase of the dating period specified in the Outline of Production could be authorized. This requirement is amended to provide for greater flexibility of test procedures by only requiring that statistically valid data be presented to support subsequent changes in the expiration date. This permits greater flexibility of test procedures and would permit acceptance of data from less serials if valid. Research and development have resulted in improved potency tests that can detect adverse changes. Therefore, satisfactory results of potency tests performed on samples stored through the dating requested is sufficient to authorize an increase in the dating period. In order to provide a method of confirming the initial expiration date, as a minimum the serials presented in support of licensure will be tested at release and at the approximate expiration date. A subsequent revision of the expiration date will be based on statistically valid data supporting such revision. The revision will relax the regulations by incorporating this change.

The current regulations in 9 CFR 114.14(a)(2) limit the movement of licensed products for relabeling between two licensed establishments to those owned or operated by the same person. The Agency published in the **Federal Register** on November 21, 1984, (49 FR 45845) a revision of 9 CFR 114.3 which will allow the movement of partially prepared or completed product between licensed establishments. The revision of 9 CFR 114.14 makes this section consistent with the change in 9 CFR 114.3.

When the regulations in 9 CFR 114.18 were adopted, products eligible for reprocessing were limited to those in liquid form. New products and new or revised test standards have been developed which make reprocessing of products in other forms feasible. Examples include desiccated Brucella Abortus Vaccine and certain diagnostic test kits. In the case of Brucella Abortus Vaccine, a recent amendment of 9 CFR 113.65 requires that each serial of vaccine contain between 3 and 10 billion viable organisms per dose. Serials containing more than 10 billion organisms per dose when freshly prepared are declared unsatisfactory. Organism counts in these serials can be reduced by storage under specified conditions without adverse effects. This procedure is considered to be a reprocessing step and will be permitted to avoid rejection of a potentially satisfactory serial. Certain diagnostic test kits require that specific matching antigen and antibody lots be used in the preparation of a serial. In the event of an unsatisfactory potency test, a serial could feasibly be reprocessed by replacement of one of the components. This revision of 9 CFR 114.18 deletes the words "in liquid form." The mixing and filling provisions of 9 CFR 114.18(b) are deleted. Paragraph (c) is amended by changing "required tests" to "appropriate tests" and is redesignated as (b). Paragraphs (d) and (e) are redesignated as (c) and (d).

Comments Received

On January 10, 1985, a notice of proposed rulemaking was published in the **Federal Register** at 50 FR 1230 discussing these revisions and soliciting comments.

Comments were received from eight licensed manufacturers and one Department testing laboratory. Six of the licensed manufacturers agreed with the changes as proposed. The others agreed in principle with the proposed rulemaking but suggested some changes.

Concerning 9 CFR 114.13, two comments suggested the acceptable methods used to demonstrate stability should be listed. Another comment indicated that in the introductory paragraph the relationship between the requirement to demonstrate stability prior to licensing and potency test is unclear as written. It was further suggested that a statistically valid stability record should be defined. The Agency purposely used the wording in the regulatory language to avoid being too restrictive in the requirements. A

licensee has an opportunity to present and discuss test methods and results which may be used to satisfy the requirements. One or more serials of product manufactured and stored prior to licensing for approximately the dating period requested could be tested for potency and if the results are satisfactory could be used to determine an initial dating period. As another example, three prelicensing serials could be subject to accelerated stability tests such as incubation for various periods of time. Provided the results are satisfactory, this data could be used to estimate the initial dating at the time of license to be confirmed at the end of the expiration period. The licensee would consider such factors as cost, time, equipment, etc., in developing test methods. Many test procedures have been demonstrated to be acceptable for the purpose intended. Many of these methods are published in the Standard Requirements. The licensee has the choice of using any number of these.

The Agency's concern is that the tests are credible and reproducible. A statistically valid stability record would depend on such factors as the product, number of serials produced in a given time, number of unsatisfactory serials in that total, and many others. The inherent nature of certain materials may require additional testing especially in new combination products. It is necessary to consider the history and the combination of the product. The requirement does not insist that a multiple component product be retested for stability each time a new fraction is added. This would only be necessary if the new fraction does not have a correlated serial potency test and an established stability record and/or if there are reasons to suspect that adding a new fraction may interfer with the stability of other components in the new combination product. The language used in the regulation permits flexibility. However, the introductory paragraph has been reworded to read as follows: "Unless otherwise provided for in a Standard Requirement or filed Outline of Production, the expiration data for each product shall be computed from the date of the initiation of the potency test. Prior to licensure, stability of each fraction shall be determined by methods acceptable to Veterinary Services. Expiration dates based on this stability data shall be confirmed as follows:" This is done to clarify the intent of the regulation.

Another comment concerning 9 CFR 114.13 suggested that establishing a valid stability record should be the same for viable and nonviable products. With few exceptions, an *in vivo* test is used to measure potency of nonviable products. Such tests measure the protective quality of a product, and therefore, are more reliable measures of efficacy. In the case of viable products, *in vitro* potency test measure antigen content or number of organisms in the product. The number of organisms or titer has been correlated with efficacy in the immunogenicity test. Certain live products may have a tendency to loose titer early and then stabilize. Thus, it may be necessary to test more than the three prelicensing serials to determine the degree of the titer loss and serial stability. The alternative would be to increase the amount of testing of nonviable products. The Agency believes that this is unnecessary.

Concerning 9 CFR 114.14, one comment suggested deleting the restriction limiting movement of products between establishments and permit movement between licensed establishments, distribution points, warehouses, etc. The Agency gave an opinion with adequate explanation in final rulemakings amending Part 114 published in the Federal Register at 48 FR 31009, July 6, 1983, and 49 FR 45845, November 21, 1984. The opinion of the Agency has not changed since these final rulemakings were published.

In 9 CFR 114.13(b), the section heading "inactivated biological products" is changed to read "Nonviable biological products." This change broadens the definition to provide for consideration of other products such as antiserums, antitoxins, normal serums, synthetics, and extracted products.

After due consideration of all relevant matters, including the proposal set forth in the above notice and under authority in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151–158), the amendment of Part 14, Subchapter E, Chapter 1, Title 9 of the Code for Federal Regulations, as published in the above notice, is hereby adopted as follows:

List of Subjects

9 CFR Part 101

Animal biologics.

9 CFR Part 114

Animal biologics.

PART 101—DEFINITIONS

1. The authority citation for Part 101 is revised to read as follows and all authority citations appearing at the end of subparts of Part 101 are removed:

Authority: 21 U.S.C. 151–158; 37 FR 28477, 28646; 38 FR 19141.

2. 9 CFR Part 101 is revised by adding § 101.3(l) to read as follows:

§ 101.3 Biological products and related terms.

* * * * *

(l) *Harvest date.* Unless otherwise specified in a filed Outline of Production, the harvest date shall be the date blood or tissues are collected for production or the date cultures of living microorganisms are removed from production incubators.

PART 114—PRODUCTION REQUIREMENTS FOR BIOLOGICAL PRODUCTS

3. The authority citation for Part 114 is revised to read as follows and all authority citations appearing at the end of subparts of Part 114 are removed:

Authority: 21 U.S.C. 151–158.

4. 9 CFR Part 114 is amending by revising §§ 114.13, 114.14, and 114.18 to read as follows:

§ 114.13 Expiration date determination.

Unless otherwise provided for in a Standard Requirement of filed Outline of Production, the expiration date for each product shall be computed from the date of the initiation of the potency test. Prior to licensure, stability of each fraction shall be determined by methods acceptable to Veterinary Services. Expiration dates based on this stability data shall be confirmed as follows:

(a) *Products consisting of viable organisms.* Each serial shall be tested for potency at release and at the approximate expiration date until a statistically valid stability record has been established.

(b) *Nonviable biological products.* Each serial presented in support of licensure shall be tested for potency at release and at or after the dating requested.

(c) Subsequent changes in the dating period for a product may be granted, based on statistically valid data submitted to support a revision of the Outline of Production.

§ 114.14 Extension of expiration date for a serial or subserial.

(a) Unless otherwise provided for in a filed Outline of Production for the product, the expiration date shall not be extended:

(1) If all fractions of the product are not evaluated for potency by tests designated in the filed Outline of Production for such product in accordance with § 113.4(b) of this subchapter.

(2) For any serial or portion of any serial which has left licensed premises: *Provided,* That product which has been shipped from one licensed premises to another licensed premises shall be exempt from this requirement.

(3) For a serial or portion of a serial if the expiration date has been extended previously, unless otherwise authorized in accordance with § 114.1.

(b) An extension of the expiration date may be granted by Veterinary Services if a request from the licensee is substantiated by valid test data which demonstrate the potency of the product meets or exceeds the requirements for release. The new expiration date shall be calculated from the date the latest satisfactory potency test was initiated. The extension of the expiration date shall not exceed the maximum dating allowed in the filed Outline of Production.

(1) Serials are approved for redating under the condition that Veterinary Services may require the firm to retest the redated serial for potency during the extended dating period and if found unsatisfactory require it be removed from the market by the licensee.

* * * * *

§ 114.18 Reprocessing of biological products.

The Deputy Administrator may authorize a licensee to reprocess a serial of completed product subject to the conditions prescribed in this section.

(a) Reprocessing shall not include any method or procedure which would be deleterious to the product.

(b) All appropriate tests for purity, safety, potency, and efficacy for the product shall be conducted on the reprocessed product. A serial found unsatisfactory by a required test shall not be released.

(c) The reprocessed serial shall be identified by a new serial number and the records for the serial shall accurately reflect the action taken.

(d) Test samples of the reprocessed serial and test reports for all tests conducted shall be submitted to Veterinary Services. The licensee shall not release the serial until notified by Veterinary Services that the serial is eligible for release.

Done at Washington, D.C., this 10th day of June 1985.

G.J. Fichtner,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 85-14373 Filed 6-13-85; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 113

[Docket No. 85-040]

Viruses, Serums, Toxins, and Analogous Products; Revision of Standard Requirements for Tetanus Toxoid and Tetanus Antitoxin

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This rulemaking will revise the Standard Requirements for the production of Tetanus Toxoid and Tetanus Antitoxin by changing the criteria for a valid test. The current Standards require that the controls must die with clinical signs of tetanus. The revision will provide for terminating the test by euthanasia when the animals are manifesting clinical signs from which recovery is highly improbable.

EFFECTIVE DATE: These amendments will become effective June 14, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. David A. Espeseth, Senior Staff Veterinarian, Veterinary Biologics Staff, VS, APHIS, USDA, Room 829, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8245.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This final rule contains no new or amended recordkeeping, reporting or application requirements or any type of information collection requirement subject to the Paperwork Reduction Act of 1980.

Executive Order 12291

This final rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512-1 to implement Executive Order 12291 and has been classified as a "Nonmajor Rule."

This final rule will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises, in domestic or export markets.

In addition, this final rule is the result of a cyclical review of 9 CFR 113.99 and 113.251. This review is required by Executive Order 12291.

Certification Under the Regulatory Flexibility Act

The Administration of the Animal and Plant Health Inspection Service has determined that this section will not result in an adverse economic impact on a substantial number of small entities. Small entities are defined as independently owned firms not dominant in the field of veterinary biologics manufacturing.

Background

The present Standard Requirements for Tetanus Toxoid and Tetanus Antitoxin provide for each serial to be potency tested in guinea pigs. For a test to be valid, the control animals must die with clinical signs of tetanus described in the Standard Requirements. The National Veterinary Services Laboratories has analyzed data accumulated over a period of 3 years including results of 69 tests. These data were evaluated to determine if the tests could have been terminated when controls developed specific clinical signs of tetanus without altering the validity of the test system. The results showed that the final outcome would not have changed if judged by the criteria as set forth in these revisions. Therefore, 9 CFR 113.99(c)(4) and 113.251(d)(6) are amended to allow for terminating the tests by euthanasia after the development of specific definitive clinical signs.

Other amendments are made to clarify and update the regulations. In 9 CFR 113.99(c), "adult" is deleted and a weight range is added. A correction is made to reflect that "each dilution of pooled serum" is used. This is consistent with the requirements in 9 CFR 113.251 and accepted international standards for Tetanus Toxoid and Tetanus Antitoxin. In 9 CFR 113.251(d), the period of observation has been changed from "approximately 96 hours" to "60 to 120 hours." In the last sentence of paragraph 113.251(d)(4), "expected unit value" is changed to "labeled unit value, one dilution at 10 percent above and one dilution at 20 percent above." This change is consistent with paragraph 113.251(a)(2) of this section. It assures an adequate number of units in all final containers of Tetanus Antitoxin throughout a dating period. This is the common practice used in the industry to establish dating at 1 year and 3 years, respectively. Other minor changes in working have been made to clarify and update these Standards without changing the meaning or intent of the regulations.

Comments Received

APHIS published a notice of proposed rulemaking in the the **Federal Register** on Thursday, December 20, 1984 (49 FR 49478) discussing this revision and soliciting comments.

Comments were received from five licensed manufacturers and from the Chairman of the Anaerobic Product Committee, Veterinary Biologicals Section, Animal Health Institute. All favored the proposed revision. Some offered comments and suggested changes.

Three of the comments recommended that the time before euthanasia could be shortened even more than that proposed. One comment suggested that using only two clinical signs of tetanus would be sufficient cause to euthanize. As indicated in the proposed rulemaking, the Agency was partially prompted to recommend changes because of its concern for humane treatment of laboratory animals. The Agency is also responsible for providing guidelines to ensure a valid test. Based on the evaluation of the clinical signs observed in 69 tests over a 3 year period, the Agency believes that the recommendation in the proposed rulemaking is necessary to ensure a valid test. It is the intent that all guinea pigs in the test (both controls and test animals) should be euthanized when they reach the point where they are down and unable to rise or stand under their own power. Therefore, the amendment will remain as proposed.

Two of the comments received suggested that the term "labeled unit value" may be confusing as used in proposed changes to 9 CFR 113.251(d)(4). Currently, the regulation requires testing at the expected unit value, one dilution above and one dilution below, to assure the test is endpointed. This test is done on bulk material. After the unit value per ml is determined, the product is then filled with a volume to assure the labeled unitage plus desired overage for potency through dating is present. The labeled unit value is determined by multiplying the fill of final container times the number of antitoxin units per ml. There is also concern that the change in 9 CFR 113.251(d)(4) would impose an additional test. In order to further clarify, some word changes have been made. Title 9, CFR 113.251(d)(4) will now read: "A sample from each serial of antitoxin shall be prepared as was the Standard Toxin-Antitoxin mixture; except to the amount of antitoxin shall be based on an estimation of the expected potency. When testing is done on bulk material, the final container fill shall reflect the endpoint value plus 10 percent overage for 1 year dating and 20 percent overage for 3 year dating." Paragraph (d)(5)(ii) was also changed by deleting ". . . of three dilutions . . ." for consistency and clarity. In paragraph (d)(7) . . . new antitoxin . . ." is changed to ". . . unknown" antitoxin. . . ."

Another comment suggested deleting the test of pooled serum at a 1:10 dilution in 9 CFR 113.99(c)(2) and placing the test in paragraph (c)(9) under conditions for retesting. This suggestion is unacceptable. Testing at both a 1:10 and 1:20 dilution provides criteria for retesting. Further the only change to paragraph (c)(2) in the proposed rulemaking was to specify weight range for test animals.

The Agency has carefully reviewed all comments received and made appropriate changes consistent with the intent of the regulations. After due consideration of all relevant matters, including the proposal set forth in the aforesaid notice and pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151–158), the amendment of Part 113, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations, as published in the above notice, is hereby adopted as follows:

List of Subjects in 9 CFR Part 113

Animal biologics.

PART 113—STANDARD REQUIREMENTS

1. The authority citation for Part 113 continues to read as follows:

Authority: 21 U.S.C. 151–158; 37 FR 28477, 28646; 38 FR 19141.

2. 9 CFR Part 113 is amended by revising § 113.99 (c) to read as follows:

§ 113.99 Tetanus Toxoid.

* * * * *

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency. A group of at least 10 guinea pigs, consisting of an equal number of males and females weighing 500 grams ± 10 percent shall each be injected subcutaneously with 0.4 of the dose recommended on the label for a horse.

(1) Six weeks after injection all surviving guinea pigs shall be bled and equal portions of serum, but not less than 0.5 ml from each, shall be pooled. Serum from not less than eight animals shall be used.

(2) The pooled serum shall contain at least 2.0 Antitoxin Units (A.U.) per ml as determined by titrating it in the manner prescribed for Tetanus Antitoxin in 9 CFR 113.251. A 1:10 and a 1:20 dilution of the serum shall be made. The dilutions shall be held at 20° to 25° C for 30 minutes prior to combining with a test does of Standard Toxin. The test dose of Standard Toxin shall be mixed in proper proportion with each dilution of pooled serum, incubated at 20° to 25° C for 1 hour and injected subcutaneously into two guinea pigs weighing between 340 and 380 grams.

(3) The test dose of the Standard Toxin shall be verified against 0.1 of a unit to Standard Antitoxin in two guinea pigs weighing 340 to 380 grams which serve as control animals.

(4) Controls shall be observed until they are down and are unable to rise or stand under their own power. At this time they are euthanized and the time of death is recorded in hours. For a valid test the controls must reach this point with clinical signs of tetanus within 24 hours of each other and within an overall time of 60 to 120 hours. The clinical signs to be observed are increased muscle tonus, curvature of the spine, asymmetry of the body outline when the resting animal is viewed from above, generalized spastic paralysis, particularly of the extensor muscles, inability to rise from a smooth flat surface when the animal is placed on its side, or any combination of these signs. If the control guinea pigs do not respond in this manner, the test is invalid and shall be repeated. In a valid test, if the titer is at least 2.0 A.U. per ml, the serial is satisfactory. If the titer is at least 1.0, but less than 2.0 A.U. per ml, the retest provided for by paragraph (c)(5) of this section may be conducted. If the titer is less than 1.0, A.U. per ml, the serial is unsatisfactory and may not be retested.

(5) Serials with titers of at least 1.0 A.U. per m1, but less than 2.0 A.U. per m1 in the initial test may be retested, but if the retest is not conducted the serial is unsatisfactory. The retest shall be conducted in the same manner as the initial test except that at least 20 guinea pigs, consisting of an equal number of males and females weighing 500 grams ±10 percent, shall be used as vaccinates and serum from not less than 18 animals shall be pooled for the toxin-antitoxin titration. In the retest, the pooled serum from vaccinated guinea pigs is diluted 1:25. If the retest titer is less than 2.5 A.U. per m1, the serial is unsatisfactory.

3. 9 CFR Part 113 is amended by revising § 113.251(d) to read as follows:

§ 113.251 Tetanus Antitoxin.

* * * * *

(d) *Potency test.* Bulk or final container samples of completed product from each serial shall be assayed to

calculate the units of Tetanus Antitoxin in each final container. A comparative toxin-antitoxin neutralization test shall be conducted using a standard antitoxin and a standard toxin. All dilutions shall be made in M/15 phosphate buffered (pH) 7.4 physiological saline with 0.2 percent gelatin.

(1) One ml of the Standard Antitoxin shall be diluted before use so the final volume contains 0.1 unit per ml. The dilution shall be held at 20° to 25 °C for 30 minutes prior to combination with a test does of toxin.

(2) The Standard Toxin test dose is that amount which when mixed with 0.1 unit of Standard Antitoxin, incubated at 20° to 25 °C for 1 hour, and injected subcutaneously into a 340 to 380 gram guinea pig, results in death of that guinea pig within 60 to 120 hours with clinical signs of tetanus. The toxin shall be diluted so the test dose shall be in 2.0 ml.

(3) A mixture of diluted Standard Toxin and diluted Standard Antitoxin shall be made so that 0.1 unit of antitoxin in 1 ml is combined with a test dose of toxin. This Standard Toxin-Antitoxin mixture shall be held at 20° to 25 °C for 1 hour before injections of guinea pigs are made.

(4) A sample from each serial of antitoxin shall be prepared as was the Standard Toxin-Antitoxin mixture; except the amount of antitoxin shall be based on an estimation of the expected potency. When testing is done on bulk material, the final container fill shall reflect the endpoint value plus 10 percent overage for 1 year dating and 20 percent overage for 3 year dating.

(5) Normal guinea pigs weighing within a range of 340 to 380 grams shall be used. Pregnant guinea pigs must not be used.

(i) Each of two guinea pigs (controls) shall be injected subcutaneously with a 3 ml dose of the Standard Toxin-Antitoxin mixture. Injections shall be made in the same order that toxin is added to the dilutions of antitoxins. These shall be observed parallel with the titration of one or more unknown antitoxins.

(ii) Two guinea pigs shall be used as test animals for each dilution of the unknown antitoxin. A 3.0 ml dose shall be injected subcutaneously into each animal.

(6) Controls shall be observed until they are down and are unable to rise or stand under their own power. At this time they are euthanized and the time of death is recorded in hours. For a satisfactory test, the controls must reach this point with clinical signs of tetanus within 24 hours of each other and within an overall time of 60 to 120 hours. The clinical signs to be observed are increased muscle tonus, curvature of the spine, asymmetry of the body outline when the resting animal is viewed from above, generalized spastic paralysis, particularly of the extensor muscles, inability to rise from a smooth surface when the animal is placed on its side, or any combination of these signs. If the control guinea pigs do not respond in this manner, the entire test shall be repeated.

(7) Potency of an unknown antitoxin is determined by finding the mixture which will protect the test animal the same as the Standard Toxin-Antitoxin mixture. Test animals dying sooner than the controls indicate the unit value selected in that dilution was not present, whereas those living longer indicate a greater unit value.

Done at Washington, D.C., this 10th day of June 1985.

G.J. Fichtner,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 85-14372 Filed 6-13-85; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 141

[Docket No. RM85-12-000]

Amendments to FERC Form No. 1; Notice of Effective Date

Issued June 11, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; notice of effective date.

SUMMARY: On May 8, 1985, the Federal Energy Regulatory Commission issued a final rule in Docket No. RM85-12-000, 50 FR 19912 (May 13, 1985) which, among other things, deleted certain schedule pages from FERC Form No. 1. This notice states that OMB has approved these changes and sets forth the effective date of the change in the form.

EFFECTIVE DATE: June 12, 1985.

FOR FURTHER INFORMATION CONTACT: Jan Macpherson, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8504.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act, 44 U.S.C. 3501-3520 (1982) and the Office of Management and Budget's (OMB) regulations, 5 CFR Part 1320 (1983), require that OMB approve certain information collection requirements imposed by agency rule. On June 5, 1985, OMB approved the information collection requirements of FERC Form No. 1, which is required by 18 CFR 141.1, under the existing Control Number 1902-0021 for that section. Therefore, this aspect of the final rule in Docket No. RM85-12-000 is effective as of June 12, 1985.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-14402 Filed 6-13-85; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 440 and 448

[Docket No. 83N-0378]

Antibiotic Drugs; Deletion of Safety Test

Correction

In FR Doc. 85-11467 beginning on page 19917, in the issue of Monday, May 13, 1985, make the following corrections:

1. On page 19918, in the third column, under Part 440, in the ninth line of amendatory instruction number 6, "440.19(a)(1)(iv)" should read "440.19(a)(1)(ii)"; and in the tenth line, "440.19a(a)(1)(ii)" should read "440.19a(a)(1)(iv)".

2. On page 19920, in the second column, under Part 448, in the eighth line of amendatory instruction number 32, "448.121(a)(3)(*a*)" should read "448.121(a)(3)(i)(*a*)"; also in the eighth and ninth lines, "448.310b(a)(i)(3) (*a*), (*b*), and (*c*)" should read 448.310b(a)(3)(i) (*a*), (*b*) and (*c*).

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 20

[Docket No. R-85-1240; FR-1349]

Rules of the Board of Contract Appeals

AGENCY: Office of the Secretary, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule revises the procedures of the Department of Housing and Urban Development Board of Contract Appeals. The revision is

required by the Contract Disputes Act of 1978 (41 U.S.C. 601–613). This interim rule adopts, in substantial part, the Uniform Rules of Procedure for Boards of Contract Appeals issued by the Office of Federal Procurement Policy.

DATES: *Effective Date:* July 26, 1985.
Comments Due: August 13, 1985.

ADDRESS: Comments should be sent to: Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: David T. Anderson, Chairman, Board of Contract Appeals, Room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410–5000, telephone (202) 755–0132. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Contract Disputes Act of 1978 (41 U.S.C. 601–613) was enacted on November 1, 1978. This Act required the Office of Federal Procurement Policy (OFPP) to issue guidelines for the procedures of the agency Boards of Contract Appeals. The goal of these guidelines was to promote uniformity in the various rules of practice for agency Boards of Contract Appeals. OFPP published these guidelines on March 7, 1979 (44 FR 12519) with additional changes published on June 14, 1979 (44 FR 34227). OFPP indicated that agency Boards of Contract Appeals would be expected to adopt these uniform rules except where minor variances are justified because of an individual Board's size of the nature of its docket.

This interim rule revises and updates the rules of practice and procedure applicable to the processing of administrative appeals before the Department of Housing and Urban Development Board of Contract Appeals (HUDBCA), 24 CFR Part 20. This rule conforms to the guidelines promulgated by OFPP. As revised, Subpart A of Part 20 incorporates Parts I and II to the preface to the uniform rules. Existing rules in Subpart A which govern the scope of the part, the establishment of the Board, the Board's jurisdiction over matters other than contract appeals, and the powers of the Board are retained. Existing provisions in Subpart A that relate to the interpretation or effect of the current procedural rules of the Board are eliminated.

The existing procedural rules of the Board in Subpart B have been eliminated. In their place, new Subpart B substantially adopts the text (and numeration) of the uniform rules. The subjects discussed in Parts III and IV to the preface to the uniform rules are discussed in rules 35 and 36, respectively. These two provisions are included with a retitled rule 34 under a new heading "Miscellaneous Procedures". Subpart C, which governs bid protest procedures for National Housing Act contracts, is retained unchanged.

HUDBCA's interim rules make minor revisions and editorial changes to the uniform OFPP rules. The most significant are discussed below:

1. Section 20.3(b) generally follows Part II of the preface to the uniform rules. Section 20.3(b), however, more accurately describes the composition of the Board and indicates the number of Board members generally assigned to a panel to hear an appeal.

2. Section 20.10 has no corresponding provision in the uniform rules. This section discusses the scope of the rules. Additionally, to provide alternate procedures where the Board's rules prove to be inadequate, this section permits the application of the Federal Rules of Civil Procedure.

3. Uniform rule 1(a) provides that the notice of appeal shall be furnished to the contracting officer. This requirement is eliminated from HUDBCA rule 1(a). The contracting officer will be notified of the appeal by the Board's written notice of docketing under rule 3. Uniform rule 1(c) provides that a contractor may file a notice of appeal in a matter involving a claim of $50,000 or more if the contracting officer has failed to issue a decision within a reasonable time. HUDBCA's rule 1(c) provides that the contractor may file a notice of appeal if the contracting officer has, within 60 days of the submission of the claim, failed to issue a final written decision or to advise the contractor of a date when the final written decision would be issued. A new paragraph has been added permitting the contractor to request the Board to direct the contracting officer to issue a final written decision within a specified period of time in the event of an undue delay on the part of the contracting officer.

4. Uniform rule 2 contains the content requirements for the notice of appeal. In addition to the requirements stated in the uniform rule, HUDBCA's rule 2 provides that notice of appeal from a contracting officer's decision involving a claim in excess of $50,000 must state that certification has been made as required under section 6(c)(1) of the Contract Disputes Act of 1978 [41 U.S.C. 606(c)(1)]. Section 6(c)(1) requires the contractor to certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of his knowledge and belief, and that the amount requested accurately reflects the contract adjustment for which the contractor believes the government is liable. This additional requirement will ensure that all the statutory prerequisites for the submission of a claim are met.

5. To provide all concerned parties with notice of the appeal, rule 3(a) adds HUD's Office of General Counsel to the list of entities that receive notice of the docketing of the appeal (*Compare* uniform rule 3(a)).

6. Uniform rule 4(a) states that the time period for a contracting officer to transmit the appeal file to the Board will commence with the receipt of the appeal or the notice that the appeal has been filed. HUDBCA's rule 4 states that this time period will commence upon the contracting officer's receipt of notice from the Board that an appeal has been docketed. This change provides a more definite description of when the appeal period will begin and eliminates the possibility that the time limit would be deemed to commence upon a party's informal indication of intent to file an appeal. HUDBCA's rule 4(a) also requires the contracting officer to submit three copies of the complete appeal file to the Board (through HUD's Office of the General Counsel). Upon receipt, the Board is required to furnish the copies of the appeal file to the appellant and HUD's Office of the General Counsel. This change will ensure that all parties will have copies of all necessary items in the appeal file. Uniform rule 4(e) permits a party to object to the consideration of a particular document in the appeal file reasonably in advance of hearing, or if there is no hearing, reasonably in advance of settling the record. HUDBCA's rule 4(e) provides that this objection must be made within 30 days of receipt of the document, unless good cause is shown for later objection.

7. Rule 6 of the uniform rules states that the Board will serve a copy of the complaint on the government and a copy of the answer to the complaint on the appellant. The Board believes that the burden of service should fall upon the party initiating a pleading. Accordingly, these requirements have been deleted from rule 6 and the service of the complaint and answer will be governed by rule 16. Since the Board will not be required to serve complaints and

answers, the requirements that parties must file multiple copies of these pleadings with the Board are eliminated.

8. With the exception of limited provisions governing motions for reconsideration (uniform rule 29) and motions to dismiss for lack of subject matter jurisdiction (uniform rule 5), the uniform rules contain few provisions governing motions. To provide guidance concerning the Board's treatment of other motions, interim rule 8(b) incorporates existing rule 8(c) as contained in Part 20. Minor changes to the text of existing rule 8(c) have been made to eliminate redundancy and to clarify the rule.

9. The uniform rules require the Administrative Judge to make written summaries of the results of the prehearing or presubmission conferences (uniform rule 10), and require the Administrative Judge to provide copies of orally rendered decisions on the merits (uniform rules 12.2(c) and 12.3(c)). The following changes have been made: (1) HUDBCA's rule 10 would permit the Administrative Judge to elect to have conferences transcribed for the record rather than provide a written summary, and (2) HUDBCA's rules 12.2(c) and 12.3(c) would permit the Administrative Judge to elect to provide a hearing transcript rather than a typed copy of the oral decision. These changes will minimize the administrative burdens on the Board.

10. Uniform rule 11 provides that either party may elect to waive a hearing and submit its case upon the record before the Board. The Department has revised this rule to make it clear that a party may waive the right to appear at a hearing but that this waiver will not deprive the other party of the right to an oral hearing before the Board.

11. Uniform rule 12.3, which governs the accelerated procedure, has been revised to eliminate redundant matters.

12. Uniform rule 14(f) has been eliminated because it duplicates rule 21(a)(1) governing the issuance of subpoenas for depositions.

13. Uniform rule 15 states ". . . Any discovery engaged in under this rule will be subject to rule 14(a) with respect to general policy and protective orders and rule 33 with respect to sanctions." This provision has been deleted from rule 15, but retained in part in rule 14(a).

14. Uniform rule 16 governs the service of papers other than subpoenas. HUDBCA's rule 16 eliminates the requirement that copies of complaints, answers and briefs must be filed with the Board, because these requirements are stated in rules 6, 9, and 23. HUDBCA's rule 16 also explains when papers will be deemed to be filed with the Board and requires the party filing any paper with the Board to simultaneously serve a copy of the paper on the opposing party and file a certificate of the service with the Board. These changes will eliminate arguments concerning the date a pleading is filed with the Board and will ensure that parties will posess a complete record of the proceeding.

15. The Department believes that 15 days' notice of the date set for hearing as required under uniform rule 18 is not adequate to provide the parties with sufficient time to prepare. Accordingly, HUDBCA's rule 18 expands the notice period to a minimum of 20 days. HUDBCA's rule also requires the Board to notify the parties of a hearing by certified mail (return receipt requested). This requirement will permit the elimination of the requirement in uniform rule 18 that parties must acknowledge receipt of the notice of hearing.

16. Uniform rule 19 provides that where a party has an unexcused absence from a hearing, the hearing will proceed and the case will be regarded as submitted on the record by the absent party. The Board has found that appellants often indicate that they do not intend to prosecute an appeal and simply fail to appear at the hearing, rather than withdraw from the proceeding. HUDBCA rule 19 permits the Board to dismiss an appeal under these circumstances without conducting the "show cause" procedures stated in rule 31.

17. Under uniform rule 20(a), the parties may offer "such evidence as they deem reasonable and appropriate under the circumstances and as would be admissible under the Federal Rules of Evidence." Given the informality of hearings before the Board, HUDBCA's rule 20(a) permits the introduction of any other evidence deemed reliable and relevant by the presiding Administrative Judge. Additionally, HUDBCA's rule 20(b) requires, rather than permits, the Board to advise witnesses of the penalties for false representation when the testimony of the witness is not given under oath or affirmation.

18. HUDBCA's rule 21 governs subpoenas and contains three revisions to the uniform rules. First, HUDBCA's rule 21(f) permits service by personal delivery *or* by certified mail (return receipt requested). This change provides greater procedural flexibility and reduces the costs involved in the defense and prosecution of proceedings before the Board. Second, HUDBCA's rule 21(f)(2) does not include the uniform rule provision that permits the Board to strike testimony or evidence if a party has failed to pay witness fees and mileage or the cost of serving a subpoena. HUDBCA believes that the recitation of this sanction is improperly included at this place. Finally, HUDBCA's rule 21(g) does not state that the failure to obey an order of a court requiring a person to appear before the Board may be punishable by the court as contempt. This provision, while appropriate in the court's rules of procedure, is inappropriate in the Board's rules.

19. Under uniform rule 23, posthearing briefs may be submitted upon such terms as may be agreed upon by the parties and the Administrative Judge. Under this provision, it is possible for one party to unilaterally prevent the submission of necessary posthearing briefs. Accordingly, HUDBCA's rule 23 gives the presiding Administrative Judge the discretion to order posthearing briefs.

20. Transcripts of proceedings are addressed in rule 24. The uniform rule requires a transcript unless waived by the Board, and states that waiver may be especially suitable for hearings under the expedited procedure. HUDBCA's rule eliminates the advisory language addressing waiver of transcripts under the expedited procedure. Uniform rule 24 also provides that the Board shall supply transcripts or copies of the proceedings to the parties at the actual cost of duplication. To avoid infringing on the commercial rights of the hearing reporter and to avoid imposing unnecessary duplication responsibilities on the Board's staff, HUDBCA's rule 24 provides that the Board may supply the parties with extra transcripts in the Board's posession. If the Board has no extra transcripts, the parties may obtain copies from the hearing reporter.

21. Uniform rule 26 provides that a corporate appellant may appear before the Board by one of its officers and that a partnership or joint venture may appear by one of its members. HUDBCA's rule 26 provides that representatives of such parties must be *duly authorized* by the appellant to appear before the Board.

22. The requirement for authentication of copies of decisions forwarded to the parties by the Board, as required by uniform rule 28, has been deleted from HUDBCA's rules. The Board believes that this requirement serves no useful purpose.

23. HUDBCA's rule 31 clarifies that dismissals for failure to prosecute or defend are *with prejudice*. (*Compare* uniform rule 31.)

24. Uniform rule 32, which governs cases remanded to the Board by the courts, states that the parties shall, within 20 days of the remand, submit a report to the Board recommending procedures to be followed to comply with the court's order. HUDBCA rule 32 makes it clear that the Board must consider the reports only if they are timely filed.

25. Part III to the preface of the uniform rules, which governs time computation and extensions, is adopted at HUDBCA's rule 35 with one revision. This revision would require that extension requests must be filed before the due date, unless excused.

26. HUDBCA's rule 36 is based on the provisions of 24 CFR 26.4 involving ex parte communications. (Part 26 applies to certain HUD proceedings presided over by a hearing officer.) The Department believes that these revised provisions more satisfactorily address the subject of ex parte communications than does Part IV to the preface of the uniform rules.

Because these interim rules substantially conform to the OFPP uniform rules that were promulgated following an extensive opportunity for public participation and comment, and because HUDBCA has been operating under the uniform rules informally since May, 1979, the Department has determined that it is unnecessary to provide an opportunity for public comment before this rule's issuance. However, public comments are invited for 60 days following publication of this interim rule. These comments will be considered in the adoption of a final rule.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10276, at the address listed above.

This rule does not constitute a "major rule," as that term is defined in section 1(b) of Executive Order 12291 issued by the President of February 17, 1981. Analysis of the proposed rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employement, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under the Regulatory Flexibility Act (5 U.S.C. 601), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule is procedural in nature and should impose few economic burdens on parties to actions before HUDBCA.

This rule was listed as item 4 on the Department's Semiannual Agenda of Regulations published April 26, 1985 (50 FR 17286 at 17287), under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance includes no program covering this Part.

List of Subjects in 24 CFR Part 20

Adminstrative practice and procedure, Government Contracts, Organization and Functions (Government agencies), Government procurement.

Accordingly, Title 24 of the Code of Federal Regulations is amended as follows:

1. The table of contents for Part 20 is revised to read as follows:

PART 20—BOARD OF CONTRACT APPEALS

Subpart A—Department of Housing and Urban Development Board of Contract Appeals

Subpart B—Rules of the Department of Housing and Urban Development Board of Contract Appeals

Subpart C—Bid Protest Procedures for National Housing Act Contracts

Authority: The Contract Disputes Act of 1978, (41 U.S.C 601–613); Section 7(d) of the Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)).

2. The text of Subpart A of Part 20 is revised to read as follows:

Subpart A—Department of Housing and Urban Development Board of Contract Appeals

§ 20.1 Scope of part.

This part establishes a Board of Contract Appeals, sets forth its function, policies and procedures regarding matters to be considered by the Board, and prescribes the rules of the Board.

§ 20.2 Establishment of Board.

There is established in the Office of the Secretary, the Housing and Urban Development Board of Contract Appeals ("the Board").

§ 20.3 Organization and location of the Board.

(a) *Location.* The Board's address is U.S. Department of Housing and Urban Development, Board of Contract Appeals, Room 2158, 451 Seventh Street, SW., Washington, D.C. 20410–5000. The telephone number is (202) 755–0132. (This is not a toll-free number.)

(b) *Organization.* The Board shall be comprised of a Chief Administrative Judge, who shall be the Chair, an Administrative Judge, who shall be the Vice-Chair, and such other Administrative Judges as may be appointed by the Secretary. All members of the Board shall be attorneys at law duly licensed by any State, commonwealth, territory, or the District of Columbia. All members shall be selected and appointed to serve in accordance with section 8(b)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 608(b)(1)). Except as otherwise provided, appeals are assigned to a panel of at least three members who decide the case by a majority vote. Board members are designated Administrative Judges.

§ 20.4 Jurisdiction of the Board.

(a) *Contract appeals.* The Board shall consider and determine appeals from decisions of contracting officers under the Contract Disputes Act of 1978 (41 U.S.C. 601–613) relating to contracts entered into by (1) the Department of Housing and Urban Development or (2) any other executive agency when that agency or the Administrator for Federal Procurement Policy has designated the Board to decide the appeal.

(b) *Other matters.* The Board or its individual members shall have jurisdiction over other matters assigned to it by the Secretary. Determinations in other matters shall have the finality provided by the applicable statute, regulation or agreement.

§ 20.5 Board powers.

(a) *Board powers.* The Board shall employ support personnel, as needed, and shall have all powers necessary and incident to the proper performance of the duties assigned to it.

(b) *Disqualification.* No Administrative Judge may act for the Board or participate in a decision if, prior to the time the appeal was filed, he or she had participated in the matter in any manner on behalf of an interested party.

3. The text of Subpart B of Part 20 is revised to read as follows:

Subpart B—Rules of the Department of Housing and Urban Development Board of Contract Appeals

§ 20.10 Rules.

These rules govern the procedure in all matters before the Department of Housing and Urban Development Board of Contract Appeals, unless otherwise provided by applicable law or regulation. The Federal Rules of Civil Procedure may be applied where procedures are not otherwise provided in these rules.

Preliminary Procedures

Rule 1. *Appeals, how taken.*

(a) *General.* Notice of an appeal shall be in writing and mailed or otherwise furnished to the Board within 90 days from the date of receipt of a final written decision of the contracting officer.

(b) *Contracting officer's failure to act-claim of $50,000 or less.* Where the contractor has submitted a claim of $50,000 or less to the contracting officer and has requested a written decision within 60 days from receipt of the request, and the contracting officer has not issued the decision, the contractor may file a notice of appeal as provided in paragraph (a) above, citing the failure of the contracting officer to issue a decision.

(c) *Contracting officer's failure to act-claim in excess of $50,000.* Where the contractor has submitted a claim in excess of $50,000 to the contracting officer and the contracting officer has failed, within 60 days of submission of the claim, to issue a final written decision, or to advise the contractor of a date when the final written decision would be issued, the contractor may file a notice of appeal as provided in paragraph (a) above, citing the failure to issue a decision.

(d) *Unreasonable delay by contracting officer.* A contractor may request the Board to direct a contracting officer to issue a final written decision within a specified period of time, as determined by the Board, in the event of an unreasonable delay on the part of the contracting officer.

(e) *Stay of proceedings.* Upon docketing of appeals filed under paragraph (b) or (c) above, the Board may stay further proceedings pending issuance of a final decision by the contracting officer within the period of time determined by the Board.

Rule 2. *Notice of appeal, contents of.*

A notice of appeal should indicate that an appeal is being taken and should identify the contract (by number), the department and agency involved in the dispute, the final written decision from which the appeal is taken, and the amount in dispute, if known. The notice of appeal should be signed by the appellant (the contractor making the appeal), or by the appellant's duly authorized representative or attorney. The complaint referred to in rule 6 may be filed with the notice of appeal, or the appellant may designate the notice of appeal as a complaint, if it otherwise fulfills the requirements of a complaint. A notice of appeal from a final written decision of a contracting officer involving a claim in excess of $50,000 shall state that certification has been made as required under section 6(c)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 606(c)(1)).

Rule 3. *Docketing of appeals.*

When a notice of appeal in any form has been received by the Board, it shall be docketed promptly. A written notice of docketing shall be given to the appellant with a copy of these rules, to the contracting officer, and to HUD's Office of General Counsel.

Rule 4. *Preparation, content, organization, forwarding, and status of appeal file.*

(a) *Duties of contracting officer.* Within 30 days of receipt of notice from the Board that an appeal has been docketed, the contracting officer shall assemble and transmit to the Board (through HUD's Office of General Counsel) three copies of an appeal file consisting of all documents relevant to the appeal, including:

(1) The decision from which the appeal is taken;

(2) The contract including specifications and relevant amendments, plans, and drawings;

(3) All correspondence between the parties relevant to the appeal, including the letter or letters of claim in response to which the decision was issued;

(4) Transcripts of any testimony taken during the course of proceedings and affidavits or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board; and

(5) Any additional information considered relevant to the appeal.

Upon receipt of the appeals file, the Board shall furnish the appellant and HUD's Office of General Counsel with true and exact copies of the appeal file.

(b) *Duties of the appellant.* Within 30 days after receipt of a copy of the appeal file assembled by the contracting officer, the appellant shall transmit to the Board any documents not contained in the appeal file which are relevant to the appeal, and furnish two copies of these documents to the government trial attorney.

(c) *Organization of appeal file.* Documents in the appeal file may be originals, legible facsimiles, or authenticated copies, and shall be arranged in chronological order where practicable, numbered sequentially, tabbed, and indexed to identify the contents of the file.

(d) *Lengthy documents.* Upon request by either party, the Board may waive the requirement to furnish to the other party copies of bulky, lengthy, or out-of-size documents in the appeal file when inclusion would be burdensome. At the time a party

files with the Board a document for which waiver has been granted, he or she shall notify the other party that the document or a copy is available for inspection at the offices of the Board or of the party filing the document.

(e) *Status of documents in appeal file.* Documents contained in the appeal file are considered, without further action by the parties, as part of the record upon which the Board will render its decision. However, a party shall object, for reasons stated, to consideration of a particular document or documents within 30 days of receipt, unless good cause is shown for later objection. If an objection is made, the Board shall remove the document or documents from the appeal file and permit the party offering the document to move its admission as evidence in accordance with Rules 13 and 20.

(f) *Waiver of filing of documents.* Notwithstanding the foregoing, the filing of the Rule 4 (a) and (b) documents may be dispensed with by the Board either upon request of the appellant in the notice of appeal or thereafter upon stipulation of the parties.

Rule 5. *Dismissal for lack of jurisdiction.* Any motion addressed to the jurisdiction of the Board shall be promptly filed. Hearing on the motion shall be afforded on application of either party. However, the Board may defer its decision on the motion pending hearing on both the merits and the motion. The Board shall have the right at any time and on its own initiative to raise the issue of its jurisdiction to proceed with a particular case, and shall do so by an appropriate order, affording the parties an opportunity to be heard on the issue.

Rule 6. *Pleadings.*

(a) *Appellant.* Within 30 days after receipt of notice of docketing of the appeal, the appellant shall file a complaint with the Board. The complaint shall set forth simple, concise and direct statements of each of the appellant's claims. Appellant shall also set forth the basis, with appropriate reference to contract provisions, of each claim and the dollar amount claimed, to the extent known. This pleading shall fulfill the generally recognized requirements of a complaint, although no particular form is required. Should the complaint not be received within 30 days, appellant's notice of appeal may, if in the opinion of the Board the issues before the Board are sufficiently defined, be deemed its complaint and the Government shall be so notified.

(b) *Government.* Within 30 days from receipt of the complaint, the Government shall file an answer with the Board. The answer shall set forth simple, concise and direct statements of Government's defenses to each claim asserted by appellant, including any affirmative defenses available. Should the answer not be received within 30 days, the Board may enter a general denial on behalf of the Government, and the appellant shall be so notified.

Rule 7. *Amendments of pleadings or record.* The Board, upon its own initiative or upon application by a party, may order a party to make a more definite statement of the complaint or answer, or to reply to an answer. The Board may, within the proper scope of the appeal, permit either party to amend its pleading upon conditions fair to both parties. When issues within the proper scope of the appeal, but not raised by the pleadings, are tried by express or implied consent of the parties, with the permission of the Board, they shall be treated in all respects as if they have been raised in the pleadings. In such instances, motions to amend the pleadings to conform to the proof may be entered, but are not required. If evidence is objected to at a hearing on the ground that it is not within the issues raised by the pleadings, it may be admitted within the proper scope of the appeal, provided, however, that the objecting party may be granted a continuance if necessary to enable it to meet this evidence.

Rule 8. *Hearing election and motions.*

(a) *Hearing election.* After the filing of the Government's answer or notice from the Board that it has entered a general denial on behalf of the Government, each party shall advise whether it desires a hearing as prescribed in Rules 17 through 25, or whether it elects to submit its case on the record without a hearing, as prescribed in Rule 11.

(b) *Motions.* (1) The Board may entertain any timely motion for an appropriate order. Application to the Board for an order shall be by motion which, unless made during a hearing, shall be made in writing, shall state with particularity the grounds for the motion and shall set forth the relief or order sought.

(2) The Board may, on its own motion, initiate any action by notice to the parties.

(3) Unless otherwise specified by the Board, a party who receives a motion shall file any answering material within 20 days after the date of receipt of the motion. The Board may require the presentation of briefs or arguments. The Board shall issue a decision on each motion that is appropriate and just to the parties.

(4) Affidavits in support of motions shall set forth such facts as would be admissible in evidence and shall show affirmatively that the affiant is competent to testify to the matters stated in the affidavit. When a motion is made and supported as provided in this rule, a party opposing the motion who is represented by counsel may not rest upon the mere allegations or denials of his pleading; his response, by affidavits or as otherwise provided in this rule, must show that there is a genuine issue of fact or of law for decision. Should it appear from the affidavits of a party opposing the motion that for reasons stated he cannot present by affidavit facts essential to justify his opposition, the Board may deny the motion or may order a continuance to permit affidavits to be obtained or discovery to be had or may make such other order as is just.

Rule 9. *Prehearing briefs.* Based on an examination of the pleadings, and its determination of whether the arguments and authorities addressed to the issues are adequately set forth in the pleadings, the Board may require the parties to submit prehearing briefs. If the Board does not require prehearing briefs, either party may upon appropriate and sufficient notice to the other party, furnish a prehearing brief to the Board. In any case where a prehearing brief is submitted, it shall be furnished so as to be received by the Board at least 15 days prior to the date set for hearing, and a copy shall simultaneously be furnished to the other party.

Rule 10. *Prehearing or presubmission conference.*

(a) *Conference.* Whether the case is to be submitted under Rule 11, or heard under Rules 17 through 25, the Board may upon its own initiative, or upon the application of either party, arrange a telephone conference or call upon the parties to appear before an Adminstrative Judge for a conferene to consider:

(1) Simplification, clarification, or severing of the issues;

(2) The possibility of obtaining stipulations, admissions, agreements and rulings on admissibility of documents, understandings on matters already of record, or similar agreements that will avoid unnecessary proof;

(3) Agreements and rulings to facilitate discovery;

(4) Limitation of the number of expert witnesses or avoidance of cumulative evidence;

(5) The possibility of agreement disposing of any or all of the issues in dispute; and

(6) Such other matters as may aid in the disposition of the appeal.

(b) *Results of conference.* The Administrative Judge shall make such rulings and orders as may be appropriate to achieve settlement by agreement of the parties or to aid in the disposition of the appeal. The results of the conferences, including any rulings and orders, shall be reduced to writing by the Administrative Judge or the conference shall be transcribed. The writing or the transcript shall constitute a part of the record.

Rule 11. *Submission without a hearing.* Either party may elect to waive its right to appear at a hearing and to submit its case upon the record before the Board, as settled under Rule 13. Submission of a case without hearing does not relieve the parties from the necessity of proving the facts supporting their allegations or defenses. Affidavits, depositions, admissions, answers to interrogatories, and stipulations may be employed to supplement other documentary evidence in the Board's record. The Board may permit submissions to be supplemented by oral argument (transcribed, if requested) and by briefs in accordance with Rule 9 or Rule 23.

Rule 12. *Optional small claims (Expedited) and accelerated procedures. (These procedures are available solely at the election of the appellant.)*

Rule 12.1 *Elections to utilize small claims (Expedited) and accelerated procedure.*

(a) *Election-dispute involving $10,000 or less.* In appeals where the amount in dispute is $10,000 or less, the appellant may elect to have the appeal processed under a Small Claims (Expedited) procedure requiring decision of the appeal, whenever possible, within 120 days after the Board receives written notice of the appellant's election. The details of this procedure appear in section 12.2 of this Rule.

(b) *Election-dispute involving $50,000 or less.* In appeals where the amount in dispute is $50,000 or less, the appellant may elect to have the appeal processed under an Accelerated procedure requiring decision of the appeal, whenever possible, within 180 days after the Board receives written notice of the appellant's election. The details of this procedure appear in section 12.3 of this Rule.

(c) *Notice of election.* The appellant's election of either the Small Claims (Expedited) procedure or the Accelerated procedure may be made by written notice within 60 days after receipt of notice of docketing the appeal unless this period is extended by the Board for good cause. The election may not be withdrawn except with permission of the Board and for good cause.

(d) *Determination of amount in dispute.* In deciding whether the Small Claims (Expedited) procedure or the Accelerated procedure is applicable to a given appeal, the Board shall determine the amount in dispute.

Rule 12.2 *The small claims (Expedited) procedure.*

(a) *Document submission and prehearing conference.* In cases proceeding under the Small Claims (Expedited) procedure, the following time periods shall apply: (1) Within ten days from the Government's first receipt from either the appellant or the Board of a copy of the appellant's notice of election of the Small Claims (Expedited) procedure, the Government shall send the Board a copy of the contract, the contracting officer's final decision, and the appellant's claim letter or letters, if any; remaining documents required under Rule 4 shall be submitted in accordance with times specified in that rule unless the Board otherwise directs;

(2) Within 15 days after the Board has acknowledged receipt of appellant's notice of election, the assigned Administrative Judge shall take the following actions, if feasible, in an informal meeting or a telephone conference with both parties: (i) Identify and simplify the issues; (ii) establish a simplified procedure appropriate to the particular appeal; (iii) determine whether the appellant wants a hearing, and if so, fix a time and place for the hearing; (iv) require the Government to furnish all the additional documents relevant to the appeal, and (v) establish an expedited schedule for resolution of the appeal.

(b) *Pleadings, discovery and other prehearing activity.* Pleadings, discovery and other prehearing activity will be allowed only as consistent with the requirement to conduct the hearing on the date scheduled, or if no hearing is scheduled, to close the record on a date that will allow decisions within the 120-day limit. The Board may impose shortened time periods for any actions prescribed or allowed under these rules, as necessary to enable the Board to decide the appeal within the 120-day limit, allowing whatever time, up to 30 days, that the Board considers necessary for the preparation of the decision after closing the record and the filing of briefs, if any.

(c) *Decision by Board.* The written decision by the Board in cases processed under the Small Claims (Expedited) procedure will be short and contain only summary findings of fact and conclusions. Decisions will be rendered for the Board by a single Administrative Judge. If there has been a hearing, the Administrative Judge presiding at the hearing may at the conclusion of the hearing and after entertaining oral arguments as deemed appropriate, render on the record oral summary findings of fact, conclusions, and a decision of the Appeal. Whenever an oral decision is rendered, the Board will subsequently furnish the parties a typed copy of the oral decision (or a copy of the transcript of the hearing) for record and payment purposes and to establish the starting date for the period for filing a motion for reconsideration under Rule 29.

(d) *Effect of decision.* A decision against the Government or the contractor shall have no value as precedent and, in the absence of fraud shall be final and conclusive and may not be appealed or set aside.

Rule 12.3 *The accelerated procedure.*

(a) *Waiver of pleadings, discovery and briefs.* In cases proceeding under the Accelerated procedure, the parties are encouraged, to the extent possible consistent with adequate presentation of their factual and legal positions, to waive pleadings, discovery, and briefs.

(b) *Pleadings, discovery, and other prehearing activity.* Pleadings, discovery and other prehearing activity will be allowed only as consistent with the requirement to conduct the hearing on the dates scheduled or, if no hearing is scheduled, to close the record on a date that will allow decision within the 180-day limit. The Board may shorten time periods for any actions prescribed or allowed under these rules, as necessary to enable the Board to decide the appeal within the 180-day limit, and may reserve up to 30 days for preparation of the decision.

(c) *Decision by Board.* Written decisions by the Board in cases processed under the Accelerated procedure will normally be short and contain only summary findings of fact and conclusions. In cases where the amount in dispute is $10,000 or less where the Accelerated procedure has been elected and where there has been a hearing, the single Administrative Judge presiding at the hearing may, with the concurrence of both parties, at the conclusion of the hearing and after entertaining such oral arguments as deemed appropriate, render on the record oral summary findings of fact, conclusions, and a decision of the appeal. Whenever an oral decision is rendered, the Board will subsequently furnish the parties a typed copy of the oral decision (or a copy of the transcript of the hearing) for record and payment purposes, and to establish the starting date for the period for filing a motion for reconsideration under Rule 29.

Rule 12.4 *Motions for reconsideration in Rule 12 cases.*

Motions for reconsideration of cases decided under either the Small Claims (Expedited) procedure or the Accelerated procedure need not be decided within the original 120-day or 180-day limit, but all such motions shall be processed and decided rapidly to fulfill the intent of this Rule.

Rule 13. *Settling the record.*

(a) *Contents of record.* The record upon which the Board's decision will be rendered consists of the documents in the appeal file furnished under Rule 4 or 12 (unless removed by the Board) and the following items, if any: pleadings, prehearing conference memoranda or orders, prehearing briefs, depositions or interrogatories received in evidence, admissions, stipulations, transcripts of conferences and hearings, hearing exhibits, posthearing briefs, and documents which the Board has specifically designated to be made a part of the record. The record will, at all reasonable times, be available for inspection by the parties at the office of the Board.

(b) *Closing of record.* Except as the Board may otherwise order, no proof shall be received in evidence after completion of an oral hearing or, in cases submitted on the record, after notification by the Board that the case is ready for decision.

(c) *Weight of evidence.* The weight to be attached to any evidence of record will rest within the sound discretion of the Board. The Board may in any case require either party, with appropriate notice to the other party, to submit additional evidence on any matter relevant to the appeal.

Rule 14. *Discovery—depositions.*

(a) *General policy and protective orders.* The parties are encouraged to engage in voluntary discovery procedures. In connection with any discovery procedure under this rule or rule 15, the Board may make any order required to protect a party or person from annoyance, embarrassment, or undue burden or expense. Those orders may include limitations on the scope, method, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents.

(b) *When depositions permitted.* After an appeal has been docketed and complaint filed, the parties may mutually agree to, or the Board may, upon application of either party, order the taking of testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for the purpose of discovery. The application for other shall specify whether the purpose of the deposition is discovery or for use as evidence.

(c) *Orders on depositions.* The time, place, and manner of taking depositions shall be as mutually agreed by the parties, or failing such agreement, governed by order of the Board.

(d) *Use as evidence.* No testimony taken by depositions shall be considered as part of the evidence in the hearing of an appeal until the testimony is offered and received in evidence at the hearing. It will not ordinarily be received in evidence if the deponent is present and can testify at the hearing. In these instances, however, the deposition may be used to contradict or impeach the testimony of the deponent given at the hearing. In cases submitted on the record, the Board may receive depositions to supplement the record.

(e) *Expenses.* Each party shall bear its own expenses associated with the taking of any deposition.

Rule 15. *Interrogatories to parties, admission of facts, and production and inspection of documents.*

After an appeal has been docketed and complaint filed with the Board, a party may serve on the other party: (a) Written interrogatories to be answered separately in writing, signed under oath and answered or objected to within 30 days; (b) a request for the admission of specified facts or the authenticity of any documents, to be answered or objected to within 30 days after service; the factual statements and the authenticity of the documents to be deemed admitted upon failure of a party to respond to the request; and (c) a request for the production, inspection and copying of any documents or objects not privileged, which reasonably may lead to the discovery of admissible evidence.

Rule 16. *Filing and service of papers other than subpoenas.*

Papers shall be considered filed with the Board when mailed or otherwise furnished to the Board. Papers shall be served upon parties personally or by mail, addressed to the party upon whom service is to be made. Except as provided in rule 4(a), the party filing any paper with the Board shall simultaneously serve a copy of the paper upon the opposing party, and shall file a certificate of service with the Board indicating that a copy has been so served. Subpoenas shall be served as provided in Rule 21.

Hearings

Rule 17. *Where and when held.*

Hearings will be held at places determined by the Board to best serve the interest of the parties and the Board. Hearings will be scheduled at the discretion of the Board with due consideration to the regular order of appeals, Rule 12 requirements, and other pertinent factors. On request or motion by either party and for good cause, the Board may adjust the date of a hearing.

Rule 18. *Notice of hearings.*

Parties shall be given not less than 20 days notice of the time and place for hearing, unless otherwise agreed. The notice of hearing shall be sent by certified mail (return receipt requested). In scheduling hearings, the Board will consider the convenience of the parties and the requirement for just and inexpensive determination of appeals without unnecessary delay.

Rule 19. *Unexcused absence of a party.*

The unexcused absence of a party at the time and place set for hearing will not be occasion for delay. Notwithstanding the provisions of Rule 31, in the event of an unexcused absence: (a) the appeal will be dismissed with prejudice for want of prosecution; or (b) the hearing will proceed and the case will be regarded as submitted on the record by the absent party.

Rule 20. *Hearings: nature; examination of witnesses.*

(a) *Nature of hearings.* Hearings shall be as informal as may be reasonable and appropriate under the circumstances. Appellant and the Government may offer such evidence as would be admissible under the Federal Rules of Evidence or as otherwise determined to be reliable and relevant by the presiding Administrative Judge. Stipulations of fact agreed upon by the parties may be regarded and used as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if the witness were present. The Board may require evidence in addition to that offered by the parties.

(b) *Examination of witnesses.* Oral testimony before the Board shall generally be given under oath or affirmation. However, if the testimony of a witness is not given under oath or affirmation, the Board shall advise the witness that his statements may be subject to the provisions of Title 18, United States Code, sections 287 and 1001, and any other provision of law imposing penalties for knowingly making false representations in connection with claims against the United States or in any matter within the jurisdiction of any department or agency.

Rule 21. *Subpoenas.*

(a) *General.* Upon written request of either party filed with the Board or on the Administrative Judge's initiative, the Administrative Judge to whom a case is assigned or who is otherwise designated by the Chairman may issue a subpoena requiring:

(1) Testimony at a deposition—the deposing of a witness in the city or county where he or she resides, is employed or transacts business in person, or at another location convenient for the witness is specifically determined by the Board;

(2) Testimony at a hearing—the attendance of a witness for the purpose of taking testimony at a hearing; and

(3) Production of books and papers—the production by the witness at the deposition or hearing of books and papers designated in the subpoena.

(b) *Voluntary cooperation.* Each party is expected: (1) To cooperate and make available witnesses and evidence under its control as requested by the other party, without issuance of a subpoena, and (2) to secure voluntary attendance of desired third-party witnesses and production of desired third-party books, papers, documents, or tangible things whenever possible.

(c) *Requests for subpoenas.* (1) A request for a subpoena shall normally be filed at least:

(i) 15 days before a scheduled deposition where the attendance of a witness at a deposition is sought;

(ii) 30 days before a scheduled hearing where the attendance of a witness at a hearing is sought.

In its discretion the Board may honor requests for subpoenas not made within these time limitations.

(2) A request for a subpoena shall state the reasonable scope and general relevance to the case of the testimony and of any books and papers sought.

(d) *Requests to quash or modify.* Upon written request by the person subpoenaed or by a party, made within 10 days after service but in any event not later than the time specified in the subpoena for compliance, the Board may (1) quash or modify the subpoena if it is unreasonable and oppressive or for other good cause shown, or (2) require the person in whose behalf the subpoena was issued to advance the reasonable cost of producing subpoenaed books and papers. Where circumstances require, the Board may act upon such a request at any time after a copy has been served upon the opposing party.

(e) *Form; Issuance.* (1) Every subpoena shall state the name of the Board and the title of the appeal, and shall command each person to whom it is directed to attend and give testimony, and if appropriate, to produce specified books and papers at the time and place specified in the subpoena. In issuing a subpoena to a requesting party, the Administrative Judge shall sign the subpoena and may, in his discretion, enter the name of the witness and otherwise leave it blank. The party to whom the subpoena is issued shall complete the subpoena before service.

(2) Where the witness is located in a foreign county, a letter rogatory or subpoena may be issued and served under the circumstances and in the manner provided in 28 U.S.C. 1781–1784.

(f) *Service.* (1) The party requesting issuance of a subpoena shall be responsible for service.

(2) A subpoena requiring the attendance of a witness at a deposition or hearing may be served: (i) By sending a copy of the subpoena by certified mail (return receipt requested) to the last known address of the party named in the subpoena, or (ii) by personal delivery of a copy of the subpoena to the party named in the subpoena, by a United States marshal or deputy marshal, or by any other person who is not a party and not less than 18 years of age. Service shall include the tender of the fees for one day's attendance and the mileage provided by 28 U.S.C. 1821 or other applicable law; however, where the subpoena is issued on behalf of the Government, money payments need not be tendered in advance of attendance.

(3) The party at whose instance a subpoena is issued shall be responsible for the payment of fees and mileage of the witness and for the costs of service of the subpoena.

(g) *Contumacy or refusal to obey a subpoena.* In case of contumacy or refusal to obey a subpoena by a person who resides, is found, or transacts business within the jurisdiction of a United States District Court, the Board will apply to the Court through the Attorney General of the United States for an order requiring the person to appear before the Board or a member of the Board to give testimony or produce evidence or both.

Rule 22. *Copies of papers.*

When books, records, papers, or documents have been received in evidence, a true copy of this evidence or a copy of any material or relevant part of this evidence may be substituted during or at the conclusion of the hearing.

Rule 23. *Posthearing briefs.*

The presiding Administrative Judge may order the parties to submit post hearing briefs to the Board.

Rule 24. *Transcript of proceedings.*

Testimony and argument at hearings shall be reported *verbatim*, unless the Board otherwise orders. Extra transcripts or copies of the proceedings in the possession of the board may be supplied to the parties. Otherwise, the parties may obtain transcripts or copies of the proceedings from the hearing reporter.

Rule 25. *Withdrawal of exhibits.*

After a decision has become final the Board may, upon request and after notice to the other party, permit the withdrawal of original exhibits, or any part of original exhibits by the party entitled to the exhibits. The substitution of true copies of exhibits or any part of exhibits may be required by the Board as a condition of granting permission for the withdrawal.

Representation

Rule 26. *The appellant.*

An individual appellant may appear before the Board in person; a corporation by one of its duly authorized officers; and a partnership or joint venture by one of its duly authorized members; or any of these by an attorney at law duly licensed in any State, commonwealth, territory, the District of Columbia, or in a foreign country. An attorney representing an appellant shall file a written notice of appearance with the Board.

Rule 27. *The Government.*

Government counsel may, in accordance with their authority, represent the interest of the Government before the Board. They shall file notices of appearance with the Board. This notice of shall file notices of appearance with the Board. This notice of appearance will be given appellant or appellant's attorney in the form specified by the Board from time to time. Whenever an appellant and the Government are in agreement as to disposition of the controversy, the Board may suspend further processing of the appeal. However, if the Board is advised by either party that the controversy has not been disposed of by agreement, the case shall be restored to the Board's calendar without loss of position.

Decisions

Rule 28. *Decisions.*

Decisions of the Board will be made in writing. Copies of the decision will be forwarded simultaneously to both parties. The rules of the Board and all final orders and decisions [except those required for good cause to be held confidential and not cited as precedents] shall be open for public inspection at the offices of the Board in Washington, D.C. Decisions of the Board will be made solely upon the record, as described in Rule 13. Oral decisions shall be rendered in accordance with Rules 12.2(c) and 12.3(c).

Motion for Reconsideration

Rule 29. *Motion for reconsideration.*

A motion for reconsideration may be filed by either party. It shall set forth specifically the grounds relied upon to sustain the motion. The motion shall be filed within 30 days from the date of the receipt of a copy of the decision of the Board by the party filing the motion.

Dismissals and Defaults

Rule 30. *Dismissal without prejudice.*

In certain cases, appeals docketed before the Board are required to be placed in a suspended status and the Board is unable to proceed with disposition for reasons not within the control of the Board. Where the suspension has continued, or may continue, for an inordinate length of time, the Board may dismiss such appeals from its docket without prejudice to their restoration when the cause of suspension has been removed. Unless either party or the Board acts within three years to reinstate any appeal dismissed without prejudice, the dismissal shall be considered to be with prejudice.

Rule 31. *Dismissal or default for failure to prosecute or defend.*

Whenever a record discloses the failure of either party to file documents required by these rules, respond to notices or correspondence from the Board, comply with orders of the Board, or otherwise indicates an intention not to continue the prosecution of defense of an appeal, the Board may, in the case of such a default by the appellant, issue an order to show cause why the appeal should not be dismissed with prejudice or, in the case of a default by the Government, issue an order to show cause why the Board should not act under Rule 33. If good cause is not shown, the Board may take appropriate action.

Rule 32. *Remand from court.*

Whenever any court remands a case to the Board for further proceedings, each of the parties shall, within 20 days of the remand, submit a report to the Board recommending procedures to be followed to comply with the court's order. The Board shall consider any timely filed reports and enter special orders governing the handling of the remanded case. To the extent the court's directive and time limitations permit, these orders shall conform to these rules.

Sanctions

Rule 33. *Sanctions.*

If any party fails or refuses to obey an order issued by the Board, the Board may then make such order as it considers necessary to the just and expeditious conduct or dismissal of the appeal.

Miscellaneous Procedures

Rule 34. *Applicability.*

These rules shall apply to all appeals relating to contracts entered into on or after March 1, 1979, and, to appeals relating to earlier contracts, with respect to claims pending before the contracting officer on March 1, 1979 or initiated thereafter, if the contractor elects to proceed under the Act.

Rule 35. *Time, computation, and extensions.*

(a) *General.* Where possible, procedural actions should be taken in less time than the maximum time allowed. Where appropriate and justified, however, extensions of time will be granted. All requests for extensions of time shall be in writing and shall be filed before the due date, unless excused.

(b) *Computation.* In computing any period of time, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a legal holiday, in which event the period shall run to the end of the next business day.

Rule 36. *Ex parte communications.*

(a) *Definition.* An ex parte communication is any communication with a member of the Board, direct or indirect, oral or written, concerning the merits of matters in issue of any pending proceeding which is made by a party in the absence of any other party.

(b) *Prohibition of ex parte communications.* Ex parte communications are prohibited except where:

(1) The purpose and content of the communication have been disclosed in advance or simultaneously to all parties; or

(2) The communication is a request for information concerning the status of the case.

(3) The communication involves the Board's administrative functions or procedures.

(c) *Procedure after receipt of ex parte communications.* Any member of the Board who receives an ex parte communication that the member of the Board knows or has reason to believe is unauthorized shall promptly place the communication, or its substance, in all files and shall furnish copies to all parties. Unauthorized ex parte communications shall not be taken into consideration in deciding any matter in issue.

Dated: June 6, 1985.

Samuel R. Pierce, Jr.,

Secretary, Department of Housing and Urban Development.

[FR Doc. 85-14378 Filed 6-13-85; 8:45 am]

BILLING CODE 4210-32-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Non-Multiemployer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Non-Multiemployer Plans contains the interest rates and factors for the period beginning July 1, 1985. The interest rates and factors are to be used to value benefits provided under terminating non-multiemployer pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974.

The valuation of plan benefits is necessary because, under section 4041 of the Act, the Pension Benefit Guaranty Corporation ("PBGC") and the plan administrator must determine whether a terminating pension plan has sufficient assets to pay all benefits under the plan that are guaranteed by the PBGC under the Title IV plan termination insurance program.

The interest rates and factors set forth in Appendix B to Part 2619 are adjusted periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after July 1, 1985, and will enable the

PBGC and plan administrators to value the benefits provided under those plans. These rates and factors will remain in effect until Appendix B of the regulation is again amended.

EFFECTIVE DATE: July 1, 1985.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Corporate Policy and Regulations Department, Code 611, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 2006, 202–254–6476 (202–254–8010 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: On January 28, 1981, the PBGC published a final regulation on Valuation of Plan Benefits in Non-multiemployer Plans (46 FR 9492). That regulation, codified at 29 CFR Part 2619 (1984), sets forth the methods for valuing plan benefits of terminating non-multiemployer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.* (1976), *as amended.* The regulation contains formulas for valuing different types of benefits. Appendix B to the regulation sets forth the interest rates and factors that are to be used in the formulas. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

As published in the 1984 edition of 29 CFR, Appendix B of Part 2619 contains interest rates and factors for valuing benefits in plans that terminated during various periods from September 2, 1974 through July 1, 1984. With the exception of the months of September and January, the PBGC has published in the ensuing months new rates and factors for plans terminating during the months of August, 1984 through June, 1985 (49 FR 28551, 49 FR 32573, 49 FR 40161, 49 FR 45129, 49 FR 48691, 50 FR 6342, 50 FR 10498, 50 FR 14700, 50 FR 20205).

Changes in the financial and annuity markets now require a decrease in the rates used for valuing benefits. Although the PBGC usually changes its rates by ¼ percent per month, rapid changes in financial markets have indicated that a decrease of ½ percent is warranted at this time. Accordingly, this amendment adds to Appendix B a new set of interest rates and factors for valuing benefits in plans that terminate on or after July 1, 1985, which set reflects a decrease of ½ percent in the interest rate to 9¼ percent.

Generally, the interest rates and factors will be in effect for at least one month. However, any published rates and factors will remain in effect until such time as PBGC publishes another amendment concerning them. Any change in the rates normally will be published in the **Federal Register** by the 15th of the month preceding the effective date of the new rates or as close to the date circumstances permit.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This determination is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as posssible, current market conditions. The PBGC has found that the public interest is best served by issuing the rates and factors on a prospective basis so that plans may be able to calculate the value of plan benefits before submitting a notice of intent to terminate. Also, plans will be able to predict employer liability more accurately prior to plan termination.

Because of the need to provide immediate guidance for the valuation of benefits of plans that will terminate on or after July 1, 1985, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, February 17, 1981, because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

In consideration of the foregoing, Part 2619 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

PART 2619—[AMENDED]

1. The authority citation for Part 2619 continues to read as follows:

Authority: Secs. 4002(b)(3), 4041(b), 4044, 4062(b)(1)(A), Pub. L. 93–406, 88 Stat. 1004, 1020, 1025, 1029, as amended by secs. 403(1), 403(d), 402(a)(7), Pub. L. 96–364, 94 Stat. 1302, 1301, 1299 (29 U.S.C. 1302, 1341, 1344, 1362).

2. Rate Set 57 of Appendix B is revised and Rate Set 58 of Appendix B is added to read as follows. The introductory text is shown for the convenience of the reader and remains unchanged.

Appendix B—Interest Rates and Quantities Used to Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "C_y" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45.

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities				
	On or after—	Before—		i_1	i_2	i_3	n_1	n_2
* * *	*	*	*	*	*			
57	6-1-85	7-1-85	9.75	1.0900	1.0775	1.0400	7	8
58	7-1-85		9.25	1.0850	1.0725	1.0400	7	8

Royal S. Dellinger,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 85-14300 Filed 6-13-85; 8:45 am]

BILLING CODE 7708-01-M

Proposed Rules

Federal Register
Vol. 50, No. 115
Friday, June 14, 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 THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 736, 740, 746, 750, and 772

Surface Mining Coal Mining and Reclamation Operations; Permanent Regulatory Program; Application Fee for Permit To Conduct Coal Mining and Reclamation Operations; Application Fee for Coal Exploration Permit; Fee for Processing Mining Plan; Fee for Mid-Term Review of Surface Coal Mining and Reclamation Permit

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

ACTION: Reopening of Public Comment Period.

SUMMARY: the Office of Surface Mining Reclamation and Enforcement (OSM) of the U.S. Department of the Interior (the Department) reopens until July 26, 1985, the public comment period on the rule it proposed in the February 22, 1985, Federal Register (50 FR 7522). The proposed rule would govern the collection by OSM of application fees for permits to conduct surface coal mining and reclamation operations, and for permits to conduct coal exploration, as well as fees for processing mining plans and for mid-term review of surface coal mining and reclamation permits. Recipients of these services would be required to reimburse OSM for the actual cost incurred by the Department in providing the service.

The rule would apply to applications for mining on Indian lands, in Federal Program States (Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee and Washington), and on Federal lands in States not having State-Federal cooperative agreements. The rule would also require payment to the Department for costs the Department incurs in reviewing and approving mining plans.

DATES: OSM will accept written comments on the proposed rule until 5 p.m. eastern time on July 26, 1985.

ADDRESSES: Hand-deliver written comments to the Office of Surface Mining, Administrative Record, Room 5315, 1100 L Street, NW., Washington, D.C.; or mail to the Office of Surface Mining, Administrative Record, Room 5315L, 1951 Constitution Avenue, NW., Washington, D.C., 20240.

FOR FURTHER INFORMATION CONTACT: Murray Newton, Chief, Branch of Regulatory Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C., 20240: Telephone: 202-343-5866 (Commercial or FTS).

SUPPLEMENTARY INFORMATION: OSM proposed a rule in the February 22, 1985, Federal Register which would govern the collection by OSM of fees for certain activities related to the processing of permits and mining plans for surface coal mining and reclamation operations (50 FR 7522). That notice announced a public comment period on the proposed rule closing May 3, 1985. In response to a request for more time to submit public comments on this rule, OSM extended the closing date of the public comment period by 30 days to June 3, 1985. (50 FR 19037). OSM is today reopening the comment period to allow the addition to the Administrative Record of relevant information elicited at oversight hearings by the Senate Subcommittee on Natural Resources Development and Production, tentatively scheduled for July 9, 1985, which may involve issues discussed in this rule. Comments will now be accepted at the location given above (**"ADDRESSES"**) until 5 p.m. eastern time on July 26, 1985.

Dated: June 7, 1985.

C.B. Kenahan,

Assistant Director, Program Operations and Inspections.

[FR Doc. 85-14374 Filed 6-13-85; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 584

[Docket No. 83-05; Notice 2]

Splash and Spray Suppression Devices; Extension of Comment Period

Correction

In FR Doc. 85-14127 appearing on page 24550 in the issue of Tuesday, June 11, 1985, make the following correction: In the second column, in the **DATE** paragraph, "enter date 60 days from the date this notice is published in the **Federal Register**" should read "August 12, 1984".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Review of Leopard, Goral, and Serow in Nepal

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review.

SUMMARY: The Service announces a review of the status, in the country of Nepal only, of three large mammals, the leopard, goral, and serow, each of which is currently classified as endangered pursuant to the Endangered Species Act of 1973, as amended. This review results from information provided by the Government of Nepal, suggesting that reclassification of these mammals to threatened status in Nepal, and issuance of special regulations allowing limited importation of trophies taken there by sport hunters, may be warranted. The Service hereby solicits relevant comments and information from all interested parties.

DATES: Comments and information must be received by December 11, 1985.

ADDRESSES: Comments and information should be sent to the Associate Director—Federal Assistance (OES), U.S. Fish and Wildlife Service, Washington, DC 20240. Materials

received are available for public inspection, by appointment, during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–2771 or FTS 235–2771).

SUPPLEMENTARY INFORMATION: The leopard (*Panthera pardus*) is a large cat that occurs in most of Africa and Asia. The goral (*Nemorhaedus goral*) and serow (*Capricornis sumatrensis*) are distant relatives of the sheep and goat, and are both found in eastern Asia. Each of these three large mammals is classified as endangered, at least with respect to wild populations in Asia, pursuant to the U.S. Endangered Species Act of 1973, as amended. Therefore, importation of these species into the U.S. is prohibited, except under permits for scientific purposes or to enhance propagation or survival.

The leopard was classified as endangered, throughout its range, in the **Federal Register** of March 30, 1972 (37 FR 6476). This measure was taken primarily because the species was being excessively exploited by the commercial fur trade, and also because of loss of suitable habitat.

The goral and serow were classified as endangered in the **Federal Register** of June 14, 1976 (41 FR 24062–24067). Their classification was simultaneous with that of 157 other animal taxa that were on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Appendix I includes all species that the member nations consider to be threatened with extinction, which are or may be affected by trade. According to the rule of June 14, 1976, the United States Government recognized the endangered status of the taxa on Appendix I, when it signed the Convention's Final Act, when the Senate gave its advice and consent, and when the President ratified the Convention.

Recently, the Service received a series of letters from the Department of National Parks and Wildlife Conservation of the Government of Nepal, requesting clarification of the status of the leopard, goral, and serow in that nation. These letters indicated that the three species are widely distributed in Nepal and not in immediate danger of extirpation by either habitat loss or poaching, that hunting and exportation of these species is carefully regulated in the country, that the number of trophies allowed to be taken per year (6 leopard, 12 goral, and 12 serow) will have no adverse effect on overall populations, and that sport hunting is actually indirectly beneficial to these species by bringing revenues to the Government that can be used for wildlife conservation. The Department also indicated, however, that it has not carried out extensive surveys or studies of the three species.

The Endangered Species Act provides that a species may be classified either as endangered (in danger of extinction) or threatened (likely to become endangered in the foreseeable future). According to section 4(d) of the Act, species classified as threatened shall be covered by regulations that are deemed necessary and advisable for their conservation. Section 3(3) of the Act defines conservation as the use of methods and procedures that are necessary to improve the status of a species. Since the leopard, goral, and serow in Nepal are currently classified as endangered, not threatened, they could not be covered by such special regulations. If, however, they were to be reclassified as threatened, special regulations could be issued, and these regulations could include provision for importation of trophies, if it could be demonstrated that such importation would be necessary and advisable for conservation. Indeed, in the **Federal Register** of January 28, 1982 (47 FR 4204–4211), the Service reclassified the leopard in parts of southern Africa from endangered to threatened, issued special regulations allowing limited importation of trophies from the areas where the threatened designation was applied, and indicated that such regulations would be beneficial to the conservation of the species.

The Service now announces a review of the status of the leopard, goral, and serow in Nepal, in order to assist in determining if one or more of those species may warrant reclassification to threatened status in that country, and if special regulations, allowing importation of trophies taken there by sport hunters, would be necessary and advisable for conservation. The Service welcomes all interested parties to submit any information, comments, or opinions relevant to these matters. All responses, along with any other pertinent data obtained by the Service, will be examined in arriving at a decision on whether to issue a proposed rule in the **Federal Register** regarding reclassification, and possibly special regulations, for any of the involved species in Nepal. If such a proposal is issued, a period of at least 60 days will be allowed for public comment.

The primary author of this notice is John L. Paradiso, Endangered Species Biologist, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207 (904/791–2580 or FTS 946–2580).

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

List of Subjects in 50 CFR Part 17

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

Dated: June 5, 1985.

J. Craig Potter,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85–14341 Filed 6–13–85; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 23

Changes in List of Species in Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in certain wildlife and plant species. Appendices, I, II, and III to CITES list those species for which trade is controlled. This notice announces recent decisions by the Conference of Parties to CITES on amendments to Appendices I and II, and invites comments on whether the United States should enter reservations on any of the amendments. The effect of a reservation is to exempt a Party from implementing CITES for a particular species. The amendments described in this notice will enter into effect on August 1, 1985.

DATE: The Service will consider all comments received by July 15, 1985 in determining whether the United States should enter any reservations.

ADDRESS: Please send correspondence concerning this notice to the Office of Scientific Authority, Room 537 Matomic, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Materials received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, in Room 537, 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, at address given above, or telephone (202) 653–5948.

SUPPLEMENTARY INFORMATION:

Background

CITES regulates import, export, reexport, and introduction from the sea of certain animal and plant species. Species for which trade is controlled are listed in three appendices. Appendix I includes species threatened with extinction that are or may be affected by trade. Appendix II includes species that, although not necessarily threatened with extinction, may become so unless trade in them is strictly controlled. It also lists species that must be subject to regulation in order that trade in other currently or potentially threatened species may be brought under effective control. Difficulty in distinguishing specimens of currently or potentially threatened species from other species is the usual reason for such listings. Appendix III includes species that any Party nation identifies as being subject to regulation within its jurisdiction for purposes of preventing or restricting exploitation, and for which it needs cooperation of other Parties in controlling trade.

Any Party nation may propose amendments to Appendices I and II for consideration at meetings of the Conference of the Parties. The text of any proposal must be communicated to the CITES Secretariat at least 150 days before the meeting. The Secretariat must then consult the other Parties and interested intergovernmental bodies and communicate their responses to all Parties no later than 30 days before the meeting. Amendments are adopted by a two-thirds majority of the Parties present and voting.

Recent Decisions

The Fifth Meeting of the Conference of the Parties to CITES was held on April 22–May 3, 1985, in Buenos Aires, Argentina. At the meeting, the Parties considered 93 proposals to amend the appendices. These were listed in the **Federal Register** on December 14, 1984, for U.S. proposals (49 FR 48775), and on April 12, 1985, for proposals by other Parties (50 FR 14402). Results of voting by the Conference of the Parties are given in the following table.

Species	Proposed amendment	Proponent	Final decision of parties
Mammals:			
Order Primates:			
Alouatta palliata (mantled howler monkey)	Remove from I	Costa Rica	Withdrawn.
Pygathrix spp. (snubnosed monkeys)	Transfer from II to I	China	Approved.
Loris tardigradus (slender loris)	do	India	Withdrawn.
Presbytis entellus (gray or Hanuman langur)	Transfer from I to II	do	Do.
Presbytis phayrei (dusky langur)	Transfer from I to II	do	Do.
Order Cetacea:			
Monodon monoceros (narwhal)	do	Federal Republic of Germany	Rejected.
Order Carnivora:			
Felis bengalensis bengalensis (leopard cat)	Transfer Chinese population from I to II	China	Approved.
Selenarctos thibetanus (Asiatic black bear)	Transfer from I to II	do	Withdrawn.
Cystophora cristata (hooded seal)	Add to II	Sweden	Rejected.
Vulpes (Fennecus) zerda (fennec fox)	do	Tunisia	Approved.
Mirounga angustirostris (northern elephant seal)	Remove from II	U.S.A.	Withdrawn.
Order Perissodactyla:			
Equus hemionus kiang (kiang, wild ass)	Transfer from II to I	India	Do.
Order Artiodactyla:			
Camelus bactrianus (Bactrian camel)	Add to I	China	Do.
Cervus albirostris (white-lipped deer)	do	do	Do.
Muntiacus crinifrons (black muntjac)	do	do	Approved.
Budorcas taxicolor (takin)	do	do	Approved as App. II.
Birds:			
Order Ciconiiformes:			
Jabiru mycteria (jabiru)	do	Costa Rica	Approved.
Order Flaconiformes:			
Falco jugger (laggar falcon)	Transfer from II to I	India	Do.
Falco rusticolus (gyrfalcon)	Transfer North American population from II to I	Denmark and Norway	Do.
Order Gruiformes:			
Gruidae spp. (cranes)	Add all species not yet listed to II	United Kingdom	Do.
Order Psittaciformes:			
Ara ambigua (great green macaw)	Transfer from II to I	Costa Rica	Do.
Ara macao (scarlet macaw)	do	do	Do.
Reptiles:			
Order Crocodylia:			
Crocodylus niloticus (Nile crocodile)	Transfer from I to II	Malawi	Approved*.
Crocodylus niloticus (Nile crocodile)	Transfer Mozambique population from I to II	Mozambique	Not considered.
Crocodylus porosus (saltwater crocodile)	Transfer Australian population subject to ranching from I to II.	Australia	Approved.
Crocodylus porosus (saltwater crocodile)	Transfer Indonesian population subject to ranching from I to II.	Indonesia	Approved**.
Order Testudinata:			
Chelonia mydas (green sea turtle)	Transfer Indonesian population from I to II	do	Rejected.
Chelonia mydas (green sea turtle)	Transfer Suriname population subject to ranching from I to II.	Suriname	Do.
Chelonia mydas (green sea turtle)	Transfer Europa and Tromelin Islands populations subject to ranching from I to II.	France	Do.
Chelonia mydas (green sea turtle)	Transfer captive population subject to ranching in Cayman Islands from I to II.	United Kingdom	Do.
Eretmochelys imbricata (hawksbill sea turtle)	Transfer Indonesia population from I to II	Indonesia	Do.
Eretmochelys imbricata (hawksbill sea turtle)	Transfer Seychelles population from I to II	Seychelles	Do.
Kachuga tecta tecta (Indian sawback turtle)	Transfer from I to II	Bangladesh and India	Do.
Lissemys punctata punctata (Indian flap-shell tortoise)	do	Bangladesh	Do.
Trionyx gangeticus (Indian softshell turtle)	do	India	Withdrawn.
Trionyx hurum (peacock softshell turtle)	do	do	Do.
Order Squamata:			
Hoplocephalus burgaroides (broad-headed snake)	Add to II	Australia	Approved.
Varanus bengalensis (Bengal monitor)	Transfer from I to II	Bangladesh	Not considered.
Varanus flavescens (yellow monitor)	do	do	Do.
Amphibians:			
Order Anura:			
Bufo periglenes (Monteverde toad)	Transfer from I to III	Costa Rica	Approved.
Rana hexadactyla (Asian bullfrog)	Add to II	Federal Republic of Germany	Do.
Rana tigrina (Indian bullfrog)	do	do	Do.

Species	Proposed amendment	Proponent	Final decision of parties
Rheobatrachus spp. (platypus frog)	....do	Australia	Do.
Molluscs:			
Order Veneroida:			
Hippopus hippopus (horse's hoof clam)	....do	....do	Do.
Hippopus porcellanus (china clam)	....do	....do	Do.
Tridacna crocea (crocus clam)	....do	....do	Do.
Tridacna maxima (small giant clam)	....do	....do	Do.
Tridacna squamosa (scaly clam)	....do	....do	Do.
Arachnids:			
Brachypelma smithi (redkneed tarantula)	....do	U.S.A.	Do.
Corals:			
Acropora spp. (staghorn corals)	....do	Australia	Do.
Euphyllia spp. (trumpet corals)	....do	....do	Do.
Favia spp. (brain corals)	....do	....do	Do.
Fungia spp. (mushroom corals)	....do	....do	Do.
Halomitra spp. (bowl corals)	....do	....do	Do.
Heliopora spp. (blue corals)	....do	....do	Do.
Lobophyllia spp. (brain corals)	....do	....do	Do.
Merulina spp. (merulinas)	....do	....do	Do.
Millepora spp. (fire corals)	....do	....do	Do.
Pavona spp. (cactus corals)	....do	....do	Do.
Pectinia spp. (lettuce corals)	....do	....do	Do.
Platygyra spp. (brain corals)	....do	....do	Do.
Pocillopora spp. (brush corals)	....do	....do	Do.
Polyphyllia spp. (feather corals)	....do	....do	Do.
Seriatopora spp. (bird nest corals)	....do	....do	Do.
Stylophora spp. (cauliflower corals)	....do	....do	Do.
Tubipora spp. (organ-pipe coral)	....do	....do	Do.
Plants:			
Family Caryophyllaceae:			
Gymnocarpos przewalskii	Delete from I	Switzerland	Do.
Melandrium mongolicus	....do	....do	Do.
Silene mongolica	....do	....do	Do.
Stellaria pulvinata	....do	....do	Do.
Family Compositae:			
Saussurea lappa (costus, kuth roots)	Transfer from II to I	India	Do.
Family Cupressaceae:			
Fitzroya cupressoides (fitzroya, alerce)	Transfer population of Andes in Chile from I to II	Chile	Withdrawn.
Family Cycadaceae:			
Cycas panzhihuaensis	Transfer from II to I	China	Do.
Family Haemodoraceae:			
Anigozanthos spp. (kangaroo paws)	Delete from II	Australia	Approved.
Macropidia fuliginosa (black kangaroo paw)	....do	....do	Do.
Family Leguminosae:			
Ammopiptanthus mongolicum	Delete from I	Switzerland	Do.
Thermopsis mongolica	Delete from II	....do	Do.
Family Orchidaceae:			
Cattleya aclandiae	Transfer from II to I	Brazil	Withdrawn.
Cattleya amethystoglossa	....do	....do	Do.
Cattleya dormaniana	....do	....do	Do.
Cattleya granulosa	....do	....do	Do.
Cattleya schilleriana	....do	....do	Do.
Cattleya schofieldiana	....do	....do	Do.
Cattleya velutina	....do	....do	Do.
Laelia tenebrosa	....do	....do	Do.
Family Pinaceae:			
Cathaya argyrophylla	Add to I	China	Do.
Family Proteaceae:			
Banksia spp. (banksias)	Delete from II	Australia	Approved.
Conospermum spp. (smoke brushes)	....do	....do	Do.
Dryandra formosa (showy dryandra)	....do	....do	Do.
Dryandra polycephala	....do	....do	Do.
Xylomelum spp. (woody pears)	....do	....do	Do.
Family Rutaceae:			
Crowea spp. (croweas)	....do	....do	Do.
Geleznowia verrucosa	....do	....do	Do.
Family Theaceae:			
Camellia chrysantha	Add to I	China	Approved as App. II.
Family Thymelaeaceae:			
Pimelea physodes (qualup bell)	Delete from II	Australia	Approved.
Family Verbenaceae:			
Caryopteris mongolica	....do	Switzerland	Do.
Family Zamiaceae:			
Ceratozamia spp.	Transfer from II to I	U.S.A.	Do.
Flora spp. listed in II	Inclusion of parts and derivatives***	....do	Do.

*Crocodylus niloticus populations only in the following countries are transferred to II, subject to annual export quotas for 1985, 1986, and 1987: Cameroon (20), Congo (1,000), Kenya (150), Madagascar (1,000), Malawi (500), Mozambique (1,000), Sudan (5,000), Tanzania (1,000), and Zambia (2,000).

**_Crocodylus porosus_ population of Indonesia is transferred to II, subject to an annual export quota for 1985, 1986, and 1987 of 2,000 animals.

***All parts and derivatives of Flora spp. listed in II are subject to CITES except for: (1) Seeds, spores and pollen (including pollinia) other than seeds of Cycadaceae spp., Stangeriaceae spp. and Zamiaceae spp.; (2) tissue cultures and flasked seedling cultures; (3) for particular plant species: (a) Cut flowers of artificially propagated Orchidaceae spp.; (b) separate leaves and parts and derivatives thereof of naturalized or artificially propagated _Aloe vera_; (c) fruits and parts and derivatives thereof of artificially propagated _Vanilla_ spp.; (d) parts and derivatives, other than roots and readily recognizable parts thereof, of _Panax quinquefolius_; and (e) fruits and parts and derivatives thereof of naturalized or artificially propagated Cactaceae spp., and separate stem joints (pads) and parts and derivatives thereof of naturalized or artificially propagaged _Opuntia_ (subgenus _Opuntia_) spp.

All proposals in the preceding table that were approved by the Conference of the Parties will enter into effect 90 days after the meeting (i.e., on August 1, 1985).

Article XV of CITES enables any Party to exempt itself from implementing CITES for any particular species if it enters a reservation with respect to that species. In the case of a nation that is a Party at the time an amendment is adopted, a reservation may be entered only during the period of 90 days after the Parties voted to place the species in Appendix I or II. The Service requests comments on whether it should recommend that the United States enter a reservation on any of the recent

amendments. At present, the Service proposes not to recommend any reservations. It would do so only if evidence is presented to show that implementation of the amendment would be contrary to the interests or law of the United States.

Note.—The Department has determined that amendments resulting from proposals made by the United States are not a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act (42 U.S.C. 4321–4347) and therefore, the preparation of an Environmental Impact Statement is not required. The Department also has determined that this is not a major rule under Executive Order 12291 and that it does not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601). This rule would simply implement changes in the list of species in the CITES appendices that already have been approved by the Conference of the Parties, and that the United States is bound to accept unless it enters any reservations. Even if the United States were to enter reservations, non-reserving Parties would require U.S. documents equivalent to CITES permits for exports from this country, and under the Lacey Act (16 U.S.C. 3372), the United States would require CITES permits or their equivalent for imports from other countries.

This notice was prepared by DR. Richard L. Jachowski, Office of Scientific Authority, under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.)*

List of Subjects in 50 CFR Part 23

Endangered and threatened plants, Endangered and threatened wildlife, Exports, Fish, Imports, Marine mammals, Plants (agriculture), Treaties.

Regulations Promulgation

The Service proposes to amend the list of species contained in § 23.23 of Title 50 of the Code of Federal Regulations by incorporation all changes in CITES Appendices I and II that were approved by the Conference of the Parties, as set forth in the supporting statement of the present notice.

Dated: May 30, 1985.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85–14343 Filed 6–13–85; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 50, No. 115
Friday, June 14, 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.

NATIONAL COMMISSION ON AGRICULTURAL TRADE AND EXPORT POLICY

Notice of Meeting

June 10, 1985.

The National Commission on Agricultural Trade and Export Policy will hold its next meeting at 9 a.m. on July 12, 1985, at the Mayflower Hotel, Washington, D.C.

The meeting is open to the public. Individuals or organizations interested in appearing before the Commission to discuss "The Impact of a Strong Dollar on Agricultural Trade" should contact the Commission staff at (202) 488–1961.

Future meetings are scheduled as follows:

August 12—Denver, Colorado.
September 13—Fresno, California.

Kenneth L. Bader,
Chairman.

[FR Doc. 85–14375 Filed 6–13–85; 8:45 am]
BILLING CODE 3410–05–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Members of the Performance Review Board

AGENCY: U.S. Department of Agriculture.
ACTION: Notice.

SUMMARY: This document amends the list of Performance Review Board members published June 18, 1984, 49 FR No. 118, pg. 24910.

EFFECTIVE DATE: June 14, 1985.

FOR FURTHER INFORMATION CONTACT: Fran Lopes, Chief, Employment and Executive Resources Staff, Office of Personnel, U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, D.C. 20250 (202/447–6905).

The membership of the U.S. Department of Agriculture's Performance Review Board is amended by adding the names of John R. Norton, Lawrence Bembry, and Samuel J. Cornelius.

Dated: June 11, 1985.

John R. Block,
Secretary.

[FR Doc. 85–14369 Filed 6–13–85; 8:45 am]
BILLING CODE 3410–01–M

Forest Service

Uinta National Forest Grazing Advisory Board; Meeting

The Uinta National Forest Grazing Advisory Board will meet at 9:30 a.m. on Thursday, July 18, 1985, at the Hobble Creek Cattle Association's corral in Hobble Creek Canyon at the mouth of Dry Canyon.

The purpose of this meeting is to have a field review of the current allotment management plans and discuss planning and utilization of the Range Betterment Fund.

The meeting will be open to the public. Those who participate will need to supply their own horse. Persons who wish to attend should notify Ward F. Savage, Uinta National Forest Supervisor's Office, P.O. Box 1428, Provo, UT 84601, telephone (801) 377–5780. Written statements may be filed with the Board before and after the meeting.

Dated: June 7, 1985.

Don T. Nebeker,
Forest Supervisor.

[FR Doc. 85–14345 Filed 6–13–85; 8:45 am]
BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: International Trade Administration
Title: Marketing Data Form
Form Number: Agency—ITA–466P; OMB—0625–0047
Type of Request: Extension of the expiration date of a currently approved collection
Burden: 4,000 respondents; 3,000 reporting hours
Needs and Uses: Allows participants in U.S. exhibitions overseas to indicate their marketing interests and needs to exhibition embassy staff. The information is used to produce exhibit brochures and directories, and to arrange meetings on behalf of the participant with prospective buyers, agents or government officials.
Affected Public: Businesses or other for-profit institutions, small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Voluntary
OMB Desk Officer: Sheri Fox 395–3785.

Agency: International Trade Administration
Title: Automated Information Transfer System (AITS) Company Registration Record
Form Number: Agency—ITA–720P; OMB—0625–0072
Type of Request: Revision of a currently approved collection
Burden: 1,425 respondents; 238 reporting hours
Needs and Uses: This form is used to collect and enter information into the AITS database of U.S. firms (manufacturers, exporters, export organizations, et. al.) which are actual or potential suppliers of goods and services. Foreign firms will be able to query this data through U.S. Commercial Service Posts abroad to ascertain the names, descriptions and bona fides of U.S. firms with whom they may want to do business.
Affected Public: Businesses or other for-profit institutions, small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Voluntary
OMB Desk Officer: Sheri Fox, 395–3785.

Agency: International Trade Administration
Title: Application for Foreign Excess Property (FEP) Import Determination
Form Number: Agency—ITA–302P; OMB—0625–0026
Type of Request: Extension of the expiration date of a currently approved collection
Burden: 50 respondents; 125 reporting hours

Needs and Uses: The Federal Property and Administrative Services Act of 1949 prohibits the importation of foreign excess property unless the Secretary of Commerce determines that its import would relieve domestic sthortages or otherwise benefit the economy. The application form provides the information needed to make this statutory determination.

Affected Public: Businesses or other for-profit institutions, small businesses or organizations

Frequency: On occasion

Respondent's Obligation: Required to obtain or retain a benefit

OMB Desk Officer: Sheri Fox, 395–3785.

Agency: International Trade Administration

Title: New Product Information Service/ International Market Search

Form Number: Agency—ITA–4963P, ITA—4091P; OMB—0625–0061

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 2,100 respondents; 700 reporting hours

Needs and Uses: Information provided through this collection is used to promote in overseas markets U.S. products available for export. Firms wishing to promote their products supply information on their products through this application form.

Affected Public: Businesses or other for-profit institutions, small businesses or organizations

Frequency: On occasion

Respondent's Obligation: Required to obtain or retain a benefit

OMB Desk Officer: Sheri Fox, 395–3785.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Office, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to Sheri Fox, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: June 7, 1985.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 85–14399 Filed 6–13–85; 8:45 am]

BILLING CODE 3510-CW-M

Bureau of the Census

Number of Employees, Payrolls, Geographic Location, Current Status, and Kind of Business for the Establishment of Multiestablishment Companies; Determination for Surveys

In conformity with Title 13, United States Code, sections 182, 224, and 225 and due notice or consideration having been published on April 1, 1985 (50 Fr 12843), I have determined that a 1985 Company Organization Survey is needed to update the multiestablishment companies in the Standard Statistical Established List. The survey, which has been conducted for many years, is designed to collect information on the number of employees, payrolls, geographic locations, current status, and kind of business for the establishments of multiestablishment companies. These data will have significant application to the needs of the public and to governmental agencies and are not publicly available from nongovernmental or governmental sources.

Report forms will be furnished to firms included in the survey and additional copies of the form are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that a survey be conducted for the purpose of collecting these data.

Dated: June 10, 1985.

John G. Keane,

Director, Bureau of the Census.

[FR Doc. 85–14344 Filed 6–13–85; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

[A-351-010]

Carbon Steel Wire Rod From Brazil; Intention To Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination To Revoke Antidumping Duty Order

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of Intention to Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination, to Revoke Antidumping Duty Order.

SUMMARY: The Department of Commerce has received information which shows changed circumstances sufficient to warrant an administrative review, under section 751(b)(1) of the Tariff Act, of the antidumping duty order on carbon steel wire rod from Brazil. The review covers the period from October 1, 1984. The petitioners to this proceeding have notified the Department that they are no longer interested in the antidumping duty order. Their affirmative statement of no interest provides a reasonable basis for the Department to revoke the order. Therefore, we tentatively determine to revoke the order. The revocation will apply to all carbon steel wire rod entered, or withdrawn from warehouse, for consumption on or after October 1, 1984. Interested parties are invited to comment on these preliminary results and tentative determination to revoke.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Stephen Munroe or G. Leon McNeill, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 52110–11) an antidumping duty order on carbon steel wire rod from Brazil.

In a letter dated May 9, 1985 (*see* Appendix A), Continental Steel Corporation, Georgetown Steel Corporation, North Star Steel-Texas, Inc., Raritan River Steel Company, and Atlantic Steel Company, the petitioners in this proceeding, informed the Department that they were no longer interested in the order and stated their support of revocation of the order. Under section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department may revoke an antidumping duty order that is no longer of interest to domestic interested parties.

Scope of the Review

Imports covered by the review are shipments of carbon steel wire rod currently classifiable under item 607.17 of the Tariff Schedules of the United States. The review covers the period from October 1, 1984.

Preliminary Results of the Review and Tentative Determination

As a result of our review, we preliminarily determine that the petitioners' affirmative statement of no interest in continuation of the antidumping duty order on carbon steel wire rod from Brazil provides a reasonable basis for revocation of the

order. In light of the October 1, 1984 effective date for revocation requested by the petitioners, there is good cause (as requried by section 751(b)(2) of the Tariff Act) to conduct this review at this time.

Therefore, we tentatively determine to revoke the order on carbon steel wire rod from Brazil effective October 1, 1984. We intend to instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 1, 1984 without regard to antidumping duties and to refund any estimated antidumping duties collected with respect to those entries. The current requirement for a cash deposit of estimated antidumping duties will continue until publication of the final results of this review.

This notice does not cover unliquidated entries or carbon steel wire rod from Brazil which were entered, or withdrawn from warehouse, for consumption prior to October 1, 1984. The Department will cover any such entries in a separate review, if one is requested.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke within 30 days of the date of publication of this notice, and may request a hearing within 5 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. The Department will publish the final results of the review and its decision on revocation, including its analysis of issues raised in any such written comments or at a hearing.

This intention to review, administrative review, tentative determination to revoke, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675(b), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Alan F. Holmer,

Deputy Assistant Scretary for Import Administration.

Appendix A

May 9, 1985.

Mr. Alan F. Holmer,

Deputy Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 3850, Washington, DC

Re: Outstanding Countervailing Duty and Antidumping Orders Concerning Wire Rod from Brazil

Dear Mr. Holmer: Paragraph 2(a)(1) of the Arrangement Concerning Trade in Certain Steel Products Between Brazil and the United States (the "Arrangement") which was confirmed as of February 26, 1985, requires the withdrawal of the countervailing duty and antidumping petitions described in paragraph 1 of Appendix A to the Arrangement including the countervailing duty petition filed on February 8, 1982, by Atlantic Steel Company, Continental Steel Corporation, Georgetown Steel Corporation, North Star Steel Texas, Inc., and Raritan River Steel Company (or their predecessors) concerning carbon steel wire rod. Paragraph 2(a)(2) requires the United States to initiate the legal process to terminate those antidumping and countervailing duty orders described in paragraph 2 of Appendix A to the Arrangement including that resulting from the antidumping petition filed on September 30, 1982, by Atlantic Steel Company, Continental Steel Corporation, Georgetown Steel Corporation, North Star Steel Texas, Inc., and Raritan River Steel Company concerning carbon steel wire rod.

On behalf of the companies that filed those petitions (hereinafter the "Petitioners"), you are hereby notified that, based on the Arrangement undertaking of Brazil to limit its annual exports of wire rod to the United States to 1.05 percent of U.S. apparent domestic comsumption for the duration of the Arrangement, and in reliance on the other understandings expressed herein, the Petitioners (i) withdraw the countervailing duty petition described in paragraph 1 of Appendix A and (ii) will not object to the initiation of legal process to terminate the antidumping order resulting from the petition described in paragraph 2 of Appendix A. The withdrawal and expression of no objection to the initiation of legal process are subject to assurance that the Brazilian Arrangement is in full force and effect and subject to no contingency (whether expressed in the Arrangement or any modifications thereof by side letter or otherwise) that would revise, delay or impair the implementation of the specific restraints concerning wire rod. Petitioners also understand that the United States does not plan to agree to any modifications of the Arrangement that would affect the Brazilian obligations concerning wire rod during the Arrangement term.

Petitioners do not intend to file petitions (as specified in paragraph 2(a)(3) of the Arrangement) seeking import relief with respect to wire rod from Brazil during the period of the Brazilian Arrangement provided that Arrangement proves to be an effective alternative to the results of unfair trade cases as defined by the remedial provisions (offsetting unfair trade practices) of the petition and order that will be terminated. To that end, Petitioners expressly do not waive any statutory rights to file such petitions as they may determine nor do they waive their right to take such other steps as may be provided by law.

It is Petitioners' understanding that the Arrangement with Brazil is a "bilateral arrangement" within the meaning of Section 804 of the Steel Import Stabilization Act of 1984 and that the President is authorized to enforce the Arrangement pursuant to Section 805(a) of said Act. Pursuant to those provisions and the requirements and terms of the Arrangement, Petitioners further understand that the United States will prohibit entry into this country of wire rod from Brazil that (i) is not accompanied by an export certificate and (ii) is not issued consistent with the quantitative limitations specifically applicable to Brazil as defined by the Arrangement.

We request that this letter be published together with the **Federal Register** notices of (i) the withdrawal of the petition referenced in paragraph 2(a)(1) and (ii) the inititation of the process required by paragraph 2(a)(2) of the Arrangement. Petitioners will assume that the understandings contained herein are valid and, unless informed otherwise, will undertake to furnish the Department with such documentation as necessary to implement their expression of no objection to the initiation of the legal process and its conclusion.

Respectfully submitted,

Charles Owen Verrill, Jr., Esq.,

Robert E. Nielsen, Esq.,

Wiley & Rein, 1776 K Street, NW. Washington, D.C. 20006, (202) 429-7000.

Counsel for Petitioners: Continental Steel Corp., Georgetown Steel Corp., North Star Steel Texas, Inc. Raritan River Steel Co.

David E. Birenbaum, Esq.,

Alan G. Kashdan, Esq.,

Fried, Frank, Harris, Shriver & Jacobson (A Partnership Including Professional Corporations), 600 New Hampshire Ave., NW., Washington, D.C. 20037, (202) 342-3500.

Counsel for Petitioner: Atlantic Steel Co.

[FR Doc. 85-14336 Filed 6-13-85; 8:45 am]

BILLING CODE 3510-DS-M

[Case No. 642]

Etang Chen, Individually and Doing Business as Eaton and Kings Corp., a/k/a ENK; Consent Order

The Office of Export Enforcement, International Trade Administration, U.S. Department of Commerce, initiated an administrative proceeding pursuant to section 11(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. sections 2401–2420 (1982)) (the Act), and Part 388 of the Export Administration Regulations (currently codified at 15 CFR Parts 388–399 (1984)) (the Regulations) [1], against Etang Chen, individually and doing business as Eaton and Kings Corporation, also known as ENK, 167 Oak Street, Westwood, Massachusetts 02090, (hereafter collectively referred to as Chen), by issuing a Charging Letter alleging that Chen violated §§ 387.2,

[1] The authority granted by the Act terminated on March 30, 1984. The Regulations have been continued in effect by Executive Order 12470, 49 FR 13099, April 3, 1984, under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (1982)).

387.4, 387.5, 387.6 and 387.10 of the Regulations.

The Department and Chen have entered into a Consent Agreement whereby each party has agreed that the allegations of the Charging Letter and the transactions which Chen has disclosed to the Department concerning his involvement with Jenkins International will be settled: (1) By Chen's paying the Department a civil penalty in the amount of $30,000; and (2) by a denial to Chen of all export privileges for a period ending ten years from the date of this Order.

The Hearing Commissioner approves the Consent Agreement. It is therefore ordered.

First. Chen is assessed a civil penalty, pursuant to section 11(c)(1) of the Act, in the amount of $30,000. Payment of $6,000 of the civil penalty will be made to the Department within 20 days of the service of this Order on Chen, in the manner specified in the attached instructions. Payment of the remaining $24,000 will be made in four equal installments of $6,000 each, which shall be due on or before March 1, 1986, March 1, 1987, March 1, 1988 and March 1, 1989, respectively.

Second. Chen, for a period ending ten years from the date of this Order, is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving the export of U.S.-origin commodities or technical data from the United States or abroad.

A. Without limiting the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to, participation: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data, in whole or in part, exported or to be exported from the United States and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations. The last five years of the denial period set forth above is suspended in accordance with § 388.16(c) of the Regulations, and will be waived at the end of that period provided that Chen has committed no further violation of the Act, the Regulations or this Order.

B. Such denial of export privileges shall extend not only to Chen but also to his agent, employees and successors. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which Chen is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services.

C. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall, with respect to U.S.-origin commodities and technical data which are subject to the denial of export privileges set out herein, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with Chen or anyone who is now or may be subsequently named as a related party, or whereby Chen or any related party may obtain any benefit therefrom or have any interest in or participation therein, directly or indirectly: (i) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for Chen or any related party denied export privileges; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

Third. The Charging Letter, the Consent Agreement and this Order shall be made available for public inspection, and this Order shall be published in the Federal Register.

Fourth. By Order of March 11, 1983 (48 FR 11479, March 18, 1983) (the TDO), Chen was temporarily denied all privileges of participating in any manner or capacity in the export of U.S.-origin commodities or technical data. The TDO was to remain in effect until the final disposition of any administrative or judicial proceeding initiated against Chen. This Order concludes the administrative proceeding initiated by the Department against Chen as a result of its investigation relating to the matters which gave rise to the TDO. Accordingly, the TDO of March 11, 1983 is amended by deleting from the respondents named therein: Dr. Etang Chen, individually and doing business as Eaton and Kings Corporation, aka ENK Corporation, 167 Oak Street, Westwood, Massachusetts 02090.

This Order is effective immediately.

Dated: June 7, 1985, 10:15 pm e.d.t.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 85-14337 Filed 6-13-85; 8:45 am]

BILLING CODE 3510-DT-M

[Case No. 667]

Order Temporarily Denying Export Privileges; Hans Wirth and Bruno Barbarits

In the matter of: Hans Wirth, individually and doing business as Cosmotrans AG, a/k/a Cosmotrans Ltd., Fracht West Building, Office 274, CH 8058, Zurich, Switzerland, and Bruno Barbarits, individually and doing business as Cosmotrans AG, Fracht West Building, Office 274, CH 8058, Zurich, Switzerland.

The Office of Export Enforcement, International Trade Administration, United States Department of Commerce (Department), pursuant to the provisions of § 388.19 of the Export Administration Regulations (15 CFR Parts 368-399 (1985)) (the Regulations), has petitioned the Hearing Commissioner for an order temporarily denying all export privileges to Hans Wirth (Wirth), individually and doing business as Cosmotrans AG, also known as Cosmotrans Ltd. (Cosmotrans), and Bruno Barbarits (Barbarits), individually and doing business as Cosmotrans AG, collectively referred to as "respondents."

The Department states: (1) That, in order to carry out certain transactions, the respondents acted in concert with Robert J. Lambert, Dierk Hagemann and Albert Franz Kessler [1] to divert to Eastern bloc countries certain U.S.-origin electronic testing equipment that was originally approved by the Department's Office of Export Administration (OEA) for export to specified consignees in the free world, in

[1] On September 7, 1982, Lambert, Hagemann and Kessler were convicted in federal district court on counts which included conspiracy to export U.S.-origin equipment from the United States to Switzerland without the required validated export licenses. The individuals were fined and received and served prison sentences.

violation of the regulations, as described in greater detail in paragraphs (2), (3) and (4) below; (2) that Wirth and Barbarits, each individually and doing business as Cosmotrans AG, received in customs bonded warehouses operated in Switzerland by Cosmotrans U.S. origin goods shipped by Lambert (via Hagemann's freight forwarding company) allegedly enroute to various consignees in the free world for which individual validated licenses had been approved; (3) that Wirth and Barbarits, each individually and doing business as Cosmotrans AG, on numerous occasions prepared or caused to be prepared new shipping documents for U.S.-origin goods, including but not limited to, air waybills and invoices, showing new consignees, destinations and descriptions for the U.S.-origin goods exported by Lambert; and (4) that Wirth and Barbarits, each individually and doing business as Cosmotrans, on numerous occasions diverted or caused this equipment to be diverted to the German Democratic Republic (GDR), Bulgaria and the Union of Soviet Socialist Republics (U.S.S.R.), without authorization of the Office of Export Administration and contrary to the terms of the export licenses, thereby knowingly acting in violation of the Regulations.

The Department further states that respondents herein may in the future engage in similar conduct contrary to the Regulations, unless appropriate action is taken to preclude such attempts.

Based upon the showing made by the Department, I find that an order temporarily denying all export privileges to Hans Wirth and Bruno Barbarits, each individually and doing business as Cosmotrans AG, is required in the public interest to facilitate enforcement of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401–2420 (1982)), and the Regulations.[2]

Anyone who is now or may in the future be dealing with the respondents and anyone who is now or may be subsequently named as a related party in transactions that in any way involve U.S.-origin commodities or technical data is specifically alerted to the provisions set forth in Paragraph IV below.

Accordingly, it is hereby Ordered:

I. All outstanding validated export licenses in which any respondent or any related party appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondents, their successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported from the United States, in whole or in part, or that are otherwise subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to a validated export license application, (b) in preparing or filing any export license application or reexport authorization, or any document to be submitted therewith, (c) in obtaining or using any validated or general export license or other export control document, (d) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations.

III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any successors. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which respondents are now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services. Business organizations now known to be owned by the named respondents, and which are accordingly subject to the provisions of this Order, are:

Cosmotrans USA Inc., P.O. Box 30978, JFK International Airport, Jamaica, New York 11430

I–COWATEC LTD., Flughofstrasse 47, 8152 Glattbrugg, Switzerland

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any respondent or any related party, or whereby any respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(b) of the Regulations, any respondent or any related party may move at any time to vacate or modify this temporary denial order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room H6716, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, an appropriate motion for relief and may also request an oral hearing thereon, which if requested, shall be held before the Hearing Commissioner at the earliest convenient date.

VI. This Order is effective immediately. It remains in effect until the final disposition of any administrative proceeding that might be initiated against the respondents based on the Department's allegations recited at the outset of this Order. A copy of this Order and Parts 387 and 388 of the Regulations shall be served upon each respondent and each related party.

Dated: June 7, 1985, 5:20 pm EDT.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 85-14338 Filed 6-13-85; 8:45 am]

BILLING CODE 3510-DT-M

[2] The authority granted by the Act terminated on March 30, 1984. The Regulations have been continued in effect by E.O. 12470, 49 FR 13099, April 3, 1984, under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (1982)).

Export Trade Certificate of Review; Application

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the certificate should be issued.

FOR FURTHER INFORMATION CONTACT: James V. Lacy, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export conduct specified in the certificate and carried out during its effective period in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the Federal Register identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a certificate should be issued. An original and five (5) copies should be submitted not later than July 5, 1985 to: Office of Export Trade Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificates of Review, application number 85-00010."

Applicant: Georgetown Export Trading, Incorporated (GETI), P.O. Box 2184, c/o National Center for Export-Import Studies, Washington, D.C. 20057, Telephone: (202) 625-6627
Application #: 85-00010
Date Deemed Submitted: May 31, 1985
Member: None

Summary of the Application

A. Export Trade

Products: All products including electronic microwave tubes, power transistors, indicator panels and light sensing electronic tubes, electronic components, and educational and training materials.

Export Services

Export management services and other export trade facilitation services including the provision of market research and information regarding the mechanics of exporting (such as arranging warehousing, shipping, transportation, export licensing, financing, advertising and distribution). GETI will also provide feasibility studies regarding the establishment of export trading companies ("ETC") between U.S. competitors.

B. Export Markets

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

Export Trade Activities and Methods of Operation

GETI may provide general export management services and other export trade facilitation services to domestic clients. GETI will also advise clients who may be U.S. competitors on whether an ETC is feasible based on information collected from such clients and, upon request, will organize and manage the ETC.

GETI seeks certification to enter into exclusive arrangements with clients, other trade intermediaries, distributors and foreign customers. In these agreements, GETI may act as broker, sales representative, or licensee or licensing agent for products and services in Export Trade. The Applicant may enter into exclusive agreements appointing distributors or sales agents in any Export Market or licensing products or services of U.S.-manufacturers to foreign concerns. GETI may enter into bidding arrangements with clients on orders received and enter with agreements with clients whereby GETI will submit a response to the bid invitation or request for quotation. GETI may enter into and terminate exclusive agreements with individual buyers in any Export Market to act as a purchasing agent with respect to particular transactions. Any agreement described above may contain territorial, customer, price and/or quantity restrictions for the Export Markets and may permit end-users to purchase all or part of their requirements of products and services from or through GETI.

Dated: June 10, 1985.

Douglas A. Riggs,
General Counsel.

[FR Doc. 85-14323 Filed 6-13-85; 8:45 am]
BILLING CODE 3510-DR-M

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles; Drexel University et al.

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

Decision: Denied. Applicants have failed to establish that domestic instruments of equivalent scientific value to the foreign instruments for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for each of the listed dockets.

Docket No.: 84-47. Applicant: Drexel University, Philadelphia, PA 19104. Instrument: Scanning Electron Microscope, Model JSM-35CF. Date of denial without prejudice to resubmission: March 12, 1985.

Docket No.: 84-182. Applicant: Cornell University, Geneva, NY 14456. Instrument: Kjel-Foss Automatic Protein-nitrogen Analyzer with Accessories. Date of denial without prejudice to resubmission: March 12, 1985.

Docket No.: 85-89. Applicant: Virginia Polytechnic Institute & State University, Blacksburg, VA 24061. Instrument: Excimer Laser, Model TE-861T-4 with Accessories. Date of denial without prejudice to resubmission: March 15, 1985.

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

Frank W. Creel,
Acting Director, Statutory Import Programs Staff.

[FR Doc. 85-14339 Filed 6-13-85; 8:45 am]
BILLING CODE 3510-DS-M

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance; Specialty Plastics Corp. et al.

Petitions have been accepted for filing on the dates indicated from the following firms: (1) Specialty Plastics Corporation, 251 Roosevelt Drive, Derby, Connecticut 06418, producer of plastic parts for appliances, lighting fixtures and other electrical articles (May 1, 1985); (2) Canadian Chains, Inc., P.O. Box 428, Skowhegan, Maine 04976, producer of tire chains (May 2, 1985); (3) Olson Industries, Inc., 4550 Jackson Street, Denver, Colorado 80301, producer of camping equipment, slingshots, crossbows, fishing tackle and other sporting goods, (May 2, 1985); (4) Three Star Handbag Corporation, 16 West 32nd Street, New York, New York, producer of handbags and purses (May 3, 1985); (5) Texstyle Creators, Ltd., 30–30 Northern Boulevard, Long Island City, New York, producer of printed fabrics (May 3, 1985); (6) Photoreceptor Systems, Inc., P.O. Box S, Canovanas, Puerto Rico 00629, producer of photocopy machine parts (May 7, 1985); (7) L.M. Rabinowitz & Company, 882 Third Avenue, Brooklyn, New York, 11232, producer of brassiere components (May 7, 1985); (8) The Scio Pottery Company, 38500 Crimm Road, Scio, Ohio 43988, producer of ceramicware (May 7, 1985); (9) National Clothespin Company, Inc., P.O. Box 427, Montpelier, Vermont 05602, producer of wood clothespins (May 7, 1985); (10) D. Seidmann's Sons, Inc., 4530 North 5th Street, Philadelphia, Pennsylvania 19140, producer of hats, legwarmers, scarves and other neckwear (May 7, 1985); (11) Reiner Garment Company, Inc., 500 South Clinton, Chicago, Illinois 60607, producer of women's dresses (May 9, 1985); (12) Acro Industries, Inc., 554 Colfax Street, Rochester, New York 14606, producer of components for copying machines and other equipment (May 9, 1985); (13) Gilmore & Tatge Manufacturing Company, Inc., P.O. Box 525, Clay Center, Kansas 67432, producer of agricultural equipment (May 10, 1985); (14) Tennessee Chemical Company, Copperhill, Tennessee 37317, producer of copper and chemicals (May 14, 1985); (15) Avalon Manufacturing Company, 339 Broadway, Long Branch, New Jersey 07740, producer of women's dresses (May 15, 1985); (16) Top Form Mills, Inc., 16 East 34th Street, New York, New York 10016, producer of women's lingerie, sleepwear and robes (May 21, 1985); (17) Verne Q. Powell Flutes, Inc., 70 Bow Street, Arlington, Massachusetts 02174, producer of flutes and piccolos (May 22, 1985); (18) Jefferies Associates, Inc., P.O. Box 430, Albemarle, North Carolina 28001, producer of fabric (May 22, 1985); (19) Philadelphia Tramrail Company, 2207 Ontario Street, Philadelphia, Pennsylvania 19134, producer of overhead cranes, industrial balers, compactors and flatrails (May 22, 1985); (20) Waverly Textile Processing, Inc., 40 East 34th Street, New York, New York 10016, producer of printed fabric (May 23, 1985); (21) Glenora Wine Cellars, Inc., Glenora-on-Seneca, Route 4, Dundee, New York 14837, producer of wine (May 28, 1985); (22) Wiesner Products, Inc., 350 Fifth Avenue, New York, New York 10118, producer of men's, women's and children's slippers (May 28, 1985); (23) Plating Processes, Inc., 59 Van Dam Street, Brooklyn, New York 11222, producer of electroplated giftwear, eyeglass parts and electronic parts (May 30, 1985); (24) Frank Noone Shoe Company, Inc., 437 Whittenton Street, Taunton, Massachusetts 02780, producer of golf shoes (June 3, 1985); (25) Suiza Dairy Corporation, GPO Box 3207, San Juan, Puerto Rico 00936, producer of milk and fruit juices (June 3, 1985); (26) Steinfeldt Thompson Company, Inc., 801 Griffin Road, Dania, Florida 33004, producer of tomato products (June 3, 1985); (27) Stephens Engineering Associates, Inc., 7030 220th Street S.W., Mountlake Terrace, Washington 98043, producer of radio communication equipment (June 4, 1985); (28) Paramount Products, Inc., 515 W. Mississippi, Denver, Colorado 80223, producer of household furniture and parts (June 4, 1985); (29) McIntosh Laboratory, Inc., 2 Chamber Street, Binghamton, New York 13903, producer of electronic audio equipment (June 4, 1985); (30) Mathers Controls, Inc., 902 N.W. Ballard Way, Seattle, Washington 98107, producer of marine propulsion systems and components (June 4, 1985); (31) Lamiglas, Inc., 1400 Atlantic Avenue, Woodland, Washington 98674, producer of fishing rods and blanks, arrow shafts and industrial tubing (June 5, 1985); (32) Precision Engine Specialists, Inc., 507 Mercer Street, Seattle, Washington 98109, producer of gasoline and diesel engines (June 5, 1985); (33) Raydot, Inc., 145 Jackson Avenue, Cokato, Minnesota 55321, producer of heat recovery and ventilation systems (June 5, 1985); (34) Tifton Textiles, Inc., P.O. Box 1187, Tifton, Georgia 31793–1187, producer of knitted fabric (June 5, 1985); and (35) Kelley-Perry, Inc., 7425 Ardmore, Houston, Texas 77025, producer of weighing and packaging machinery and parts (June 5, 1985).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Director, Certification Division, Office of Trade Adjustment Assistance, International Trade Administration, Room 4015A, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. In as far as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouses do not apply.

Jack W. Osburn, Jr.,

Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 85–14340 Filed 6–13–85; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council has scheduled two public workgroup meetings as follows:

June 17, 1985—The Council's committee on the Magnuson Fishery Conservation and Management Act reauthorization will meet at 10 a.m., in Anchorage, AK, at the Federal Building, Conference Room C121, 701 C Street, to review the current status of House and Senate reauthorization bills and to develop recommendations for the Council Chairmen's meeting in July.

June 18–19, 1985—A Council/industry workgroup on reducing salmon bycatch by trawlers in the Gulf of Alaska will begin its meeting at 10 a.m., on June 18 in Anchorage, AK, also at the Federal Building. For further information,

contact Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 274–4563.

Dated: June 10, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management.

[FR Doc. 85–14333 Filed 6–13–85; 8:45 am]

BILLING CODE 3510-22-M

COPYRIGHT ROYALTY TRIBUNAL

[CRT Docket No. 84–1 83CD]

Clarification of Order Directing Partial Distribution of 1983 Cable Royalty Fees

In response to a motion filed jointly by all eight Phase I claimants in the 1983 cable distribution proceeding, the Copyright Royalty Tribunal (Tribunal) published an order in the **Federal Register** directing a 50% distribution of the 1983 cable royalty fees on June 27, 1985. *Order Directing Partial Distribution of 1983 Cable Royalty Fees (Order), 50 FR 23350 (June 3, 1985).* The 50% distribution was to have been based upon the final determination of Phase I of the 1982 cable distribution proceeding.

On June 5, 1985, the National association of Broadcasters (NAB) filed a request for correction of the *Order.* NAB argues that the Phase II percentage awards of the Phase I claimants is the only proper basis for the 50% distribution. Otherwise, NAB argues, there would be an overcompensation to Motion Picture Association of America (MPAA) of approximately $200,000, and a corresponding undercompensation to NAB of approximately $200,000. The Program Suppliers oppose NAB's request stating that it was in the Tribunal's discretion to order a partial distribution on whatever basis it considered reasonable so long as an amount sufficient to satisfy all claims remains in the 1983 cable royalty fund. The Program Suppliers also argue that using Phase I percentages is more equitable than Phase II percentages because of changes in the representation of various parties by MPAA and by NAB since 1982. Multimedia Entertainment, Inc. (Multimedia) a Phase II awardee, supports NAB's contention regarding basing the award on 1982 Phase II percentages, and believes it should be entitle to an immediate 50% distribution of its 1982 Phase II award.

Clarification

When the Tribunal ordered the 50% distribution, it listed the recipients, among others, as "Program Suppliers" and "Joint Sports Claimants." It was intended that all parties coming within those categories would get their portion of the 50% distribution after the checks were distributed to the designated agents. However, the Tribunal will now distribute separate checks to each of the Phase II parties within the Phase I categories unless otherwise authorized by the parties. We note that Spanish International Network (SIN), a Phase II recipient in the 1982 cable distribution proceeding, did not file a notice of intent to participate in this proceeding. SIN will be represented this year by MPAA in the Program Suppliers category, and it makes no claim to the award for Joint Sports. Therefore, in the percentages which follow, SIN's 1982 award for Program Suppliers has been added to MPAA and SIN's 1982 award for Joint Sports has been deleted. This year's Joint Sports claimants will receive the entire percentage of the 1982 Joint Sports Claimants category:

Program Suppliers		69.2982
(MPAA & SIN	68.1201)	
(Multimedia	.6930)	
(NAB	.4851)	
Joint Sports Claimants		14.8496
Public Television claimants		5.1974
National Association of Broadcasters		4.4549
Music Claimants		4.2074
Devotional Claimants		1.0000
Canadian Claimants		0.7425
National Pubic Radio		0.2500
Total		100.0000

Dated: June 10, 1985.

Edward W. Ray,

Acting Chairman.

[FR Doc. 85–14377 Filed 6–13–85; 8:45 am]

BILLING CODE 1410-15-M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Independent Product Verification of Defense Logistics Agency Managed Items

SUMMARY: Notice is hereby given that the Defense Logistics Agency (DLA) will be utilizing independent test laboratories for performing verification testing of DLA-managed items and Defense Contract Administration Services' administered contracts. Verification testing will be conducted on in-process and finished items on a spot check basis. Emphasis will be placed on items certified as meeting contract requirements but not manufactured by the supplier/vendor delivering material to the Government. The thrust of this policy is to maximize the use of testing services within the Government and Industry to assure product quality. Where the verification testing is to be performed in a nongovernment facility, test plans prepared by the Defense Supply Center responsible for a given commodity will be provided to the independent test laboratory under contract to perform the verification testing. Government laboratories and test facilities will be used to the maximum extent possible for performing the test function.

EFFECTIVE DATE: June 5, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Smith, Quality Assurance Engineer, Defense Logistics Agency, Alexandria, VA 22304–6100 (202/274–6456).

R.F. Chiesa,

Executive Director, Contracting.

[FR Doc. 85–14357 Filed 6–13–85; 8:45 am]

BILLING CODE 3620-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Final Consent Order With Gulf Oil Corp.

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Final Action on Proposed Consent Order.

SUMMARY: The Administrator of the Economic Regulatory Administration (ERA) has determined that a proposed consent order between the Department of Energy (DOE) and Gulf Oil Corporation (Gulf) shall be made final as proposed. The consent order resolves, with certain exceptions, matters relating to Gulf's compliance with the federal price and allocation regulations for the period January 1, 1973 to January 28, 1981. Gulf will pay to the DOE $142 million, plus interest from the date of exeuction of the proposed consent order. Persons claiming to have been harmed by Gulf's alleged overcharges will be able to present their claims for refunds in an administrative claims proceeding before the Office of Hearings and Appeals (OHA). The decision to make the Gulf consent order final was made after a full review of written comments from the public and oral testimony received in a public hearing.

FOR FURTHER INFORMATION CONTACT: Meyer Magence, Economic Regulatory Administration, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–4945.

SUPPLEMENTARY INFORMATION:

I. Introduction

On March 8, 1985, ERA issued a notice announcing a proposed consent order between DOE and Gulf which, with certain exceptions, would resolve matters relating to Gulf's compliance with federal petroleum price and allocation regulations for the period January 1, 1973 to January 28, 1981. (50 FR 9493, March 8, 1985). The proposed consent order, which requires Gulf to pay $142 million,[1] is for the settlement of Gulf's potential liability for $135 million in alleged overcharges plus attributable interest. The March 8 notice provided in detail the basis for ERA's preliminary view that the settlement was favorable to the government and in the public interest. The notice solicited written comments from the public relating to the adequacy of the terms and conditions of the settlement, and whether the settlement should be made final. The notice also announced a public hearing for the purpose of receiving oral presentations on the settlement. That hearing was held on April 18, 1985.

II. Comments Received

ERA received seven written comments. One oral presentation was given at the April 18, 1985 hearing. All written and oral comments were considered in making the decision as to whether the proposed consent order should be made final.

The written and oral comments can be divided into two subject categories. One category consists of two comments that addressed the ultimate disposition or distribution of the Gulf settlement funds. The other category includes two comments directed at the adequacy of the settlement amount. Each of the two remaining comments address both subject categories.

Comments were received from the following groups or individuals that expressed views on the ultimate disposition of the funds to be paid by Gulf pursuant to the settlement:

Attorneys General for Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island and West Virginia
Attorney General of Texas
Southern California Edison

The comments submitted by these parties did not address the basis of the settlement or adequacy of the settlement amount, but only offered suggestions on the distribution of the settlement funds that were different from the consent order provisions requiring disbursement through the Office of Hearings and Appeals (OHA) administrative claim proceedings.

The two comments that addressed the basis and adequacy of the proposed settlement were submitted by:

Air Transport Association, Washington, D.C.
Controller, State of California

These commenters raised questions concerning the adequacy of the amount of funds to be paid by Gulf and the method by which Gulf's liability had been calculated by ERA.

The two comments that addressed both the distribution of the settlement funds and the adequacy of the settlement were submitted by:

Minnesota Department of Energy and Economic Development
Philadelphia Electric Company; National Freight, Inc.; RJG Cab, Inc.; Geraldine H. Sweeney

III. Analysis of Comments

The March 8 notice solicited written comments and provided for a public hearing to enable the ERA to receive information from the public relevant to the decision whether the proposed consent order should be finalized as proposed, modified or rejected. To ensure greater public understanding of the basis for the proposed settlement, the March 8 notice provided detailed information regarding Gulf's alleged overcharge liability and the considerations that went into the government's preliminary agreement with the proposed terms. This expanded settlement information enabled the public to address more specifically the areas in which questions or concerns may have existed.

Some comments, relating to the ultimate distribution of the funds if the Gulf consent order is finalized, were not germane to the basis or adequacy of the settlement. The distribution of the settlement funds will be the subject of a separate administrative proceeding conducted by OHA, to be initiated after publication of this notice. This is consistent with ERA's general policy that the Subpart V procedures of 10 CFR Part 205 are best suited for cases such as Gulf where ERA could not readily identify the injured parties or their relative amounts of economic harm. Comments on the actual disbursement of money will not be addressed here, but will be referred to OHA for consideration in the Gulf consent order claims proceeding.

Among the concerns that ERA had in seeking public comment on the proposed settlement was the need to correct a possible misunderstanding over Gulf's real financial liability resolved by this proposed consent order. This misunderstanding centers on the difference between "overcharges" and "cost violations". As explained more fully in the March 8 notice, as well as this notice, Gulf's $430 million in alleged cost violations identified by ERA are *not* the equivalent of overcharges. These cost violations yielded overcharges of $11 million, excluding interest.[2] It is this overcharge amount, plus interest, that is the true maximum amount of Gulf's liability for the $430 million in alleged cost violations.

Several commenters questioned the settlement analysis and preliminary conclusion set forth in the March 8 notice. These comments were carefully reviewed and are discussed below.

The Air Transport Association, the State of California, the Minnesota Department of Energy and Economic Development, and Philadelphia Electric Company, National Freight, Inc., RJG Cab, Inc., and Geraldine H. Sweeney, in a joint comment, indicated that notwithstanding the substantial amount of information provided in the March 8 notice, they still lacked sufficient information upon which to base a judgment as to whether the settlement amount was adequate. Those comments expressed concern that Gulf's total maximum exposure as calculated by DOE and identified in the March 8 notice seemed small in light of the total alleged cost overstatements of over four hundred million dollars. However, even in response to specific questions at the public hearing, no commenter identified or provided any additional specific information that contradicted ERA's preliminary conclusions.

In the March 8 notice, ERA sought to provide the maximum amount of information possible. Statutory constraints on the release of proprietary data received from Gulf in the course of the audit, and the need to avoid hindering the prosecution of enforcement actions against other firms, placed some limitations on the disclosure of information concerning the

[1] The $142 million, plus interest accruing between the date the Consent Order was executed and the date of payment by Gulf of the Consent Order monies, will be disbursed to DOE within 30 days of publication of this Notice.

[2] As explained in the March 8, 1985 notice, Gulf may also be liable for approximately $86 million (plus interest) in alleged crude oil overcharges and $28 million (plus interest) or refunds related to ERA's allegations of unequal passthrough and erroneous May 15, 1979 transaction prices.

enforcement actions resolved by the proposed settlement. However, a further review of the scope of disclosure in the March 8 notice has resulted in ERA's continued belief that the March 8 notice provides sufficient information to assess its adequacy and the most information possible consistent with all of ERA's obligations and needs. This conclusion is reinforced by the inability of those who made comments on the point to identify any additional information that might be helpful.

As indicated in the March 8 notice, allegations that Gulf claimed excessive amounts of costs are to be distinguished from allegations that these excessive costs resulted in overcharges on a dollar-for-dollar basis in Gulf's sales of petroleum products. The former seek adjustments necessary to make the calculations of maximum lawful prices accurate. The latter allege the charging of a price in excess of that maximum lawful price. Since Gulf had substantial amounts of cost increases that it could have lawfully recovered but did not, even after substantial reductions of its claimed cost increases, the prices charged by Gulf for covered petroleum products during the period of controls would in many instances have been justified by the remaining available costs, even if such reduction had been made. This accounts for the sizable differences in the amount of alleged cost violations and the amount of overcharges resulting from those violations.

As explained in the March 8 notice, ERA determined what it believed to be Gulf's correct amounts of cost increases and then compared those costs, on a monthly basis, with the amount of increased costs Gulf actually recovered through price increases above the May 15, 1973 level. The result was the maximum amount of overcharges attributable to Gulf if the government eventually prevailed on all of the various issues regarding the correct amount of Gulf's cost increases.

The State of California questioned the appropriateness of considering Gulf's banks in calculating the overcharge liability resulting from the alleged violations, and it incorporated by reference the comments previously submitted by California and several other states on the Proposed Consent Order with Mobil Corporation. The comments correctly noted that there is a difference between the DOE's method of assessing Gulf's regulatory compliance and resulting potential overcharge liability as outlined in the March 8 notice and the analysis sometimes used in Subpart V proceedings by OHA for determining the extent to which overcharges were absorbed by the first purchaser, *i.e.*, the amount of harm incurred by a purchaser who may have paid an excessive price but who subsequently had an opportunity to "passthrough" some or all of that excess upon reselling the product. The comments seem to assume that these two analytical processes should be the same. The two approaches are not the same. In fact, the processes must be different because they serve different purposes.

Subpart V proceedings are designed to determine the amount of economic injury which potentially overcharged customers may have absorbed. In these proceedings, refiners making claims particularly have urged OHA to consider their "banks" of unrecouped costs as evidence conclusively demonstrating that they were injured by the full measure of overcharges they incurred. OHA has consistently maintained that the absence of banks simply shows that all cost increases by a firm (whether lawful or whether the result of overcharges) were passed on, and that the mere presence of banks means that only some cost increases (whether lawful or whether the result of overcharges) were not recovered as calculated under the regulatory scheme. In a number of cases OHA has found that lawful cost increases and alleged overcharges incurred by a purchaser were commingled and lost their identity. Accordingly, in the context of a proceeding conducted to make an equitable distribution of refunds, the mere fact that a refiner's banks exceeded the amount it was overcharged would not demonstrate the extent to which the refiner had been harmed.

OHA performs this analysis of banks and cost passthroughs in an effort to assure that first purchasers who are not end-users do not reap the benefits of consent orders at the expense of other persons who were economically injured further along in the distribution chain. In fact, if the mere existence of banks were proof that overcharges had been absorbed, each firm in the distribution chain that had such banks could each assert that they had absorbed the same overcharges.

In contrast, the liability phase of the enforcement process, whether through litigation or settlement, assesses potential overcharge liability in the context of the refiner pricing regulations which were in effect during the period of price controls. From an enforcement standpoint the principal question is the degree to which overcharges were committed by the seller, not the distribution of that harm throughout the purchasing distribution chain, as is the case in Subpart V proceedings.

Finally, one commenter expressed the view that Gulf be required to withdraw from *In Re The Department of Energy Stripper Well Exemption Litigation*, M.D.L. No. 378 (D. Kansas), and *Diamond Shamrock Refining & Marketing Co.* v. *Standard Oil Co.* v. *Department of Energy*, C.A. No. C2-84-1432 (S.D. Ohio), or to reduce its crude oil costs to take into account any money it may receive from those cases. Pursuant to paragraphs 501(a) and 501(e) of the Consent Order, these cases, involving stripper well overcharges, are excluded from the scope of the Consent Order. In fashioning a consent order to resolve a company's compliance with the federal petroleum price and allocation regulations, DOE assesses a company's liability based upon DOE's audit findings and enforcement allegations. The settlement includes no consideration for potential recoveries or payments by Gulf in any pending proceeding excluded from the consent order, nor does it include consideration for additional payments Gulf may have to make in an action not brought by DOE. Any attempt to assess such exposure or recovery with respect to Gulf is far too speculative.

The review and analysis of all the written and oral comments did not provide any information that would support the modification or rejection of the proposed consent order with Gulf. However, ERA did raise additional points with Gulf which were not addressed by any of the commenters, and as a result of further negotiations with Gulf the proposed Consent Order has been modified in three respects. One modification increases Gulf's recordkeeping obligations, a second excludes from the settlement certain types of crude oil transactions which had been included previously, and the third makes a minor change to the period during which interim interest is calculated in the event DOE finalizes the Consent Order more than 135 days after it was executed.[3] The text of the

[3] First, Gulf agreed to modify paragraph 601, *Reporting, Recordkeeping Requirements and Confidentiality*. The revised paragraph 601 provides that Gulf retain records containing sales volumes and customer identification data until DOE's Office of Hearings and Appeals has issued a final order resolving all claims by direct purchasers from Gulf and, if requested, that Gulf make that information available to assist DOE in distributing the settlement monies. Accordingly, the Consent Order provisions are consistent with the requirements of the recordkeeping rule, 10 CFR 210.1, which was

Continued

modified paragraphs 501, 601, and 902 are appended to this Notice.

ERA concludes that the consent order, as modified, is in the public interest and should be made final.

IV. Decision

By this notice, and pursuant to 10 CFR 205.199J, the proposed consent order between Gulf and DOE executed on January 30, 1985, and modified on June 6, 1985, is made a final order of the Department of Energy, effective the date of publication of this notice in the Federal Register.

Issued in Washington, D.C., on June 11, 1985.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

Modification to Consent Order

1. Paragraph 501 of the Consent Order is hereby modified in part to read as follows:

(f) Gulf's obligation to respond to a subpoena issued at the request of DOE for documents of Cities Service Corporation in the possession of Gulf, said issue being now before the courts in *United States of America* v. *Gulf Oil Corporation*, No. CA H-84-553 (S.D.Tex), appeal pending, Dkt. No. 5-108 (TECA);

(g) The remaining issues or claims pending or arising out of the subject matter now before the courts in *Stertz, et al.* v. *Gulf Oil Corporation* v. *Department of Energy*, No. 78C1813 (E.D.N.Y.) and related appeals; and

(h) The issue of the lawfulness under DOE regulations of reciprocal crude oil transactions in which Gulf sold to, purchased from or exchanged controlled crude oil with another party or agent thereof pursuant to an agreement or understanding that such other party or agent thereof would sell to, purchase from, or exchange with Gulf certain volumes of uncontrolled crude oil, the purpose or effect of which was to increase the amount of consideration received by Gulf in the controlled crude oil transaction or to evade Gulf's obligations under DOE's crude oil cost equalization program.

2. Paragraph 601 of the Consent Order is hereby modified to read as follows:

VI. Reporting and Recordkeeping Requirements and Confidentiality

601. Upon completion of payment of the amount set forth in paragraph 402, Gulf shall be relieved of its obligation to comply with the recordkeeping requirements of the federal petroleum price and allocation regulations relating to the matters resolved by this Consent Order, except as otherwise provided in this paragraph. Gulf shall maintain records sufficient to demonstrate compliance with the terms of this Consent Order. Gulf shall also maintain records that show sales volume data and customers' names and addresses for Gulf's arms-length sales of crude oil and refined petroleum products during the period covered by this Consent Order. Such records shall not include any records included in Gulf's sale of assets to unrelated entities prior to February 1, 1985. The retained records shall be maintained by Gulf until OHA has issued a final order resolving all claims by direct purchasers from Gulf in the proceeding under 10 CFR Part 205, Subpart V, to be requested pursuant to paragraph 403. Gulf shall provide such available information to OHA, if requested, to assist in the processing of such claims. Gulf will not be subject to any report orders, subpoenas, or other administrative discovery by DOE relating to Gulf's compliance with the federal petroleum price and allocation regulations relating to the matter resolved by this Consent Order for the period covered by this Consent Order; provided, however, that Gulf will not invoke this Consent Order as a defense to report orders, subpoenas and other administrative discovery it may receive regarding other firms subject to DOE's information gathering and reporting authority.

3. Paragraph 902 of the Consent Order is hereby modified to read as follows:

902. Until the effective date, DOE reserves the right to withdraw consent to the Consent Order by written notice to Gulf, in which event this Consent Order shall be null and void. If this Consent Order is not made effective on or before the one hundred twentieth (120th) day following execution by Gulf, Gulf reserves the right, at any time thereafter until the effective date, to withdraw its agreement to this Consent Order by written notice to DOE in which event this Consent Order shall be null and void. If this Consent Order is not made effective on or before June 15, 1985, interest pursuant to paragraph 404 shall not be deemed to be earned after May 30, 1985.

Dated: June 6, 1985.

I, the undersigned, a duly authorized representative of Gulf, hereby agree to and accept on behalf of Gulf the foregoing modifications to paragraphs 501, 601 and 902 of the Consent Order.

Alson R. Kemp, Jr.,

Gulf Oil Corporation.

Dated: June 6, 1985.

I, the undersigned, a duly authorized representative of DOE, hereby agree to and accept on behalf of DOE the foregoing modifications to paragraphs 501, 601 and 902 of the Consent Order.

Milton C. Lorenz,

Special Counsel, Department of Energy

[FR Doc. 85-14496 Filed 6-13-85; 8:45 am]

BILLING CODE 6450-01-M

amended after the consent order terms were negotiated (50 FR 4957, Feb. 5, 1985). Gulf has also agreed to modify paragraph 501, *Issues Resolved*, to exclude from this settlement reciprocal crude oil transactions in which Gulf sold to, purchased from or exchanged controlled crude oil with another party and received in return uncontrolled crude oil, if the purpose or effect of such transactions was to increase the amount of consideration received by Gulf or to evade Gulf's obligations under DOE's crude oil cost equalization program. As a result of the additional time necessitated by negotiating this exclusion, the DOE agreed to a modification of paragraph 902, *Effective Date*. This modification provides that if the consent order is not finalized by June 15, 1985, interest on the settlement funds shall not be deemed to be earned after May 30, 1985, which was the expiration date of the 120-day period during which Gulf had agreed it could not withdraw from the proposed agreement.

Federal Energy Regulatory Commission

[Docket Nos. ID-2179-000, et al.]

Interlocking Directorate Applications; Meredith R. Harlacher, Jr., et al.

June 11, 1985.

Take notice that the following filings have been made with the Commision:

1. Meredith R. Harlacher, Jr.

[Docket No. ID-2179-000]

Take notice that on May 16, 1985, Meredith R. Harlacher, Jr. (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Vice President-Engineering—Atlantic City Electric Company

Vice President—Deepwater Operating Company

Comment date: June 24, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. Norman Robertson

[Docket No. ID-2199-000]

Take notice that on May 22, 1985, Norman Robertson (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director—Pennsylvania Power & Light Company

Senior Vice President and Chief Economist—Mellon Bank, N.A.

Comment date: June 24, 1985, in accordance with Standard Paragraph E at the end of this notice

3. G. Christian Lantzsch

[Docket No. ID-2201-000]

Take notice that on May 22, 1985, G. Christian Lantzsch (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director—Duquesne Light Company

Director, Vice Chairman and Treasurer—Mellon Bank Corporation

Director, and Vice Chairman—Mellon Bank, N.A.

Comment date: June 24, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. Russell A. Holden

[Docket No. ID-2177-000]

Take notice that on May 16, 1985, Russell A. Holden (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Chairman and Director—New England Transmission Corporation
Chairman and Director—New England Hydro-Transmission Corporation
Vice President—New England Power Company

Comment date: June 24, 1985, in accordance with Standard Paragraph E at the end of this notice.

5. Avram Kronsberg

[Docket No. ID-2186-000]

Take notice that on May 17, 1985, Avram Kronsberg (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director—South Carolina Electric & Gas Company
Director—South Carolina Generating Company, Inc.

Comment date: June 24, 1985, in accordance with Standard Paragraph E at the end of this notice.

6. Edward C. Roberts

[Docket No. ID-2197-000]

Take notice that on May 17, 1985, Edward C. Roberts (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Officer—South Carolina Electric & Gas Company
Officer—South Carolina Generating Company Inc.

Comment date: June 24, 1985, in accordance with Standard Paragraph E at the end of this notice.

7. W.R. Bruce

[Docket No. ID-2183-000]

Take notice that on May 17, 1985, W.R. Bruce (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director—South Carolina Electric & Gas Company
Director—South Carolina Generating Company, Inc.

Comment date: June 24, 1985, in accordance with Standard Paragraph E at the end of this notice.

8. Kenneth W. French

[Docket No. ID-2184-000]

Take notice that on May 17, 1985, Kenneth W. French (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director—South Carolina Electric & Gas Company
Director—South Carolina Generating Company, Inc.

Comment date: June 24, 1985, in accordance with Standard Paragraph E at the end of this notice.

9. Lawrence M. Gressette, Jr.

[Docket No. ID-2185-000]

Take notice that on May 17, 1985, Lawrence M. Gressette, Jr. (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Officer—South Carolina Electric & Gas Company
Director—South Carolina Electric & Gas Company
Officer—South Carolina Generating Company, Inc.
Director—South Carolina Generating Company, Inc.

Comment date: June 24, 1985, in accordance with Standard Paragraph E at the end of this notice.

10. Betty C. Bissell

[Docket No. ID-2196-000]

Take notice that on May 17, 1985, Betty C. Bissell (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Officer—South Carolina Electric & Gas Company
Officer—South Carolina Generating Company, Inc.

Comment date: June 24, 1985, in accordance with Standard Paragraph E at the end of this notice.

11. James H. Young, Jr.

[Docket No. ID-2193-000]

Take notice that on May 17, 1985, James H. Young, Jr. (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Officer—South Carolina Electric & Gas Company
Officer—South Carolina Generating Company, Inc.

Comment date: June 24, 1985, in accordance with Standard Paragraph E at the end of this notice.

12. John M. Arthur

[Docket No. ID-2198-000]

Take notice that on May 22, 1985, John M. Arthur (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director, Chairman and President—Duquesne Light Company
Director—Mellon Bank Corporation
Director—Mellon Bank, N.A.

Comment date: June 24, 1985, in accordance with Standard Paragraph E at the end of this notice.

13. Lance E. Cooper

[Docket No. ID-2180-000]

Take notice that on May 16, 1985, Lance E. Cooper (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Vice President-Control—Atlantic City Electric Company
Vice President—Deepwater Operating Company

Comment date: June 24, 1985, in accordance with Standard Paragraph E at the end of this notice.

14. Arthur W. Williams

[Docket No. ID-2190-000]

Take notice that on May 17, 1985, Arthur W. Williams (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director—South Carolina Electric & Gas Company
Director—South Carolina Generating Company, Inc.

Comment date: June 24, 1985, in accordance with Standard Paragraph E at the end of this notice.

15. Virgil C. Summer

[Docket No. ID-2181-000]

Take notice that on May 17, 1985, Virgil C. Summer (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director—South Carolina Electric & Gas Company
Chief Executive Officer—South Carolina Electric & Gas Company
Chairman of Board—South Carolina Electric & Gas Company
Director—South Carolina Generating Company, Inc.
Chairman—South Carolina Generating Company, Inc.

Comment date: June 24, 1985, in accordance with Standard Paragraph E at the end of this notice.

16. Thomas C. Nichols, Jr.

[Docket No. ID-2187-000]

Take notice that on May 17, 1985, Thomas C. Nichols, Jr. (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director and Officer—South Carolina Electric & Gas Company
Director and Officer—South Carolina Generating Company, Inc.

Comment date: June 24, 1985, in accordance with Standard Paragraph E at the end of this notice.

17. B.T. Horton, Jr.

[Docket No. ID-2195-000]

Take notice that on May 17, 1985, B.T. Horton, Jr. (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Officer—South Carolina Electric & Gas Company
Officer—South Carolina Generating Company, Inc.

Comment date: June 24, 1985, in accordance with Standard Paragraph E at the end of this notice.

18. John A. Warren

[Docket No. ID-2189-000]

Take notice that on May 17, 1985, John A. Warren (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director—South Carolina Electric & Gas Company
President and Chief Operating Officer—South Carolina Electric & Gas Company
Director—South Carolina Generating Company, Inc.
Vice-Chairman—South Carolina Generating Company, Inc.

Comment date: June 24, 1985, in accordance with Standard Paragraph E at the end of this notice.

19. Robert W. Stedman

[Docket No. ID-2194-000]

Take notice that on May 17, 1985, Robert W. Stedman (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Officer—South Carolina Electric & Gas Company
Officer—South Carolina Generating Company, Inc.

Comment date: June 24, 1985, in accordance with Standard Paragraph E at the end of this notice.

20. William B. Timmerman

[Docket No. ID-2192-000]

Take notice that on May 17, 1985, William B. Timmerman (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Officer—South Carolina Electric & Gas Company
Officer—South Carolina Generating Company, Inc.

Comment date: June 24, 1985, in accordance with Standard Paragraph E at the end of this notice.

21. John E. Schacte

[Docket No. ID-2188-000]

Take notice that on May 17, 1985, John E. Schacte (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director—South Carolina Electric & Gas Company
Director—South Carolina Generating Company, Inc.

Comment date: June 24, 1985, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-14303 Filed 6-13-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3062-003]

Schneider Lift Translator Corp.; Surrender of Conduit Exemption

June 10, 1985

Take notice that Schneider Lift Translator Corp., Exemptee for the Richvale Irrigation District Power Plant Project No. 3062, has requested that its exemption be terminated. The exemption was issued on September 3, 1980, and the project was located on a water conduit that diverts water from Oroville Thermalito Afterbay in Butte County, California. The Exemptee states that the project has been totally removed from the Richvale Irrigation District Power Plant site.

The Exemptee filed the request on April 26, 1985, and the exemption for Project No. 3062 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-14401 Filed 6-13-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC85-15-000]

Resources Recovery (Dade County), Inc.; Application

June 12, 1985.

The filng Company submits the following:

Take notice that on June 11, 1985, Resources Recovery (Dade County), Inc. ("RRD"), tendered for filing an application pursuant to section 203 of the Federal Power Act for authorization for RRD to dispose of certain electric transmission facilities located in Dade County, Florida.

The transmission facilities which are the subject of the joint application are valued in excess of $50,000, thereby requiring Commission authorization under section 203. These facilities, presently owned and operated by RRD, are part of an integrated solid waste resource recovery plant operated by RRD. These facilities will be transferred to Metropolitan Dade County, which now owns the remainder of the integrated plant. That plant is a qualifying small power production facility within the meaning of sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 796 and 824a-3, and the Commission's implementing regulations.

The application has been submitted in accordance with the Commission's previous order waiving Part 33 of its regulations with regard to section 203 applications concerning the RRD qualifying small power production facility. *See Resources Recovery (Dade County), Inc.* (Docket No. ER82-225-003), 20 FERC ¶ 61,138 (August 3, 1982).

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and

procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before June 17, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-14466 Filed 6-13-85; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59192A; FRL-2848-2]

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-85-40. The test marketing conditions are described below.

EFFECTIVE DATES: May 22, 1985.

FOR FURTHER INFORMATION CONTACT: Anna Coutlakis, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Room E-613-B, 401 M Street SW., Washington, DC. 20460 (202) 382-2252.

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-85-40. 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 unresonable risk of injury to health or the environment. Production volume and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME-85-40. A bill of lading accompying 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.

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.

T 85-40

Date of Receipt: April 12, 1985.

Notice of Receipt: April 26, 1985 (50 FR 16540).

Applicant: Confidential.

Chemical: (G) Adduct of polymeric 4, 4'-phenylmethane diisocyanate and hydroxyester of terephthalic acid.

Use: (G) Insulation.

Production Volume: Confidential.

Number of Customers: 3.

Worker Exposure: Manufacture: dermal, total of 1 worker, up to 4 hours/batch, 48 manhours/year.

Test Marketing Period: 60 days. *Commencing on:* May 22, 1985.

Risk Assessment: EPA identified potential adverse health effects and potential adverse effects on aquatic organisms with exposure to the TME substance. However, under the conditions outlined above and in the TME application, the estimated exposure to the test market substance will not be significant either to humans or the environment. Therefore, the test market substance will not pose any unreasonable risk of injury to health or the environment.

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 attentions 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: May 22, 1985.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 73862 Filed 6-13-85; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59717; FRL-2848-1]

Certain Chemicals Premanufacture Exemption Applications

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 nine such PMNs and provides a summary of each.

DATES: Close of Review Period:

Y 85-79, and 85-80—June 18, 1985.

Y 85-81, 85-82, 85-83, Y 85-84, 85-85, 85-86, and 85-87—June 19, 1985.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Room E-611, 401 M Street SW., Washington, DC 20460 (202-382-3725).

SUPPLEMENTARY INFORMATION: 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 85-79

Manufacturer. Spencer Kellogg Division of Textron, Inc.

Chemical. (G) Alkyd resin.
Use/Production. (G) Open, non-dispersive manner. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

Y 85-80

Manufacturer. Confidential.
Chemical. (G) Polyoxyalkylene modified dimethylsilicone.
Use/Production. (S) Surfactant for use in polyurethane foam. Prod. range. Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

Y 85-81

Manufacturer. Confidential.
Chemical. (G) Propylene oxide, polymer with alkyl phenol, formaldehyde and alkyl polycarboxylic acid.
Use/Production. (G) Surface active agent. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 85-82

Manufacturer. Confidential.
Chemical. (G) Ethylene oxide, polymer with propylene oxide, alkyl phenol, formaldehyde and alkyl polycarboxylic acid.
Use/Production. (G) Surface active agent. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 85-83

Manufacturer. Confidential.
Chemical. (G) Ethylene oxide, polymer with propylene oxide, mixed alkyl phenols, formaldehyde and alkyl polycarboxylic acid.
Use/Production. (G) Surface active agent. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 85-84

Manufacturer. Confidential.
Chemical. (G) Ethylene oxide, polymer with propylene oxide, mixed alkyl phenols, formaldehyde and alkyl polycarboxylic acid.
Use/Production. (G) Surface active agent. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 85-85

Manufacturer. Confidential.
Chemical. (G) Ethylene oxide, polymer with propylene oxide, mixed alkyl phenols, formaldehyde and alkyl polycarboxylic acid.
Use/Production. (G) Surface active agent. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 85-86

Manufacturer. Confidential.
Chemical. (G) Ethylene oxide polymer with propylene oxide, mixed alkyl phenols, formaldehyde and alkyl polycarboxylic acid.
Use/Production. (G) Surface active agent. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 85-87

Manufacturer. Confidential.
Chemical. (G) Ethylene oxide, polymer with propylene oxide, alkyl phenol, glycerol, formaldehyde and alkyl polycarboxylic acid.
Use/Production. (G) Surface active agent. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Dated: May 31, 1985.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 85-13863 Filed 6-13-85; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-51574; FRL-2848-3]

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 twenty-three PMNs and provides a summary of each.

DATES: Close of Review Period:

P 85-999, 85-1000 and 85-1001—August 21, 1985.

P 85-1002, 85-1003, 85-1004, 85-1005, 85-1006, 85-1007, and 85-1008—August 25, 1985.

P 85-1009, 85-1010, 85-1011, 85-1012, 85-1013, 85-1014, 85-1015, 85-1016, 85-1017 and 85-1018—August 26, 1985.

P 85-1019, 85-1020 and 85-1021—August 27, 1985.

Written comments by:

P 85-999, 85-1000 and 85-1001—July 22, 1985.

P 85-1002, 85-1003, 85-1004, 85-1005, 85-1006, 85-1007, and 85-1008—July 26, 1985.

P 85-1009, 85-1010, 85-1011, 85-1012, 85-1013, 85-1014, 85-1015, 85-1016, 85-1017 and 85-1018—July 27, 1985.

P 85-1019, 85-1020 and 85-1021—July 28, 1985.

ADDRESS: Written comments, identified by the document control number "[OPTS-51574]" 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, Room E-201, 401 M Street 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, Room E-611, 401 M Street SW., Washington, DC 20460 (202-382-3725).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

P 85-999

Manufacturer. Confidential.
Chemical. (G) Polyfunctional methacrylate of polyisocyanate adduct of alkoxylated polyol.
Use/Production. (S) Industrial graphic arts printings plate. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release.

P 85-1000

Manufacturer. Confidential.
Chemical. (G) Polyester from carbomonocyclic anhydride, alkanols and a substituted alkanoic acid.
Use/Production. (S) Site-limited intermediate. Prod. range: 8,000-240,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 34 workers, up to 8 hrs/da, up to 35 da/yr.
Environmental Release/Disposal. Trace of 51 kg/batch released to land. Disposal by incineration and landfill.

P 85-1001

Manufacturer. Confidential.
Chemical. (G) Functionally modified aliphatic polyester.
Use/Production. (G) Ingredient of industrially applied coatings. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 34 workers, up to 8 hrs/da, up to 105 da/yr.
Environmental Release/Disposal. 6 to 90 kg/batch released to land. Disposal by incineration and landfill.

P 85-1002

Manufacturer. Quaker Chemical Corporation.
Chemical. (G) Aliphatic ester.
Use/Production. (S) Industrial and commercial can drawing lubricant for cupping operations. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 6 workers, up to 5 hrs/da.
Environmental Release/Disposal. 1 kg released to air and water. Disposal by publicly owned treatment works (POTW).

P 85-1003

Manufacturer. Confidential.
Chemical. (S) Humic acids, titanium salts.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal and inhalation, a total of 3 workers.
Environmental Release/Disposal. No release to air, water and land.

P 85-1004

Manufacturer. Confidential.
Chemical. (S) Humic acids, zinc salts.
Use/Production. (G) Highly dispersive and open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal and inhalation, a total of 3 workers.
Environmental Release/Disposal. No release to air, water and land.

P 85-1005

Importer. Key-Fries, Inc.
Chemical. (G) Polyester resin.
Use/Production. (S) Industrial general coating for building products. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 85-1006

Manufacturer. ANGUS Chemical Company.
Chemical. (S) Bis(2-amino-2-methylpropyl)amine.
Use/Production. (G) Chemical intermediate and curing agent. Prod. range: Confidential.
Toxicity Data. Acute oral: Male—1.0 g/kg, female—1.9 g/kg; Irritation: Skin—Corrosive, Eye—Cannot be classified.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85-1007

Manufacturer. Confidential.
Chemical. (G) Oxazaline.
Use/Production. (G) Emulsifier for industrial uses. Prod. range: Confidential.
Toxicity Data. Acute oral: <5.0 g/kg. Acute dermal: >2.0 g/kg; Irritation: Skin—Mild, Eye—Non-irritant.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85-1008

Manufacturer. Sherex Chemical Company, Inc.
Chemical. (S) Propanoic acid, 3[N-$2C_{6-10}$ amido]ethyl] oxyethylamino, sodium salt.
Use/Production. (S) Industrial wetting agent and surfactant for metal cleaning. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Not a primary irritant, Eye—Moderate.
Exposure. Manufacture: dermal, a total of 105 workers, up to 8 hrs/da, up to 30 da/yr.
Environmental Release/Disposal. 10 kg/batch released to water. Disposal by POTW.

P 85-1009

Manufacturer. Confidential.
Chemical. (g) Polyhydroxyether diisocyanate acrylate polymer.
Use/Production. (S) Binder for magnetic media. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 5 workers, up to 8 hrs/da, up to 100 da/yr.
Environmental Release/Disposal. Confidential. Disposal by waste treatment facility.

P 85-1010

Manufacturer. Eastman Kodak Company.
Chemical. (S) 3-Bromopropanoyl chloride.
Use/Production. (G) Chemical intermediate. Prod. range: 3 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and use: dermal, a total of 2 workers, up to 0.4 hr/da, up to 2 da/yr.
Environmental Release/Disposal. No release. Less than 1 kg/batch incinerated.

P 85-1011

Manufacturer. Eastman Kodak Company.
Chemical. (S) Substituted bromopropanoic acid derivative.
Use/Production. (G) Chemical intermediate. Prod. range: 3 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and use: dermal, a total of 2 workers, up to 0.4 hr/da, up to 2 da/yr.
Environmental Release/Disposal. No release. Less than 1 kg/batch incinerated.

P 85-1012

Importer. Confidential.
Chemical. (S) 1-Hexanamine, 2-ethyl-N,N-bis(2-ethylhexyl)-.
Use/Production. Industrial solvent. Prod. range: Confidential.
Toxicity Data. Acute oral: >10 ml/kg; Irritation: Skin-Non-irritant, Eye—Non-irritant; Ames Test: Negative; LC_{50} 96 hr (Rainbow trout): >460 mg/l; EC_{50} (Daphnia magna): 0.129 mg/1.
Exposure. Confidential.
Environmental Release/Disposal. Released to water. Disposal by POTW.

P 85-1013

Manufacturer. Confidential.
Chemical. (G) Aliphatic diurethane acrylate ester.
Use/Production. (S) Industrial coating, ink and adhesive component. Prod. range: 40,000-50,000 kg/yr.
Toxicity Data. Irritation: Skin—Non-irritant, Eye—Irritant.
Exposure. Manufacture and processing: dermal, a total of 20 workers, up to 4 hrs/da, up to 10 da/yr.

Environmental Release/Disposal. No release. 5 to 20 kg/batch control technology. Disposal by incineration.

P 85–1014

Manufacturer. Confidential.

Chemical. (S) Polymer of methacrylic acid, succinic anhydride, (phenol, 4,4'-(methylethylidene)bis-(polymer with(chloromethyl) 2-methylimidazole.

Use/Production. (S) Commercial injection molding coating. Prod. range: 100,000–500,000 lbs/yr.

Toxicity Data. No data submitted.

Exposure Manufacture and processing: dermal, a total of 5 workers, up to 4 hrs/da, up to 15 da/yr.

Environmental Release/Disposal. Less than 10 lb/batch released to land. Disposal by landfill.

P 85–1015

Manufacturer. Confidential.

Chemical. (G) Vinyl chloride interpolymer containing hydroxyl and carboxyl groups.

Use/Production. (S) Component of thermosetting and thermoplastic coating and laminating adhesive formulations. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 85–1016

Manufacturer. Texaco Chemical Company.

Chemical. (S) Ethanamine, 2,2'-oxybis-bis(aminoethyl) either.

Use/Production. (G) Destructive use. Prod. range: Confidential.

Toxicity Data. Acute oral: Male-1,118 mg/kg, Combined-961 mg/kg; Acute dermal: 3.55 mg/kg; Irritation: Skin—Irritant, Eye—Irritant; DOT skin corrosivity: Corrosive.

Exposure. Manufacture: dermal, a total of 1 worker, up to 0.1 hr/da, up to 100 da/yr.

Environmental Release/Disposal. Release to land. Disposal by underground injection.

P 85–1017

Manufacturer. Confidential.

Chemical. (G) Disubstituted benzenesulfonate salt.

Use/Production (G) Open, non-dispersive use in a commercial product. Prod. range: 5,000–20,000 kg/yr.

Toxicity Data. Acute oral: >3,200 mg/kg; Irritation: Skin—Slight, Eye—Slight; Skin sensitization: Low potential.

Exposure. Manufacture and processing: dermal, a total of 21 workers, up to 0.5 hr/da, up to 25 da/yr.

Environmental Release/Disposal. 0–5 kg/batch released to water. 2–5 kg/batch disposed of by biological treatment system.

P 85–1018

Importer. Rona Pearl.

Chemical. (S) 3-(4 methylbenzylidine) camphor.

Use/Import. (S) Consumer UV sun absorber primarily used in recreational sun-tanning formulations; concentration not exceeding 6% of final formulation and an industrial component of perfume formulations as a UV blocker; concentration not to exceed 10%. Import range: 1,000–3,500 kg/yr.

Toxicity Data. Acute oral: >16,000 mg/kg. Dog—>5,000 mg/kg; Irritation: Skin—No irritation, Eye—Non-irritant; Phototoxic: Not phototoxic; Photosensitizer: Not a photosensitizer; Skin sensitization: Non-sensitizer.

Exposure. Processing: dermal, a total of 210 workers, up to 1 hr/da.

Environmental Release/Disposal. No data submitted.

P 85–1019

Manufacturer. Confidential.

Chemical. (S) Humic acids, iron salts.

Use/Production. (G) Highly dispersive and an open, non-dispersive use. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal and inhalation, a total of 3 workers.

Environmental Release/Disposal. No release to air, water and land.

P 85–1020

Manufacturer. Essex Specialty Products, Inc.

Chemical. (G) Polyurethane ploymer.

Use/Production. (S) Polyurethane polymer for use in compound sealants and adhesives. Prod. range: 50,000–250,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 2 workers, up to 2 hrs/da.

Environmental Release/Disposal. No release.

P 85–1021

Manufacturer. Essex Specialty Products, Inc.

Chemical. (G) Polyurethane ploymer.

Use/Production. (S) Polyurethane polymer for use in compound sealants and adhesives. Prod. range: 50,000–250,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 2 workers, up to 2 hrs/da.

Environmental Release/Disposal. No release.

Dated: May 31, 1985.

Linda A. Travers,

Acting Director, Information Managment Division.

[FR Doc. 85–13864 Filed 6–13–85; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51575; TSH-FRL 2851–2]

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 thirty-one PMNs and provides a summary of each.

DATES: Close of Review Period:

P85–1022, 85–1023, 85–1024, 85–1025, 85–1026, 85–1027, and 85–1028—August 31, 1985.

P85–1029, 85–1030, 85–1031, 85–1032, 85–1033, and 85–1034—September 1, 1985.

P85–1035, 85–1036, 85–1037, 85–1038, 85–1039, and 85–1040—August 25, 1985.

P85–1041, 85–1042, 85–1043, 85–1044, 85–1045, 85–1046, 85–1047, 85–1048 and 85–1049—September 2, 1985.

P85–1050, 85–1051 and 85–1052—September 3, 1985.

Written comments by:

P85–1022, 85–1023, 85–1024, 85–1025, 85–1026, 85–1027, and 85–1028—August 1, 1985.

P85–1029, 85–1030, 85–1031, 85–1032, 85–1033 and 85–1034—August 2, 1985.

P85–1035, 85–1036, 85–1037, 85–1038, 85–1039 and 85–1040—July 26, 1985.

P85–1041, 85–1042, 85–1043, 85–1044, 85–1045, 85–1046, 85–1047, 85–1048 and 85–1049—August 3, 1985.

P85–1050, 85–1051 and 85–1052—August 4, 1985.

ADDRESS: Written comments, identified by the document control number "[OPTS–51575]" 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 20450, (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: The following notice contains information extracted from the nonconfidential 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 85-1022

Manufacturer. Confidential.
Chemical. (G) Barium lithol pigment.
Use/Production. (G) Open, non-dispersive use. Prod. range: 90-480 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal and inhalation, a total of 6 workers, up to 2 hrs/da, up to 12 da/yr.
Environmental Release/Disposal. No release.

P 85-1023

Manufacturer. Confidential.
Chemical. (G) Polyfluoroalkyl thiocyanate.
Use/Production. (S) Site-limited chemical intermediate. Prod. range: Confidential
Toxicity Data. No data on the PMN substance submitted.
Exposure. No exposure.
Environmental Release/Disposal. No release.

P 85-1024

Manufacturer. Confidential.
Chemical. (G) Polyfluoroalkyl sulfonamido propylamine.
Use/Production. (S) Site-limited chemical intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: Male and female—1.56 g/kg.
Exposure. No exposure.
Environmental Release/Disposal. No release.

P 85-1025

Manufacturer. Confidential.
Chemical. (G) Polyfluoroalkyl betaine.
Use/Production. (G) Surfactant in chemical specialties dispersive use. Prod. range: Confidential.
Toxicity Data. Acute oral: Male and female—5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Slight.
Exposure. Manufacture and use: dermal.
Environmental Release/Disposal. Release to water and land. Disposal by publicly owned treatment works (POTW) and secure landfill.

P 85-1026

Manufacturer. Confidential.
Chemical. (G) Mercaptoalkylsiloxane.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential
Toxicity Data. Acute oral: >15.0 g/kg; Irritation: Skin—Non-irrirtant, Eye—Slight.
Exposure. Manufacture and processing: dermal, a total of 8 workers, up to 4 hrs/da, up to 2 da/yr.
Environmental Release/Disposal. 1 kg/batch released to air and 5 kg/batch to land. 1 kg/batch incinerated and 5 kg/batch disposed of by landfill.

P 85-1027

Manufacturer. Confidential.
Chemical. (G) Polydimethylsiloxy, methyl-mercaptoalkyl siloxane copolymer.
Use/Production. (S) Component in a U. V. curable coating and fuser oil. Prod. range: Confidential
Toxicity Data. Acute oral: >15.0 g/kg; Irritation: Skin—Non-irrirtant, Eye—Slight.
Exposure. Manufacture: dermal, a total of 3 workes, up to 4 hrs/da, up to 2 da/yr.
Environmental Release/Disposal. 1 kg/batch released to air and 5 kg/batch to land. Disposal by 1 kg/batch incinerated and 5 kg/batch disposed of by landfill.

P 85-1028

Manufacturer. Confidential.
Chemical. (G) Polymethyl mercaptoalkyl siloxane polymer.
Use/Production. (G) Polymerization initiator. Prod. range: Confidential.
Toxicity Data. Acute oral >15.0 g/kg; Irritation: Skin—Non-irrirtant, Eye—Slight.
Exposure. Manufacture and processing: dermal, a total of 6 workers, up to 2 hrs/da, up to 2 da/yr.
Environmental Release/Disposal. 1 kg/batch released to air and 5 kg/batch to land. 1 kg incinerated and 5 kg disposed of by landfill.

P 85-1029

Manufacturer. Confidential.
Chemical. (G) Polymer of alkane polyols, aromatic carboxylic acid, benzene dicarboxylic acids, polyamide resin, vegetable oil and vegetable oil acids.
Use/Production. (G) Polymeric binder for clean and pigmented finishes. Prod range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 5 workers.
Environmental Release/Disposal. Confidential.

P 85-1030

Manufacturer. Essex Specialty Products, Inc.
Chemical. (G) Polyurethane polymer.
Use/Production. (S) Polyurethane polymer for use in compound sealant and adhesives. Prod. range: 50,000-250,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 2 workers, up to 2 hrs/da.
Environmental Release/Disposal. No release.

P 85-1031

Manufacturer. Confidential.
Chemical. (G) Alkenoic alkeneamide substituted propane.
Use/Production. (G) Fluid retention polymer. Prod. range: Confidential.
Toxicity Data. Acute oral: >2.5 g/kg but < 5.0 g/kg; Irritation: Skin—Slight/mild, Eye—Mild.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85-1032

Manufacturer. Confidential.
Chemical. (G) Epoxy modified polyol.
Use/Production. (G) Urethane RIM polyol component basestock. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture and use: dermal and ocular, a total of 10 workers.
Environmental Release/Disposal. No release. Disposal by 3 kg samples incinerated.

P 85-1033

Manufacturer. Confidential.
Chemical. (G) Epoxy modified polyol.
Use/Production. (G) Urethane RIM polyol component basestock. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture and use: dermal and ocular, a total of 10 workers.
Environmental Release/Disposal. No release. Disposal by 3 kg samples incinerated.

P 85-1034

Importer. Confidential.
Chemical. (G) Nickel acylate complex.
Use/Import. (G) Rubber bonding agent. Import range: Confidential.

Toxicity Data. Acute oral: Males—4.8 g/kg. Females—4.3 g/kg. Combined—4.6 g/kg: Irritation: Skin—Well defined to moderate. Ames Test: Negative.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 85–1035

Manufacturer. Confidential.
Chemical. (S) Humic acids, zinc salts.
Use/Production. (G) Highly dispersive and open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal and inhalation, a total of 3 workers.
Environmental Release/Disposal. No release to air water and land.

P 85–1036

Manufacturer. Confidential.
Chemical. (S) Humic acids, zinc salts.
Use/Production. (G) Highly dispersive and open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manfacture: dermal and inhalation, a total of 3 workers.
Environmental Release/Disposal. No release to air water and land.

P 85–1037

Manufacturer. Confidential.
Chemical. (S) Humic acids, iron salts.
Use/Production. (G) Highly dispersive and open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal and inhalation, a total of 3 workers.
Environmental Release/Disposal. No release to air water and land.

P 85–1038

Manufacturer. Confidential.
Chemical. (S) Humic acids, iron salts.
Use/Production. (G) Highly dispersive and open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal and inhalation, a total of 3 workers.
Environmental Release/Disposal. No release to air water and land.

P 85–1039

Manufacturer. Confidential.
Chemical. (S) Humic acids, iron salts.
Use/Production. (G) Highly dispersive and open, non-dispersive use. Prod. range: Confidential
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal and inhalation, a total of 3 workers.
Environmental Release/Disposal. No release to air water and land.

P 85–1040

Manufacturer. Confidential.
Chemical. (S) Humic acids, iron salts.
Use/Production. (G) Highly dispersive and open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal and inhalation, a total of 3 workers.
Environmental Release/Disposal. No release to air water and land.

P 85–1041

Manufacturer. Essex Specialty Products, Inc.
Chemical. (G) Polyurethane polymer.
Use/Production. (S) Polyurethane polymer for use in compound sealants and adhesives. Prod. range: 50,000–250,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 2 workers, up to 2 hrs/da.
Environmental Release/Disposal. No release.

P 85–1042

Manufacturer. The Dow Chemical Company.
Chemical. (G) Amine salts of sulfonated, alkylated diphenyl oxide.
Use/Production. (S) Commercial surfactants, adjuvants for agricultural products. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal.
Environmental Release/Disposal. No release to air.

P 85–1043

Manufacturer. The Dow Chemical Company.
Chemical. (G) Amine salts of sulfonated, alkylated diphenyl oxide.
Use/Production. (S) Commercial surfactants, adjuvants for agricultural products. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal.
Environmental Release/Disposal. No release to air.

P 85–1044

Manufacturer. The Dow Chemical Company.
Chemical. (G) Amine salts of sulfonated, alkylated diphenyl oxide.
Use/Production. (S) Commercial surfactants, adjuvants for agricultural products. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal.
Environmental Release/Disposal. No release to air.

P 85–1045

Manufacturer. The Dow Chemical Company.
Chemical. (G) Amine salts of sulfonated, alkylated diphenyl oxide.
Use/Production. (S) Commercial surfactants, adjuvants for agricultural products. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal.
Environmental Release/Disposal. No release to air.

P 85–1046

Manufacturer. The Dow Chemical Company.
Chemical. (G) Amine salts of sulfonated, alkylated diphenyl oxide.
Use/Production. (S) Commercial surfactants, adjuvants for agricultural products. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal.
Environmental Release/Disposal. No release to air.

P 85–1047

Manufacturer. The Dow Chemical Company.
Chemical. (G) Amine salts of sulfonated, alkylated diphenyl oxide.
Use/Production. (S) Commercial surfactants, adjuvants for agricultural products. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal.
Environmental Release/Disposal. No release to air.

P 85–1048

Manufacturer. The Dow Chemical Company.
Chemical. (G) Amine salts of sulfonated, alkylated diphenyl oxide.
Use/Production. (S) Commercial surfactants, adjuvants for agricultural products. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal.
Environmental Release/Disposal. No release to air.

P 85–1049

Manufacturer. The Dow Chemical Company.
Chemical. (G) Amine salts of sulfonated, alkylated diphenyl oxide.
Use/Production. (S) Commercial surfactants, adjuvants for agricultural products. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal.

Environmental Release/Disposal. No release to air.

P 85-1050

Manufacturer. Confidential.

Chemical. (G) Modified tall oil fatty acids amidoamine.

Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 24 workers.

Environmental Release/Disposal. Less than 0.1 kg/batch released to water and less than 0.5 kg/batch to land. Disposal by POTW and sanitary landfill.

P 85-1051

Manufacturer. Confidential.

Chemical. (S) Starch, 2-hydroxy-3-(trimethylammonio) propyl ether, chloride, phosphate.

Use/Production. (S) For wet end paper use to provide better drainage and wet strength. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5/kg; Irritation: Skin—Non-irritant, Eye—Mild.

Exposure. Manufacture: dermal and inhalation, a total of 8 workers, up to 8 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. 10 kg/batch released to air and 829 kg/batch to water. Disposal by POTW.

P 85-1052

Importer. Uniglobe KISCO, Inc.

Chemical. (G) Perfluoroalkyl, alkyl, carboxysilane.

Use/Import. (G) Open system, non-dispersive application. Import range: 500-5,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 3 workers, up to .25 hr/da, up to 340 da/yr.

Environmental Release/Disposal. 107 lbs/yr released to air.

Dated: June 8, 1985.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 85-14276 Filed 6-13-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59718, TSH-FRL 2850-8]

Certain Chemicals Premanufacture Exemption Applications

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 two such PMNs and provides a summary of each.

DATES: Close of Review Period:

Y 85-88 and Y 85-89—June 25, 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: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemptions 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 85-88

Manufacturer. Reichhold Chemical, Inc.

Chemical. (G) Polyester polymer.

Use/Production. (S) Industrial coating vehicle. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 85-89

Manufacturer. C.J. Osborn Chemicals, Inc.

Chemical. (G) Polyester.

Use/Production. (S) Clear and pigmented baking finishes. Prod. range: 15,000-30,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, ocular and ingestion, a total of 4 workers, up to 2 hrs/da, up to 8 da/yr.

Environmental Release/Disposal. No release.

Dated: June 10, 1985.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 85-14275 Filed 6-13-85; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59196; TSH-FRL 2850-9]

Certain Chemicals Test Marketing Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for an exemption, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by: July 1, 1985.

ADDRESS: Written comments, identified by the document control number "[OPTS-59196]" and the specific TME number should be sent to: Document Control Officer (TS-793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, 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 Street, SW, Washington, DC 20460, (202-382-3725).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TMEs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

T 85-50

Close of Review Peridd. July 14, 1985.

Manufacturer. Aldrich Chemical Company, Inc.

Chemical. (S) N,N'-Diallyltartardiamide.

Use/Production. (S) Industrial intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture dermal, a total of 3 workers, up to 1.5 hrs/da, up to 2 da/yr.

Environmental Release/Disposal. Undetermined amount released to air, with 0.3 kg/batch to water

Disposal by publicly owned treatment works (POTW).

T 85-51

Close of Review Period. July 19, 1985.

Manufacturer. Air Products and Chemicals, Inc.

Chemical. (S) Saturated and unsaturated alkylcarboxylic acid diethanolamine/triethanolamine salt.

Use/Production. (G) Corrosion inhibitor. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture dermal, a total of 2 workers, up to 8 hrs/da.

Environmental Release/Disposal. No release.

Disposal by incineration or plant waste treatment system.

Dated: June 10, 1985.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 85-14274 Filed 6-13-85; 8:45 am]

BILLING CODE 6560-50-M

[A-9-FRL-2851-6]

California; Approval of Prevention of Significant Air Quality Deterioration (PSD) Permit to American Forest Products Company (EPA Project Number SJ 83-04)

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice.

SUMMARY: Notice is hereby given that on April 2, 1985, the Environmental Protection Agency issued a PSD permit under EPA's federal regulations 40 CFR 52.21 to the applicant named above. The PSD permit grants approval to construct a 10-megawatt, wood-fired cogeneration facility at the applicant's existing sawmill in Martell, Amador County, California. The permit is subject to certain conditions, including an allowable emission rate as follows: Total Suspended Particulates (TSP) at 7.3 lbs/hr or 0.012 gr/dscf, whichever is more stringent, NO_x at 50.8 lbs/hr or 100 ppm, whichever is more stringent, CO at 172.2 lbs/hr or 560 ppm, whichever is more stringent, and Volatile Organic Compounds (VOC) at 20 lbs/hr.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address request to: Robert Baker (A-3-1), U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-8923, FTS 454-8923.

SUPPLEMENTARY INFORMATION: Best Available Control Technology (BACT) requirements include the use of multiclones and an electrostatic precipitator and a grain loading of 0.012 gr/dcsf for TSP control, and staged air combustion for NO_x control.

Date: The PSD permit is reviewable under section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by August 13, 1985.

Dated: June 3, 1985.

David P. Howekamp,

Director, Air Management Division, Region 9.

[FR Doc. 85-14382 Filed 6-13-85; 8:45 am]

BILLING CODE 6560-50-M

[A-9-FRL-2851-5]

California; Approval of Modification of Prevention of Significant Air Quality Deterioration (PSD) Permit to Guardian Industries (EPA Project Number SE 82-01)

AGENCY: Enivronmental Protection Agency (EPA), Region 9.

ACTION: Notice.

SUMMARY: Notice is hereby given that on April 17, 1985, the Environmental Protection Agency issued a modified PSD permit (which was originally issued June 10, 1982 under EPA's federal regulations 40 CFR 52.21) to the applicant named above. The PSD permit grants approval to construct a float glass manufacturing facility in Victorville, San Bernardino County, California. EPA Region 9 is modifying the permit to require the use of ammonia injection for NO_x control, the installation of in-stack continuous monitors to measure NO_x concentrations and gas volumetric flow rates, and a new NO_x emission limit of 158 lbs/hr from the glass melting furnace. In addition, EPA Region 9 is extending the permit to January 31, 1986. The permit is subject to certain conditions, including an allowable emission rate as follows: NO_x at 158 lbs/hr and SO_2 at 33.5 lbs/hr.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address request to: Robert Baker (A-3-1), U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-8923, FTS 454-8923.

SUPPLEMENTARY INFORMATION: Best Available Control Technology (BACT) requirements include the use of ammonia injection for NO_x control, and limiting the amount of saltcake ($NaSO_4$) in the batch formula to no more than 10 lbs. per 1000 lbs. of sand for SO_2 control.

Date: The PSD permit modification is reviewable under section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by August 13, 1985.

Dated: June 3, 1985.

David P. Howekamp,

Director, Air Management Division, Region 9.

[FR Doc. 85-14383 Filed 6-13-85; 8:45 am]

BILLING CODE 6560-50-M

[A-9-FRL-2851-7]

Approval of Prevention of Significant Air Quality Deterioration (PSD) Permit to Shell California Production (EPA Project Number SJ 85-03)

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice.

SUMMARY: Notice is hereby given that on April 30, 1985, the Environmental Protection Agency issued a PSD permit under EPA's federal regulations 40 CFR 52.21 to the applicant named above. The PSD permit grants approval to construct two gas turbines and waste heat boilers in the Belridge Oil Field, Kern County, California. The permit is subject to certain conditions, including an allowable emission rate as follows: NO_x at 35 lbs/hr or 42 ppm, whichever is more stringent, and CO at 22 lbs/hr.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address request to: Matt Haber (A-3-1), U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-8209, FTS 454-8209.

SUPPLEMENTARY INFORMATION: Best Available Control Technology (BACT) requirements include the use of water injection for NO_x control.

Date: The PSD permit is reviewable under section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by August 13, 1985.

Dated: June 3, 1985.

David P. Howekamp,

Director, Air Management Division, Region 9.

[FR Doc. 85-14381 Filed 6-13-85; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2851-3]

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 June 3, 1985 through June 7, 1985 Pursuant to 40 CFR 1506.9.

EIS No. 850229, Final, FHW, CA, I-80 At-Grade Access Closure, Pedrick Road and Putah Creek, Construction, Solano County, Due: July 15, 1985, Contact: James Jelinek (209) 948-7987.

EIS No. 850230, Final, SCS, ID, Little Lost River Flood Prevention Plan, Butte County, Due: July 15, 1985, Contact: Stanley Hobson (208) 334-1601.

EIS No. 850231, Final, FWH, MI, Logan Street and Dewitt Road Reconstruction, Kalamazoo Street to I-69, Improvements, Ingham and Clinton Counties, Due: July 15, 1985, Contact: Thomas Fort, Jr. (517) 377-1879.

EIS No. 850232, FSuppl, COE, VA, Norfolk Harbor and Channels Deepening and Dredged Material Disposal Site Plan, Modifications, Due: July 15, 1985, Contact: Richard Muller (804) 441-3767.

EIS No. 850233, Final, FWS, AK, Izembek National Wildlife Refuge, Management and Comprehensive Conservation Plan and Wilderness Review, Due: July 15, 1985, Contact: William Knauer (907) 786-3399.

EIS No. 850234, Draft, FWS, AK, Togiak National Wildlife Refuge, Comprehensive Conservation Plan and Wilderness Review, Due: August 23, 1985, Contact: William Knauer (907) 786-3399.

EIS No. 850235, Draft, AFS, NM, Alvarado Realty Land Exchange, Cibola National Forest, Acquisition, Bernalillo County, Due: July 29, 1985, Contact: C. Phil Smith (505) 766-2185.

EIS No. 850236, DSuppl, FHW, VA, East-West Expressway Construction, Jefferson Avenue to Armistead Avenue, Due: July 29, 1985, Contact: James Tumlin (804) 771-2371.

EIS No. 850237, Final, BLM, ID, Medicine Lodge Resource Area, Resource Management Plan, Due: July 22, 1985, Contact: O'dell Frandsen (208) 529-1020.

EIS No. 850238, Final, NRC, NY, Nine Mile Point Nuclear Station, Unit 2, Operating License, Oswego County, Due: July 15, 1985, Contact: Mary F. Haughey (301) 492-7000.

EIS No. 850239, FSuppl, HUD, HI, Kaka'ako Community Development Plan, Makai Area, Mortgage Insurance, Grants and Rental Housing Subsidies, Honolulu County, Due: July 15, 1985, Contact: Frank Johnson (808) 546-5570.

EIS No. 850240, Final, UMT, WA, Downtown Seattle Transit Project, Seattle Business District, King County, Due: July 15, 1985, Contact: Terry Ebersole (206) 442-5570.

EIS No. 850241, Draft, EPA, PR, Culebra Wastewater Treatment Facility Plan, Grant, Due: August 2, 1985, Contact: Robert Hargrove (212) 264-5391.

EIS No. 850242, Draft, AFS, CA, NV, Toiyable National Forest, Land and Resource Mgmt. Plan, Due: September 23, 1985, Contact: R.M. Nelson (702) 5331.

Amended Notices

EIS No. 850228, Draft, COE, PA, NY, MI, IN, OH, IL, WI, MN, Great Lakes Connecting Channels and Harbors Study, Final Feasibility Report, Due: July 29, 1985, Published FR 06-07-85—Extended review, Corrected accession number and Completed state information.

EIS No. 850227, Draft, FWS, NY, Honeoye Creek Wetland Expansion and Enhancement Project, Ontario County, Due: August 15, 1985 Published FR 6-7-85—Reestablished filing date.

EIS No. 850186, Final AFS, SC, Francis Marion National Forest, Land and Resource Management Plan, Berkeley and Charleston Counties, Due: June 10, 1985, Published FR—06-07-85, Corrected due date.

Dated: June 11, 1985.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 85-14410 Filed 6-13-85; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2851-4]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared May 28, 1985 through May 31, 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 the **Federal Register** dated October 19, 1984 (49 FR 41108).

Draft EISs

ERP No. D-AFS-G65041-AR, Rating LO, Ozark-St. Francis Nat'l Forests, Land and Resource Mgmt. Plan, AR. *Summary:* EPA has no objections to the Forest management program as proposed.

ERP No. D-AFS-G65042-OK, Rating LO, Ouachita Nat'l Forest, Land and Resource Mgmt. Plan, OK. *Summary:* EPA expressed no objections to the proposed action as discussed in the DEIS.

ERP No. DR-AFS-J65089-MT, Rating EC2, Lolo Nat'l Forest, Land and Resource Mgmt. Plan, MT. *Summary:* It is clear, from the EPA review of the documents, that extensive land development activities are anticipated and are expected to extend over many years. EPA is particularly concerned about the potential to degrade water quality and diminish visibility from slash burning.

ERP No. DR-AFS-J65101-MT, Rating EC2, Beaverhead Nat'l Forest Land and Resource Mgmt. Plan, MT. *Summary:* EPA believes that the reduction in the proposed timber harvest and associated road building in the selected alternative, over those levels shown in a previous DEIS, should adequately protect the area's very high water quality. However, EPA believes that the Forest Service should closely monitor the water quality impacts of timber harvest and road building.

ERP No. D-AFS-J67004-MT, Rating EC2, Stillwater Valley Platinum-Palladium Mining and Milling Project, Operation Approval, Custer Nat'l Forest, MT. *Summary:* As part of the review, EPA reexamined the DEIS previously prepared, in 1982, for the Anaconda Minerals Company's proposed Stillwater Project. EPA is concerned that the use of a slurry pipeline and two of the three proposed tailing pond sites located in the Hertzler Valley, addressed in the 1982 DEIS, were deemed to be unsatisfactory. Therefore, EPA believes that the Forest Service should explicitly identify the differences and/or similarities between the proposed project and the 1982 project. EPA is also concerned about the lack of specificity concerning water quality monitoring; that there is no firm requirement for the company to prepare a pollution control contingency plan; that ground water could be adversely impacted; and that there does not appear to be an adequate long-term

pollution control program for post-mining years.

ERP No. D-COE-D36101-PA, Rating EC2, Francis E. Walter Dam Modifications, Lehigh River, Delaware R. Basin, PA. *Summary:* EPA does not object to the modification of the dam and reservoir operational procedures, but identified a number of issue areas which required clarification or additional study. These areas were divided between administrative (selection process of alternatives and minimum release flow) and technical (water quality, habitat, wetlands, and road relocation) concerns. EPA offered comments and requested additional information, suggesting also a post DEIS review meeting and on-site visitation.

ERP No. DR-COE-E36019-NC, Rating E01, Scuppernong R. Flood Control and Channel Drainage, Construction, NC. *Summary:* EPA believes the DEIS has sufficient data/information upon which to adequately evaluate the consequences of this action. However, EPA has significant environmental objections to the water quality degradation/sedimentation increases attendant to facility operation and maintenance, the necessity of using additional herbicides to control and prevent the spread of nuisance aquatic weeds, and the adverse impacts to the area's fishery resources from channelization.

ERP No. DR-COE-H36020-KS, Rating LO, Great Bend, Kansas Local Flood Protection Plan, Construction, Arkansas R., Walnut and Little Walnut Creeks, KS. *Summary:* EPA suggested additional mitigation be provided for 21 acres of riparian woodland lost to construction easements.

ERP No. D-IBR-J31016-SD, Rating E02, Lake Andes—Wagner Unit, Water Resource Project, Pick-Sloan Missouri Basin Program, SD. EPA's major concern was that the DEIS proposed to violate the existing S. Dakota total dissolved solids water quality standard. Other concerns included the potential for project return flows to raised nutrient levels of the receiving waters to a highly eutrophic condition, the net loss of over 300 acres of wetlands, and the timing of the subsurface drainage system installation. The DEIS failed to adequately address the potential for insecticide, herbicide, and heavy metal contamination of receiving waters, and did not include an assessment of potential cumulative impacts. EPA recommended that a supplemental DEIS be prepared to include a project alternative which would not violate the existing S. Dakota water quality standards.

ERP No. D-OSM-J01067-MT, Rating EC2, CX Ranch Mine Construction and Operation, Permit, MT. *Summary:* EPA identified environmental impacts that should be avoided to fully protect the environment; in particular, concern was expressed about likely violations of water quality standards (and subsequent aquatic impacts). While the DEIS indicates that the company will be required to meet these standards, no approaches to mitigate the problem were identified. The DEIS also did not adequately describe the preferred alternative.

Final EISs

ERP No. F-AFS-K61083-CA, Dodge Ridge Ski Resort, Expansion, Permit, Stanislaus Nat'l Forest, CA. *Summary:* EPA believes that the FEIS adequately addressed EPA's concerns raised on the DEIS.

ERP No. FS-COE-F32038-OH, Cleveland Harbor Navigation Project, Lake Erie, OH. *Summary:* EPA's review of the FEIS did not identify any significant environmental impacts requiring changes to the proposed project.

ERP No. F-COE-K32038-CA, Oakland Inner Harbor Deep Draft Navigation Improvements, CA. *Summary:* EPA had no comments to offer on the FEIS.

EPR No. F-NPS-L67017-AK, Denali Nat'l Park and Preserve, Kantishna Hills and Dunkle Mine Area, Mineral Leasing Program, AK. *Summary:* EPA felt the identified preferred alternatives for the two study areas were inconsistent with the management purposes set forth in ANILCA (Pub. L. 96-487) for Denali Park and Preserve. Serious water quality standards violations have occurred in the past and could continue. Finally, significant impacts to fish and wildlife would be likely. EPA, therefore, recommended that the Record of Decision adopt Alternative 2 (coupled with strict monitoring and enforcement of mining activities on existing claims) for the Kantishna Hills study area, and Alternative 3 for the Dunkle Mine study area instead of the identified preferred alternatives of the Alaska Land Use Council.

Dated: June 11, 1985.

David G. Davis,

Acting, Director Office of Federal Activities.

[FR Doc. 85-14409 Filed 6-13-85; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-140062; TSH-FRC 2851-7]

Access to Confidential Business Information by Fairfax Opportunities Unlimited, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA will provide one employee of Fairfax Opportunities Unlimited, Inc., access to information, which has been submitted under various sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

DATE: Access to CBI under this subcontract will occur no sooner than June 28, 1985.

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: Under section 14 of the Toxic Substances Control Act (TSCA), information submitted to EPA under the Act may be claimed as confidential by the submitters of that information. The Agency stores and uses much of the TSCA CBI submitted to EPA at Agency headquarters in the Office of Toxic Substances Confidential Business Information Center (CBIC). In the **Federal Register** of January 18, 1983 (48 FR 2195), EPA announced that under contract number 68-1-6639, Computer Sciences Corporation (CSC), of Falls Church, Va., through its subcontractor Interamerica Research Associates, Inc., of Rockville, MD. operates the CBIC. One of the responsibilities of the CBIC is to photocopy CBI documents. Under the same contract, CSC has subcontracted with Fairfax Opportunities Unlimited, Inc. (FOU), 5500 Port Royal Road, Springfield, Va., to provide an individual to operate photocopying equipment under the direction of the EPA Document Control Officer.

In accordance with 40 CFR 2.306(j), EPA has determined that the FOU photocopy machine operator will require access to CBI submitted under all sections of TSCA in order to perform work successfully under this contract. EPA is issuing this notice to inform all submitters to TSCA information that it is granting access to TSCA CBI to this FOU employee. The FOU employee will

have access to TSCA CBI only on EPA premises. Photocopying performed by the FOU employee will take place only within the CBIC and under the supervision of the Document Control Officer.

Clearance for access to TSCA CBI by the FOU employee under this contract is scheduled to expire on September 30, 1985.

The FOU employee has been authorized access to TSCA CBI under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" security manual. The FOU employee will be required to sign a nondisclosure agreement and will be briefed on appropriate security procedures before being permitted access to TSCA CBI, in accordance with the "TSCA Confidential Business Information Security Manual" and the Contractor Requirements manual.

Dated: June 11, 1985

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 85-14441 Filed 6-13-85; 8:45 am]

BILLING CODE 6560-50-M

EXPORT-IMPORT BANK OF THE UNITED STATES

Open Meeting of the Advisory Committee of the Export-Import Bank of the United States

SUMMARY: The Advisory Committee was established by Pub. L. 98-181, November 30, 1983, to advise the Export-Import Bank of its programs and to provide comments for inclusion in the reports of the Export-Import Bank to the United States Congress.

Time and place: Friday, June 28, 1985 from 9:30 a.m. to 12 noon. The meeting will be held in Room 1141, 811 Vermont Avenue, NW., Washington, D.C. 20571.

Agenda: The meeting agenda will include discussion of the status of legislation affecting Eximbank, an update on recent Eximbank activities (including policies, research and international negotiations), the Competitiveness Report (review of preliminary analysis) and the Marketing Program (domestic and international).

Public participation: The meeting will be open to public participation; and the last 20 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. In order to permit the Export-Import Bank to arrange suitable accommodations, members of the public who plan to attend the meeting should notify Joan P. Harris, Room 935, 811 Vermont Avenue, NW., Washington, D.C. 20571, (202) 566-8871, not later than June 21, 1985.

FOR FURTHER INFORMATION CONTACT: For further information, contact Joan P. Harris, Room 935, 811 Vermont Avenue, NW., Washington, D.C. 20571, (202) 566-8871.

Joseph H. Gainer,

Acting General Counsel.

[FR Doc. 85-14437 Filed 6-13-85; 8:45 am]

BILLING CODE 6690-01-M

FEDERAL RESERVE SYSTEM

First National Bancshares of Louisiana, Inc.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under section § 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 of through a subsidiary, in 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 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 July 3, 1985.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck; Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First National Bancshares of Louisiana, Inc.*, Alexandria, Louisiana; to engage *de novo* through its subsidiary, Security First Shelternet, Inc., Alexandria, Louisiana, in making and servicing mortgage loans in central Louisiana.

Board of Governors of the Federal Reserve System, June 10, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-14371 Filed 6-13-85; 8:45 am]

BILLING CODE 6210-01-M

Summa Bank Corp. 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 somment on an application that requests a heading must include a statement of why a written presentation would not suffice in lieu of a heaing, 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 July 5, 1985.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

1. *Summa Bank Corp.*, Stamford, New York; to become a bank holding company by acquiring 25 percent of the voting shares of Bank of Richmondville, Richmondville, New York.

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President), 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Community Financial Corporation*, Littlestown, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of

Community National Bank of Southern Pennsylvania, Littlestown, Pennsylvania.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoening, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Commerce Bancshares, Inc.*, Kansas City, Missouri; to acquire 100 percent of the voting shares of Commerce Bank of Omaha, N.A., Omaha, Nebraska.

2. *International Bancorporation*, Denver, Colorado; to acquire 100 percent of the voting shares of International Bank of Wheat Ridge, Wheat Ridge, Colorado.

Board of Governors of the Federal Reserve System, June 10, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-14370 Filed 6-13-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance 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 June 7, 1985.

Health Care Financing Administration

Subject: Clearance of Information Collection Requirements in BQC-18-F, Claims Processing Assessment System—HCFA-R-3—New
Respondents: State/local governments
OMB Desk Officer: Fay S. Iudicello

Public Health Service

Alcohol, Drug Abuse, and Mental Health Administration

Subject: 1985 Client/Patient Sample Survey—New
Respondents: State/local governments, businesses, Federal agencies
Subject: An Evaluation of Primary Care Physician Knowledge of Alcohol, Drug Abuse, and Mental Health—New
Respondents: Individuals, physicians

Office of the Assistant Secretary for Health

Subject: Addendum to Financial Status Report—Reinstatement (0937-0011)
Respondents: State/local governments, non-profit institutions
Subject: 1986 National Health Interview Survey (second pretest and final survey)—Revision (0937-0021)
Respondents: Individuals

Health Resources and Services Administration

Subject: Health Maintenance Organization/Competitive Medical Plan National Reporting Requirements—Revision (0915-0063)
Respondents: Health Maintenance Organizations

Centers for Disease Control

Subject: U.S. Immunization Survey-Supplement to the September 1985 Current Population Survey—Revision (0920-0045)
Respondents: Individuals
OMB Desk Officer: Fay S. Iudicello

Food and Drug Administration

Subject: Performance Standards Development—Extension (0910-0072)
Respondents: Businesses
OMB Desk Officer: Bruce Artim

Social Security Administration

Subject: Office of Child Support Enforcement Financial/Statistical Report—OCSE-56-new
Respondents: State/local governments
Subject: Statement of Self Employment Income—SSA-766—Extension (0960-0046)
Respondents: Individuals
OMB Desk Officer: Judy A. McIntosh

Copies of the above information collection clearance packages can be obtained by calling the HHS Report Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collection 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: June 10, 1985.

K. Jacqueline Holz,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 85-14339 Filed 6-13-85; 8:45 am]

BILLING CODE 4150-04-M

President's Council on Physical Fitness and Sports; Meeting

AGENCY: Office of the Assistant Secretary for Health, HHS.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the President's Council on Physical Fitness and Sports. This notice also describes the functions of the Council. Notice of this meeting is required under the National Advisory Committee Act.

DATE: June 25, 1985, 9:00 a.m. to 4:00 p.m.

ADDRESS: U.S. Capitol, Room H-139, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Ash Hayes, Ed.D, Acting Executive Director, President's Council on Physical Fitness and Sports, 450 Fifth Street, NW, Suite 7103, Washington, D.C. 20001, Telephone: (202) 272-3421.

SUPPLEMENTARY INFORMATION: The President's Council on Physical Fitness and Sports operates under Executive Order #12489 dated September 28, 1984. The functions of the Council are: (1) To advise the President and Secretary concerning progress made in carrying out the provisions of Executive Order and recommending to the President and Secretary, as necessary, actions to accelerate progress; (2) Advise the Secretary on matters pertaining to the ways and means of enhancing opportunities for participation in physical fitness and sports activities; and (3) Advise the Secretary on State, local, and private actions to extend and improve physical activity programs and services.

The Council will hold this meeting to apprise the Council members of the national program of physical fitness and sports, to report on on-going Council programs, and to plan for future directions.

Dated: May 29, 1985.

Ash Hayes, Ed.D.,

Acting Executive Director, President's Council on Physical Fitness and Sports.

[FR Doc. 85-14280 Filed 6-13-85; 8:45 am]

BILLING CODE 4150-17-M

Alcohol, Drug Abuse, and Mental Health Administration

Research on Family Stress and the Care of Alzheimer's Disease Victims

Correction

In FR Doc. 85-13554 beginning on page 23829 in the issue of Thursday, June 6, 1985, make the following correction.

On page 23830, in the first column, in the second complete paragraph, the telephone number in the seventh and eight lines should read "(301) 443-1185."

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and the Office of Management and Budget Interior Desk Officer at (202) 395-7313.

Title: Subchapter G—Direct Loan and Guaranty Loan Program. Applications and Requirements (25 CFR Parts 101 and 103).

Abstract: To provide financial assistance to Tribes, Tribal organizations, and individuals through the Direct Loan and Loan Guaranty programs to promote economic development on or near reservations. The forms require certain financial data, background information, project feasibility, and financial solvency to determine the eligibility and potential success of the business.

Note.—This is not a new program or a new information collection by BIA. Bureau Form Numbers: 4706, 4709, 4712, 4713, 4717, 4719, 4720, 4728, 4729, 4730, 4737, 4738, 4739, 4740, 4741, 4743, 4745, 4749, 4753, 4755, 4759, and 4760.

Frequency: On occasion
Description of Respondents: Individual Indians and Indian organizations
Annual Responses: 1029
Annual Burden Hours: 1,105.1 hours
Bureau Clearance Officer: Ramona Moore (202) 343-3574.

John W. Fritz,
Assistant Secretary—Indian Affairs.
March 3, 1985.

[FR Doc. 85-14342 Filed 6-13-85; 8:45 am]
BILLING CODE 4310-02-M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget, Interior Department Desk Officer, Washington, D.C. 20503, telephone (202) 343-7340.

Titles: Subchapter H—Land and Water—Colorado River Irrigation Project, Arizona, 25 CFR Part 175; Flathead Indian Irrigation and Power Project, Montana, 25 CFR Part 176; San Carols Indian Irrigation Project, Arizona, 25 CFR Part 177.

Abstract: These irrigation and power projects provide electric power service. Projects need names and addresses of the electric power consumers, namely, households, commercial and industrial businesses, farming enterprises and municipalities in order to identify and assess the particular customer the monthly charges for receiving electric power.

Bureau form Number: None.
Frequency: On occasion.
Description of Respondents: Individuals, households, businesses, farms and municipalities buying electric power from these three irrigation projects.
Annual Responses: 4,621.0.
Annual Burden Hours: 2,331.75.
Bureau clearance officer: Romona Moore (202) 343-3574.

John W. Fritz,
Deputy Assistant Secretary, Indian Affairs.
May 28, 1985.

[FR Doc. 85-14356 Filed 6-13-85; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

[A-19365]

Arizona; Proposed Withdrawal and Reservation of Public Lands

June 7, 1985.

The Bureau of Reclamation, Box 427, Boulder City, Nevada 89005, has filed application, Serial Number A-19365, for withdrawal of the following described lands from settlement, sale, location, or entry under all of the general land laws, including the mining laws, but not the mineral leasing laws, subject to valid existing rights:

T. 21 N., R. 21 W., GSR Mer., Arizona,
Sec. 30, lot 4, N½NE¼SE¼SW¼, SW¼NE¼SE¼SW¼, W½SE¼SW¼, NW¼SE¼SE¼SW¼ S½SE¼SE¼SW¼ , E½SW¼SE¼, E½NW¼SW¼SE¼, NW¼NW¼SW¼SE¼, NE¼SW¼SW¼SE¼, S½SW¼SW¼SE¼, SE¼SE¼.
T. 2 N., R. 22 W.,
Sec. 8, lots 4 through 9, incl., SW¼NE¼;
Sec. 17, lots 4 and 5;
Sec. 29, E½NE¼, SW¼NE¼, SE¼;
Sec. 30, lots 6 through 10, incl., 12 through 15, incl., lot 20.
T. 3 N., R. 22 W.,
Sec. 14, S½NW¼.
T. 2 N., R. 23 W.,
Sec. 25, lots 7 and 8, SE¼;
Sec. 35, lot 10, that portion lying south and east of the Colorado River;
Sec. 36, lot 1, NE¼NW¼, S½NW¼, SW¼.

The areas described aggregate approximately 1,686.3 acres in La Paz and Mohave Counties, Arizona.

The Bureau of Reclamation desires that the lands be withdrawn and reserved for protection of bankline and levee maintenance work under the Colorado River Front Work and Levee System. A 20-year term is proposed for the withdrawal.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for hearing to the undersigned officer within 30 days from publication of this notice. Upon determination by the Arizona State Director, Bureau of Land Management, that a public meeting will be held, a notice of the time and place of the meeting will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting which will be scheduled and conducted in accordance with BLM Manual section 2351.16B.

For a period of two years from the date of publication of this notice in the **Federal Register** the land will be segregated as specified above unless the application is rejected or the withdrawal is approved prior to that date.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources, and will also undertake

negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the Federal Register. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752.

All communications (except for public hearing requests) in connection with this proposed withdrawal should be addressed to the Chief, Branch of Lands and Minerals Operations, Arizona State Office, Bureau of Land Management, U.S. Department of the Interior, P.O. Box 16563, Phoenix, Arizona 85011.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85-14347 Filed 6-13-85; 8:45 am]

BILLING CODE 4310-32-M

Utah; Availability of Record of Decision and Rangeland Program Summary for Book Cliffs Resource Management Plan

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Availability—Book Cliffs Record of Decision.

SUMMARY: In accordance with 43 CFR 1610.5, notice is hereby given of the issuance of the Record of Decision and Rangeland Program Summary for the Book Cliffs Resource Management Plan.

This document is a land use plan for management of all natural resources on 1.1 million acres of public lands. It provides direction for resolving conflicts between competing resource uses such as minerals, recreation, wildlife, livestock, etc. Provisions for leasing additional Federal energy minerals such as oil shale and combined hydrocarbons are identified in the plan.

The affected public lands are primarily located within Uintah County, Utah. Other counties which could be affected include Duchesne and Grand, Utah; and Garfield, Mesa, Moffat and Rio Blanco, Colorado.

The environmental effects of this plan were analyzed in the Final Environmental Impact Statement on the Book Cliffs Resource Management Plan issued November 1984.

DATE: Copies will be available for the public on or about June 19, 1985.

ADDRESS: Vernal District Bureau of Land Management, 170 South 500 East, Vernal, Utah 84078.

FOR FURTHER INFORMATION CONTACT: Dean Evans, Book Cliffs Area Manager, Address Listed Above, Phone (801) 789-1362.

SUPPLEMENTARY INFORMATION: This document will be mailed to those people who requested copies in response to the Vernal District's solicitation dated April 1, 1985. All affected grazing permittees will also be sent copies

A limited number of copies of this document are available from Mr. Evans at the above address or from the Utah State Office; Bureau of Land Management, 324 South State Street, Suite 301, Salt Lake City, Utah 84111-2303.

Dated: June 5, 1985.

Lloyd H. Ferguson,

District Manager.

[FR Doc. 85-14346 Filed 6-13-85; 8:45 am]

BILLING CODE 4310-DQ-M

[W-28908]

Wyoming; Partial Termination of Proposed Withdrawal and Reservation of Lands

Notice of application Serial No. W-28908, filed by the Forest Service, U.S. Department of Agriculture, for the withdrawal of approximately 575 acres of land from location and entry under the general mining laws for the protection of roadside zone, was published in the Federal Register Doc. 71-10960 on pages 14223 and 14224 of the issue of July 31, 1971. The applicant agency has cancelled its application insofar as it affects the following described lands:

Sixth Principal Meridian

Medicine Bow National Forest, Wyoming State Highway No. 230 Roadside Zone

A strip of land 200 feet each side of the centerline of State Highway 230 through the following described lands:

T. 13 N., R. 77 W.,
Sec. 7, SE¼SE¼;
Sec. 8, S½;
Sec. 9, All;
Sec. 17, W½NW¼;
Sec. 18, E½;
Sec. 19, lot 6 except NE¼, lots 5, 8, 9, W½NE¼.
T. 12 N., R. 78 W.,
Sec. 4, W½NE¼, SE¼NW¼, SE¼SW¼, NW¼SE¼;
Sec. 9, W½E½, E½W½, SW¼SW¼;
Sec. 17, W½SE¼SE¼NE¼, SW¼, W½SE¼;
Sec. 18, SE¼SE¼;
Sec. 19, lots 1-4.
T. 13 N., R. 78 W.,
Sec. 24, S½S½;
Sec. 25, N½NW¼;
Sec. 26, N½, NW¼SW¼;
Sec. 27, S½;
Sec. 33, E½;
Sec. 34, NW¼NW¼.

The area described contains 575 acres in Albany County, Wyoming.

Pursuant to the regulations contained in 43 CFR 2310.2-1(c), these lands shall at 10 a.m. on July 15, 1985, be relieved of the segregative effect of the above mentioned application and open to such forms of appropriation as may, by law, be made of national forest lands.

James L. Edlefsen,

Chief, Branch of Land Resources.

[FR Doc. 85-14351 Filed 6-13-85; 8:45 am]

BILLING CODE 4310-22-M

[OR-35017]

Classification of Public Lands; Oregon; Cancellation of Notice of Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action cancels a notice of realty action, terminates a land classification, and will open 88.20 acres of land to surface entry and mining. The land has been and remains open to mineral leasing.

EFFECTIVE DATE: July 22, 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. By Notice of Realty Action which was published as FR Doc. 84-2301 on page 3541 of the issue of January 27, 1984, the following described land was classified and determined suitable for lease or sale under the Recreation and Public Purposes Act of June 14, 1926, as amended [43 U.S.C. 869, et seq.]:

Willamette Meridian

T. 41 S., R. 10 E.,
Sec. 15, lot 3 and SE¼NE¼.

The area described contains 88.20 acres in Klamath County, Oregon.

2. The above-described land has been eliminated from proposed lease or sale

under the Recreation and Public Purposes Act; therefore, the Notice of Realty Action identified in paragraph 1, is hereby cancelled.

3. The classification for lease or sale under the Recreation and Public Purposes Act, which was made by the Notice of Realty Action identified in paragraph 1, is hereby terminated.

4. At 8:30 a.m., on July 22, 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 July 22, 1965, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

5. At 8:30 a.m., on July 22, 1985, the land will be open to location under the United States mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 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.

Dated: June 6, 1985.

Paul M. Vetterick,

Associate State Director.

[FR Doc. 85-14348 Filed 6-13-85; 8:45 am]

BILLING CODE 4310-33-M

[W-65660-A]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3(a) and (b)(1), a petition for reinstatement of oil and gas lease W-65660-A for lands in Washakie and Hot Springs Counties, Wyoming was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessees have agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessees have paid the required $500 administrative fee and $106.25 to reimburse the Department for the cost of this **Federal Register** notice. The lessees have met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W-65660-A effective February 1, 1985, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 85-14358 Filed 6-13-85; 8:45 am]

BILLING CODE 4310-22-M

[OR 1202]

Oregon; Partial Termination of Proposed Withdrawal and Reservation of Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Forest Service has cancelled its application in part to withdraw certain national forest lands for protection of the Big Craggies, Baby Foot, and York Creek Botanical Areas. The lands involved in the cancellation total 4,170 acres and are now part of the Kalmiopsis Wilderness Area and remain closed to surface entry and mining.

EFFECTIVE DATE: June 14, 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. Notice of Forest Service, U.S. Department of Agriculture, application OR 1202 for withdrawal and reservation of lands was published as FR Doc. 67-2379 on page 3713 of the issue of March 3, 1967. The purpose of the proposed withdrawal is to protect the Big Craggies, Baby Foot, and York Creek Botanical Areas within the Siskiyou National Forest, Curry and Josephine Counties, Oregon. The applicant agency has cancelled the application insofar as it affects the lands located within the Kalmiopsis Wilderness Area. Therefore, the proposed withdrawal as it affects approximately 4,170 acres within the Kalmiopsis Wilderness Area is hereby terminated. The balance of proposed withdrawal OR 1202 affecting approximately 1,050 acres, is not affected by this action.

2. The lands affected by this action are within the Kalmiopsis Wilderness Area; therefore, they remain withdrawn from operation of the public land laws, including the United States mining laws.

Dated: June 6, 1985.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85-14349 Filed 6-13-85; 8:45 am]

BILLING CODE 4310-33-M

Idaho Falls District Advisory Council; Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Meeting of the Idaho Falls District Advisory Council.

SUMMARY: The Idaho Falls District Advisory Council will meet Thursday, July 18, 1985. Notice of this meeting is in accordance with Pub. L. 92-463. The meeting will begin at 9 a.m. at the Pocatello Resource Area Office in the Pocatello Federal Building at 250 South 4th Ave. The meeting is open to the public; public comments on agenda items will be accepted from 11:30 to 12 noon at the covered picnic area across from the hot pool at Lava Hot Springs, Idaho.

Agenda items are: a discussion on noxious weeds, the Garden Creek Gap development proposal, and a tour of the Henry Phosphate mine.

The public will need to provide their own transportation and lunch.

Summary minutes of the meeting will be kept in the District Office and will be available for public inspection and reproduction during business hours (7:45 a.m. to 4:30 p.m.) within 30 days after the meeting.

FOR FURTHER INFORMATION CONTACT: O'dell A. Frandsen, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401; Telephone: (208) 529-1020.

James Gabettas,

Acting District Manager.

June 7, 1985.

[FR Doc. 85-14350 Filed 6-13-85; 8:45 am]

BILLING CODE 4310-GG-M

[AA-50379-3]

Alaska Native Claims Selection; Chugach Alaska Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a Decision to Issue Conveyance for the exclusive right and priviledge to drill for, mine, extract, remove and dispose of all the oil and gas deposits under the provisions of Paragraph 6 of the 1982 CNI Settlement Agreement, as authorized by secs. 12(c), 14(h)(8), and 22(f) of the Alaska Native

Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1611(c), 1613(h)(8), 1621(f) and Secs. 1302(h) and 1430(a) of the Alaska National Interest Lands Conservation Act of December 2, 1980, will be issued to Chugach Alaska Corporation, formerly known as Chugach Natives, Inc., for approximately 10,133.810 acres within the following described lands:

Copper River Meridian, Alaska (Unsurveyed)

T. 19 S., R. 5 E.
T. 19 S., R. 6 E.

A notice of the decision will be published once a week for four (4) consecutive weeks, in The Cordova Times. 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 claimimg a property interest which is adversely affected by the decision shall have until July 15, 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.

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-14385 Filed 6-13-85; 8:45 am]

BILLING CODE 4310-JA-M

National Park Service

Martin Luther King, Jr., National Historic Site and Preservation District Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Martin Luther King, Jr., National Historic Site Advisory Commission will be held at 10:30 a.m. on Thursday, June 27, 1985, at the Martin Luther King, Jr., Center for Non-Violent Social Change, Inc., Freedom Hall, Room 261, 449 Auburn Avenue NE., Atlanta, Georgia 30312.

The purpose of the Martin Luther King, Jr., National Historic Site Advisory Commission is to consult with the Secretary of the Interior on matters of planning, development and administration of the Martin Luther King, Jr., National Historic Site. The purpose of this meeting will be to update the Commission on park planning and operations.

The members of the Advisory Commission are as follows:

Mr. William Allison, Chairman
Mr. John H. Calhoun, Jr.
Dr. Elizabeth A. Lyon
Mr. C. Randy Humphrey
Mrs. Christine King Farris
Mr. Handy Johnson, Jr.
Mr. James Patterson
Mrs. Freddye Scarborough Henderson
Mrs. Millicent Dobbs Jordan
Mr. John W. Cox
Reverend Joseph L. Roberts, Jr.
Mrs. Coretta Scott King, Ex-Officio Member
Director, National Park Service, Ex-Officio Member

The meeting will open to the public; however, facilities and space for accommodating members of the public are limited. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning the meeting or who wish to submit written statements may contact Randolph Scott, Superintendent, Martin Luther King, Jr., National Historic Site, 522 Auburn Avenue NE, Atlanta, Georgia 30312; Telephone 404/221-5190. Minutes of the meeting will be available approximately 4 weeks after the meeting.

Dated: May 31, 1985.

C. Wogle,

Acting Regional Director, Southeast Region.

[FR Doc. 85-14408 Filed 6-13-85; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30662]

Railroads; Gulf & Mississippi Railroad Corp.; Securities Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11301 the:

(1) issuance of up to 1,000,000 shares of common stock, par value $1.00 per share;

(2) issuance of up to 30,000 shares of $100 preferred stock with a liquidation preference of per share; and

(3) issuance of notes or other evidence of indebtedness with respect to:

(a) A 10-year Term Loan Agreement for $15,000,000, and

(b) a 3-year revolving credit agreement for $8,000,000, subsequently converting to a 4-year term loan.

DATES: This exemption is effective on June 14, 1985. Petitions to reopen must be filed by July 5, 1985.

ADDRESSES: Send pleadings referring to Finance Docket No. 30662 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's Representative: Betty Jo Christian, 1330 Connecticut Ave. NW, Washington, DC 20036

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T. S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423 or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: May 17, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley and Strenio.

James H. Bayne,

Secretary.

[FR Doc. 85-14354 Filed 6-13-85; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Dana Corporation, 4500 Dorr Street, Toledo, Ohio 43615 is the parent corporation.

2. Wholly-owned subsidiaries which will participate in the operations and state(s) of incorporation are as follows:

i. Warner Electric Brake & Clutch Co., a Delaware corporation;

ii. Alcoils, Inc. an Indiana corporation;

iii. Dana Distribution, Inc., a Delaware corporation;

iv. DTF Trucking, Inc., a Delaware corporation;

v. Beaver Precision Products, Inc. a Michigan corporation.

vi. Diamond Printing & Mailing, Inc., a Delaware corporation.

1. Parent Corporation and address of principal office: Fundicion Arechiga

Sarinana, S.A., Calle Industrial No. 114–a, Col. 20 De Noviembre, Tijuana, B.C.

2. Wholly-owned subsidiary which will participate in the operation and State of Incorporation: FASSA Transportation Inc.—California

1. Parent corporation and address of principal office: Rockwell International Corporation, 600 Grant Street, Pittsburgh, PA 15219.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal office:

(a) Rockwell Telecommunications, Inc., an Illinois corporation, 8245 South Lemont Road, Downers Grove, Illinois 60515.

(b) Rockwell Graphic Systems, Inc., a Delaware corporation, 3100 South Central Avenue, Chicago, Illinois 60650.

(c) the Allen-Bradley Company, a Wisconsin corporation, 1201 South Second Street, Milwaukee, Wisconsin 53204.

A. J.P. Stevens & Co., Inc.—Parent Corporation, 1185 Avenue of the Americas, New York, New York 10036

B. Wholly-owned Subsidiaries:[1]

1. Stevens Aviation, Inc. (DE), Greenville-Spartanburg Jetport, Greer, SC 29651.

2. J.P. Stevens & Co. (Canada), Ltd, 474 Attwell Drive, Rexdale, Ontario M9W 1M4.

3. J.P. Stevens International Sales, Inc. (DE), 1185 Avenue of the Americas, New York, NY 10036.

4. J.P. Stevens (Europe), Ltd, 1185 Avenue of the Americas, New York, NY 10036.

5. J.P. Stevens & Co. Limited (Great Britain), 26 Dover Street, London, England W1,

6. Stevens Graphics, Inc. (GA), 713 Glenn St., S.W, Atlanta, GA 30310.

7. Automated Graphics Unlimited, Inc. (GA), 880 Great Southwest Pkwy, Atlanta, GA 30336.

8. Books, Inc. (AL), 3635 McChord Street, Montgomery, AL 36109.

9. Carolina Ruralist Press, Inc. (NC), 314 East Eighth Street, Charlotte, NC 28202.

10. Courier Graphics, Inc. (KY), 4325 Old Shepherdsville Road, Louisville, KY 40218.

11. Insurance Field Company (KY), 4325 Old Shepherdsville Road, Louisville, KY 40218.

12. Florida Printers, Inc. (FL), 5190 S.W. 75th Avenue, Miami, FL 33155.

13. Oxmoor Press, Inc. (AL), 100 W. Oxmoor Road, Birmingham, AL 35201.

14. Ruralist Press, Inc. (GA), 713 Glenn St., S.W, Atlanta, GA 30310.

15. Superior Type, Inc. (GA)., 109 Alexander, N.W, Atlanta, GA 30303.

16. Graphic Data Systems, Inc. (GA), 1819 Peachtree Rd., N.E, Atlanta, GA 30309.

17. Computer Business Products (DE), 2605 Phoenix Drive, Greensboro, NC 27406.

18. Computer Business Products (GA), 615 Wesleyan Drive, Atlanta, GA 30336.

19. Computer Business Products (FL), 1286 Harbor Road, Green Cove Springs, FL 32043.

20. Steven Stores, Inc. (DE), 2712 Laurens Road, Greenville, SC 29607.

21. Stevcoknit, Inc. (DE), 1450 Broadway, New York, NY 10018.

22. Stevcoknit Fabrics Co., Inc. (NY), 1450 Broadway, New York, NY 10018.

23. Carter Plant (DE), 601 Wilmington Road, Wallace, NC 28466.

24. Fayetteville Plant (NC), 902 Southern Avenue, Fayetteville, NC 28306.

25. Tuxedo Plant (DE), Highway 25, Tuxedo, NC 28784.

26. Ragan Plant (DE), Bessemer City Road, Gastonia, NC 28053.

27. SKT Research & Development and Workshop Corporation (CT), 1450 Broadway, New York, NY 10018

28. Gay-Tred Mills, Inc. (AL), 106 W. Maple Avenue, Scottsboro, AL 35768.

29. Glorid Vanderbilt Creations, Inc. (DE), 1185 Avenue of the Americas, New York, NY 10036.

30. Ralph Lauren Home Furnishings, Inc. (DE), 1185 Avenue of the Americas, New York, NY 10036.

31. Stevens Direct Marketing, Inc. (DE), Commercial Drive, Greenville, SC 29607.

32. J.P. Stevens (Deutschland) G.m.b.H., Wanhemerstrase 39, 4000 Dusseldorf, W. Germany 30.

1. Parent corporation—*Supermarkets General Corporation*, a Delaware corporation with its principal office address at 301 Blair Road, Woodbridge, New Jersey 07095.

2. Wholly-owned subsidiary corporations which will participate in the operations and the states of their incorporation, are:

Purity Supreme, Inc. A Massachusetts corporation;

P.S. Manufacturing Co., Inc. A Massachusetts corporation;

Li'l Peach of Massachusetts, Inc. A massachusetts corporation;

Pauls Trucking Corp. A New Jersey corporation;

Pacific Trucking Corp. A New Jersey corporation.

James H. Bayne,

Secretary.

[FR Doc. 85–14352 Filed 6–13–85; 8:45 am]

BILLING CODE 7035-01-M

[1] State in which chartered is shown after name of each subsidiary company, abbreviated and in parenthesis.

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

National Study of Law Enforcement Agencies' Policies and Practices Regarding Missing Children and Homeless Youth

AGENCY: Office of Juvenile Justice and Delinquency Prevention (OJJDP), Justice.

ACTION: Notice of issuance of solicitation for applications to conduct a comprehensive national study of law enforcement agencies' practices regarding the handling of missing children and homeless youth in order to guide future training, technical assistance and public education programs addressing the problems of missing children and homeless youth.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP), pursuant to sections 404(b)(3) and 406(a)(5) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, is sponsoring a comprehensive national study of law enforcement agencies' policies and procedures for handling reports of missing children and for identifying and recovering children and youth who may be missing, or, homeless and at risk of exploitation.

Private not-for-profit and for-profit organizations which can demonstrate the capability to design and carry out this study are invited to submit applications to enter into a cooperative agreement with the OJJDP.

OJJDP will select the applicant which presents the most cost effective and innovative approach, and which best demonstrates the organizational capability, knowledge of and experience in the field of applied research in the area of law enforcement policy and research relating to missing children. The project period is for eighteen months, during which three distinct surveys of law enforcement practices will be conducted. Applicants are invited to present alternative design strategies to that proposed in this solicitation. The budget for this study should not exceed $600,000 and applicants are encouraged to present cost-competitive proposals.

I. Introduction and Background

The problem of missing children has become a focus of national concern because it is a problem of national proportions. It is estimated that hundreds of thousands of children are missing from their homes each year for varying periods of time. While most of these children eventually return home, many become victims of physical or sexual abuse and in some cases even homicide.

The U.S. Congress took important steps to address this problem by passing the Missing Children Act in 1982 and, in 1984, the Missing Children's Assistance Act Title IV of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. In June 1984, the National Center for Missing and Exploited Children (NCMEC) was established as part of the Federal government's commitment to the issue of missing children.

The NCMEC serves as a clearinghouse of information and assistance concerning missing children and the criminal and sexual exploitation of children. Nationwide awareness campaigns are conducted to let families know what to do if a child is missing. Through its toll free number (1–800–843–5678), the Center helps coordinate information on missing and exploited children, which may lead to the location and recovery of a missing child. The Center is linked to the FBI's National Crime Information Center's Missing Person File (NCIC/MPF). The center also provides training for law enforcement personnel to assist them in recognizing when a runaway is a victim of abuse, and how to obtain help for that child. It helps law enforcement agencies to understand the link between the runaway child and the crimes of theft, drug abuse, prostitution and pornography.

In order to maximize the effectiveness of the Missing Children's Act and the National Center for Missing and Exploited Children, it is necessary to overcome some of the prevalent problems facing national efforts of law enforcement, citizen groups and private organizations in responding to the problem. The following impediments present significant challenges in understanding the nature and extent of the problem itself and identification of effective strategies to respond to it:

1. Fragmented and incomplete sources of information on missing children nationwide;

2. Lack of uniformity in defining "missing children" for puroses of law enforcement intervention;

3. Inconsistencies within and across jurisdictions in term of follow-up of particular missing children cases such as parental kidnapping, runaways and homeless youth; and

4. Lack of profiles on the types of missing children themselves, the circumstances of their disappearance, and their experiences while missing.

II. Research Strategy

In response to the Congressional mandate to establish annual research, demonstration and service strategies for making grants and contracts pursuant to section 406 of the Missing Children's Assistance Act, the Administrator of the OJJDP announced proposed program priorities in the **Federal Register** Vol. 50, No. 91, May 10, 1985, Page 19817.

A. Overall Strategy

This solicitation to conduct a National Study of Law Enforcement Agencies Policies and Practices for Handling Missing Children and Homeless Youth is the first component of this comprehensive strategy of research, program development and technical assistance. It is intended to identify the most effective policy methods of handling reports, investigations and follow-up and to complement other initiatives that are forthcoming.

The other major research projects include:

1. *National Incidence Study to Determine the Actual Numbers of Missing Children.* This study will determine for a given year the number of children under the age of 18 who are reported missing, including the numbers of such children who are victims of abductions by strangers, parental kidnapings and the number of children who are recovered each year. It will also determine the number of children whose whereabouts are unknown to their legal custodians because they are runaways, or missing for other reasons. It is anticipated that this effort, which will survey households, will gather important data regarding the numbers and characteristics of all incidents of missing children both those reported and unreported—and should provide valuable information on the circumstances and the duration of the absences, the child's experience, and assistance to the youth and family.

2. *The Relationship between Missing and Abducted Children and Sexual Exploitation.* Following an assessment of the literature on sexual exploitation of children, a research project will be undertaken to gather more factual information of the correlation between missing children and their risk of sexual exploitation and its consequences.

3. *Psychological Consequences of Abduction and Sexual Exploitation of Children.* Research is needed in this area to identify effective methods for treating children who have been victims of abduction and sexual exploitation and for helping the parents and child return to normally after the event.

4. *The Child Victim as Witness.* Children are serving more frequently as witnesses in trials of their accused abductors and abusers. Research is needed on the effectiveness of children as witnesses, the negative effects of the proceeding on children as well as other aspects of the child victim as witness.

B. Proposed Strategy for the National Study of Law Enforcement Agencies' Policies and Practices for Handling Missing Children and Homeless Youth

The following proposed strategy for conducting the National Study of Law Enforcement Agencies' Policies and Practices for Handling Missing Children and Homeless Youth is offered as one potential means for accomplishing the goals and objectives of this research. (See section III of the solicitation.) Applicants are invited to present alternative strategies which promise to achieve the objectives of the research. Therefore, where specific numbers of sites or cases are proposed herein, applicants should comment on the feasibility and suitability of these target numbers and, if needed, offer viable alternatives which will enhance the likelihood of getting reliable, comprehensive and representative information within the timeframes and resource limitations of the project.

The Law Enforcement Study is designed to be conducted in the three sequential phases.

Phase I: Phase I will begin with a national mail survey which will provide the broadest geographic coverage but the least level of detail on actual law enforcement practices. In this phase it is anticipated that a nationally representative sample of at least 500 full service law enforcement agencies will be selected for survey. The types of information to be gathered are discussed below in section III.A. of this solicitation. The results of this phase will serve two purposes: to provide general descriptive data on law enforcement policies, procedures and preliminary estimates of the numbers of reported missing children's cases; and to guide the selection of jurisdictions in subsequent phases of the research. Applicants will be asked to identify types of questions that would yield productive information in this phase of the research.

Phase II: The second phase should begin by the sixth month of the project period. This phase will consist of on-site interviews with personnel from 100 law enforcement agencies in the initial sample. The second sample of agencies should be chosen to reflect a wide range of police practices, geographic characteristics and rates of missing children reports based upon the initial data from Phase I. The specific kinds of information sought in this phase, or outlined in Section III.B., and will be more detailed than the first phase. For successful implementation of this phase two major considerations need to be addressed in the application: (1) The ability of the interviewer to obtain both cooperation from the department and reliable data on actual practices; and (2) the need to develop data collection instruments that capture actual practices within the jurisdiction and allow for cross-jurisdictional comparisons of decision-making.

Phase III: While the focus of Phase I and II is almost exclusively the law enforcement agency and its practices, Phase III will focus on the missing children cases themselves within the context of the operating policies and procedures. Ten law enforcement jurisdictions will be selected for participation in the study. This phase will involve intensive case-tracking of all calls and reports of missing children, regardless of whether a call meets the operational criteria for an official investigation. For example, a call which involves a report by a parent that a 13 year old son has been missing for eight hours and whose whereabouts is unknown would become part of the data base for follow-up. Even if there is a 24-hour requirement for police intervention in such cases, this case would be followed to determine the eventual return of the youth and circumstances surrounding his disappearance and recovery. The purpose of this component is to provide documentation on all cases reported to the police and to establish profiles of youth and their experience.

Interviews with families and the youth are expected to build a systematic, prospective data base on missing children cases. This component will be designed to complement data collection of the National Incidences Study described in section II.A. It will also be correlated with survey efforts by the Department of Health and Human Services, Administration for Children, Youth and Families, of its Runaway and Homeless Youth Program.

It is anticipated that the ten jurisdictions will be identified and case tracking will commence in late Spring of 1986 and continue through late Fall to allow for sufficient time to elapse (approximately six months) to follow at least two hundred cases per jurisdiction. The type of information to be gathered is outlined in section III C. of the solicitation. Of critical importance to this phase is the cooperation and commitment of the local law enforcement agencies selected and the persons involved in on-site data collection. Applicants will be asked to address this issue in their proposal.

A major factor in studying law enforcement agencies' practices through the methods described above is the sensitivity of jurisdictions regarding the identity of the agency and the individuals and families cooperating with the research. It is the position of this agency that all questionnaires, interviews and other data gathered from law enforcement agencies through this study will remain confidential. Reports on the results will be written so as not to divulge the sources or specific location of information. Those agencies that have been identified as having exemplary policies and procedures, community relations, training and other programs will be the only exceptions to this policy. These will be so noted only with the expressed permission of the appropriate executive official in the jurisdiction. Data collected on individual subjects of research, such as missing children and family members are subject to 28 CFR Part 22 Confidentiality of Identifiable Research and Statistical Information.

III. Program Goals and Objectives

Goals of the National study are: To systematically describe the role of law enforcement agencies both in responding to reports of missing children and in the identification and recovery of these children. This comprehensive national study will focus primarily on local law enforcement agencies' practices including their utilization of state and federal information resources such as the National Crime Information Center/ Missing Persons File (NCIC/MPF) and the Unidentified Deceased File (UDF). The scope of the study includes law enforcement's handling of all categories of missing children as well as homeless youth. It is expected that the knowledge gained from this study will contribute to our understanding of the extent and nature of the problem of missing children nationwide and to help identify effective responses at the Federal, State and local level to missing children and homeless youth.

Objectives: To achieve these goals several objectives have been identified which are specifically related to the three components of the study which will be carried out in sequential phases.

A. Phase 1: National Mail Survey of 500 Law Enforcement Agencies

1. To document and describe existing policies and practices of law enforcement agencies with respect to handling reports of missing children, particularly in the area of record keeping—i.e., classification; definitions; recording, case management and validation procedures; reporting to other agencies, etc.

2. To identify operational criteria for (1) classification of missing children reports; and (2) law enforcement responses to various categories of missing children by age and suspected reasons for the child's disappearance.

3. To estimate national incidence of the number of missing children reported to law enforcement agencies for a given year from this national representative sample of law enforcement agencies by type of case.

4. To determine the level of utilization of the Missing Persons File and the Unidentified Deceased File in the NCIC for both recording and recovery of missing children; and to determine to what extent state or local statutes or regulations mandate the use of such resources.

5. To determine the level of awareness and utilization of the National Center for Missing and Exploited Children (NCMEC) resources for reporting and seeking leads and the locating and recovery of missing children and apprehension of their abductors.

6. To identify potential impediments to law enforcement's ability to recover and return missing children to their families, particularly runaways.

Claims of extreme variation in law enforcement agencies' reactions to reports of missing children have been made with little documentation of actual practices. To date, no such national survey has been conducted of law enforcement's role in the identification, location and recovery of missing children. This first phase of the study should inform us about the extent to which varying definitions, case classification, record keeping procedures, etc., affect our ability to use official police reports as indicators of the national incidence of children reported missing and, to what extent various practices may impede or facilitate the process of recovery of missing children under varying circumstances.

The results of this survey and other information will be used to formulate

the sampling strategy for the second phase of the study.

B. Phase II: Onsite Interviews With Personnel From 100 Law Enforcement Agencies

1. To verify responses from the mailed questionnaire obtained in Phase 1;

2. To collect more detailed information from selected jurisdictions on actual investigative practices utilized by law enforcement agencies in responding to reports of missing children, with particular attention to the following types of reported cases:

a. Runaways;

b. Homeless youth;

c. Parental abduction/kidnapping;

d. Stranger aduction/kidnapping;

e. Potential accident victims;

f. Lost children; and

g. Other.

3. To collect more detailed information on actual law enforcement practices related to the identification, location, apprehension, custody, and return of missing children (listed above), with particular attention to those runaways who apparently have not been reported missing (chronic runaways, throwaways) and homeless youth.

4. To solicit recommendations from police regarding ways in which current policies and procedures could be improved to overcome obstacles to investigation, location, recovery, etc. of missing children within and across jurisdictions.

5. To identify law enforcement agencies which have established effective working/operational relationships with other public and private sector agencies in the identification, protection and recovery of missing children.

6. To better understand the role of the missing person function within the law enforcement bureaucracy in order to improve the responsiveness of law enforcement personnel to reports of missing children; or, to improve public awareness of the limitations of the law enforcement agency's capability in responding to such reports.

The purpose of this second component is to develop a more systematic body of data on actual investigative practices along with an understanding of the reasons for such practices. This information will be very useful in the implementation of recommendations from the overall study; as well as in training and technical assistance.

C. Phase III: Intensive Case-tracking in Ten Law Enforcement Agencies

1. To establish profiles of each of the categories of missing children in terms of:

a. Characteristics of the youth reported missing;

b. Characteristics of the event (duration, type, distance away etc.);

c. Official response and recording; and

d. Child's experience while away in terms of exploitation, protection, means of sustenance, etc.

2. To "observe" law enforcement procedures for the identification, location, protection and recovery of missing children, including the use of state and national information networks, as well as private service agencies.

The purpose of this Phase III component of the national survey is to create a multi-jurisdictional baseline of information on all reports of missing children in selected jurisdictions for purposes of comparison with conventional wisdom in the field, and if possible, for documenting the effectiveness of various methods for achieving a high rate of safe recoveries, investigating and locating of missing children. In addition, the design of the data collection instruments for tracking and follow-up of the cases will complement those in the National Incidence Study in order to generate a large sample of comparable cases for descriptive and analytical purposes, and particularly for comparing profiles of reported and unreported cases of missing children.

IV. Major Responsibilities of the Successful Applicant

The organization selected to conduct this research project will be responsible for all aspects of the successful implementation and completion of all functions and activities of the study, whether carried out directly or contracted to other organizations or individuals, and, for the development of all products.

The successful applicant will be responsible for:

A. Activities and Functions

1. Developing a comprehensive research design for all phases of the study project as outlined in this solicitation including:

a. Uniform definitions of terminology consistent with the legislation for all survey instruments and interviews;

b. A sampling plan for each component;

c. Data collection instruments and protocols for each;

d. Pre-testing data collection instruments and protocols; and

e. Data analysis plans.

2. Identifying criteria for the selection of the 100 interview sites and the 10 intensive case-tracking sites.

3. Funding and managing the ten intensive site's data collection efforts.

4. Collecting data on all facets of the study with specific plans for:

a. Assuring a high response rate for the national mail survey;

b. Gaining access to law enforcement personnel for Phase II onsite interviews and to records and information in Phase III.

c. Selection and training of on-site interviewers and case-tracking data collectors and other measures to assure uniformity and quality control in the data collection process; and

d. Receipt, editing and maintaining the confidentiality of data.

5. Convening two meetings of an Advisory Group composed of not more than four experts in the fields of research, law enforcement policy development, and missing children, for the purpose of reviewing research plans and activities.

6. Preparing all quarterly financial and progress reports required by this agency.

B. Products

The following products will be developed by the research organization:

1. An advance report on the findings of the Phase I mail survey within six months of the award date;

2. Advanced report on the findings of the on-site Phase II interview survey within eleven months of the award date.

3. An advance report on the findings from Phase III within 16 months of the award data;

4. A comprehensive final report on the entire study within 18 months of the award date which is suitable for nationwide dissemination.

5. In addition to the specified reports, up to three special issues papers on topics to be identified in the application and developed subject to the approval of OJJDP.

6. Preparation of public use data tapes with all potential identifiers stripped, and with full documentation suitable for secondary analysis.

7. All programmatic quarterly progress reports.

As a cooperative agreement—as opposed to a grant or contract—the OJJDP will work collaboratively with the recipient and will approve major decisions throughout the course of the project including the final research design and methodology, definitions of terminology, criteria for site selection.

advisory board members, subject of topical reports, etc. Any and all sole source subcontracting in excess of $10,000 (with the exception of clerical support services) by the successful applicant is subject to prior agency approval.

V. Eligibility Requirements

Applications are invited from public and private not-for-profit and for-profit organizations. For-profit organizations must waive any managment fee or profit. Applicant organizations may choose to submit joint proposals with other organizations as long as one organization is designated in the application as the applicant and any co-applicants are designated as such. Together co-applicants must meet the eligibility requirements specified in A and B.

The applicant must have experience in the following areas in order to be eligible for consideration:

A. Prior experience in the design and implementation of national surveys on law enforcement policies, procedures and practices; and

B. Demonstrated knowledge of the issues associated with law enforcement's handling cases of missing children, runaways, homeless youths and victimization of children in general.

In order to maximize competition in the award of this cooperative agreement, for-profit organizations are eligible to apply, provided that they comply with the requirements of LEAA Instruction 4000.3 "Federal Grant and Cooperative Agreement Act of 1977." Specifically, any for-profit applicant organization must certify compliance with the following two requirements:

1. The OJJDP grant award must not be used to support the normal profit-making operations of the organization, but must serve to stimulate the legislatively authorized research and evaluation objectives of OJJDP.

2. For at least one year following the termination of this award the recipient will not complete or accept any procurement or assistance award supported by OJJDP funds which may have resulted or been derived from the original award.

The applicant must have the management and financial capability to effectively implement a project of this size and scope. Applicants who fail to demonstrate that they have the capability to manage this program will be ineligible for funding consideration

VI. Dollar Amount and Duration

A. One Cooperative Agreement Will Be Awarded

B. The Initial Period for the Project is 18 Months

Based on the need for and the availability of funds, the performance of the cooperative agreement recipient, a six months supplemental may be awarded. The funding level for the extension period would be based upon the scope of the work desired.

C. The Projected Budget for the 18-Month Project Period for This Cooperative Aggreement Is Not Expected To Exceed $600,000

VII. Application Requirements

All applicants must submit a completed Standard Form 424, Application for Federal Assistance (SF 424), including a program narrative, a detailed budget, and a budget narrative. All applications must include the following information outlined in this section VII of the solicitation in Part IV, Program Narrative of the application. The program narrative shall not exceed 60 double-spaced pages in length.

In submitting applications which contain more than one organization, the relationships among the parties must be set forth in the application. As a general rule, organizations which describe their working relationship in the development of products and the delivery of services as primarily cooperative or collaborative in nature will be considered as co-applicants. Those organizations which are primarily procuring services or products from another organization would not be considered as co-applicants. In the event of a co-applicant submission, one co-applicant must be designated as the payee to receive and disburse project funds and be responsible for the supervision and coordination of the activities of the other co-applicants. Under this arrangement each organization would agree to be jointly and severally responsible for all project funds and services. Each co-applicant must sign the SF-424 and indicate their acceptance of the conditions of joint and several responsibility with the other co-applicants.

Applications which include non-competitive contracts for the provision of specific services must include a sole source justification for any procurement in excess of $10,000.

A. Organizational Capability

Applicants must demonstrate that they are eligible to compete for this cooperative agreement on the basis of the eligibility criteria established in section V. of this solicitation.

1. Organizational Experience. Applicants must concisely describe their organizational experience with respect to the eligibility criteria specified in section V above. Applicants must demonstrate how their organizational experience and capabilities will enable them to achieve the goals and objectives of this initiative. Applicants are invited to submit prior survey and other work products.

2. Financial Capability. In addition to the assurances provided in Part V, Assurances (SF-424), applicants must also demonstrate that their organization has or can establish fiscal controls and accounting procedures which assure that Federal funds available under this agreement are disbursed and accounted for properly. Applicants who have not previously received federal funds will be asked to submit a copy of the Office of Justice Assistance, Research and Statistics (OJARS) Accounting System and Financial Capability Questionnaire (OJARS Form 7120/1). Copies of the form will be provided in the application kit and must be prepared and submitted along with the application. Other applicants may be requested to submit this form. *All* questions are to be answered regardless of instructions (section C.1.b. note). The CPA certification is required *only* of those applicants who have not previously received Federal funding.

B. Realization of Research Strategy, Goals and Objectives

Applicants shall concisely present proposed strategy for conducting this study which demonstrates that it has a high probability of attaining the goals and objectives of the research within the parameter set forth in the solicitation. Applicants must demonstrate their understanding and ability to carry out the program design by providing a clear and concise Preliminary Research Design and Program Implementation Plan to carry out the functions and activities of the project. As specified in section VII.B, the Plan must address organizational, methodological, substantive, coordination, administrative and budget issues and must include the following components:

1. *Preliminary Research Design.* This section of the application will be the principal means for the applicant to demonstrate their substantive knowledge of survey research, law enforcement organizations, and missing children. Applicants must:

a. Present a concise discussion of the major substantive—i.e., legal,

administrative, implementation, etc.—issues affecting law enforcement's response to missing children and homeless youth and how this research program can make a contribution to resolving those issues.

b. Present a preliminary research design including a discussion of sampling criteria and plans for each of the three phases of the study; identification of critical issues for consideration and inclusion in the design of the data collection instruments and protocols for each component. Applicants must specifically address the issues raised in section II.B.

c. Discuss anticipated products and indicate how the major substantive issues addressed by this study will be incorporated in the research products.

2. *Implementation Plan.* Applicants shall describe how they will allocate the available resources to implement the strategy presented in their application. Applicants must develop an implementation plan which addresses the activities and functions described in section IV.A. Major Responsibilities of the Successful Applicant. The plan must include:

a. An annotated organizational chart depicting the roles and describing the responsibilities of key organizational/functional components;

b. A list of key personnel responsible for managing and implementing the three major components of the program. Applicants must present detailed position descriptions, qualifications, and selection criteria for each position. This documentation and individuals' resumes may be submitted as appendices to the application.

c. A concise discussion of the coordination, data access and administration issues related to the program design and how their proposal would address these issues.

d. A detailed time-task plan for the 18-month project period, clearly identifying major milestones. This must include designation of organizational responsibility and a schedule for the completion of the products identified in section IV.B.

C. Budget

Applicants shall provide an 18-month budget with a detailed justification for all costs, including the bases for computation of these costs. Applications submitted by co-applicants and/or those containing contract(s) must include detailed budgets for each organization's expenses. Applicants should highlight innovative, cost-effective measures of their proposal.

VIII. Procedures and Criteria for Selection

All applications will be evaluated and rated based on the extent to which they meet the following weighted criteria. Applications will be reviewed in terms of their responsiveness to the specifications in the solicitation, their organizational capability to achieve the goals and objectives of the study, their attention to substantive issues in the design and their innovativeness in responding to strategic issues in the implementation of the study.

A. Organizational Capability (10 Points)

The extent and quality of organizational experience in the design and implementation of national studies of law enforcement policies, procedures and actual practices. Special consideration will be given to experience in research associated with the handling of missing children, runaways, homeless youth and child victimization in general.

The presence and extent of adequate fiscal controls and accounting procedures to ensure that the applicant can effectively implement a project of this size and scope, and to ensure the proper dispursal and accounting of federal funds.

B. Project Staff (15 Points)

The extent and relevance of the experience and qualifications of staff identified to manage and implement this initiative, including staff to be hired through contracts. The clarity and appropriateness of position descriptions, required qualifications and selection criteria relative to the specific functions set out in the preliminary research design and implementation plan.

C. Preliminary Research Design (35 Points)

Responsiveness of the proposal to issues related to the research strategy. Proposals will be evaluated in terms of their understanding of both the substantive issues and the goals and objectives of the study; the clarity, comprehensiveness, appropriateness and innovativeness of their preliminary research design and sampling plan for accomplishing the objectives of this initiative; and, the potential utility of research products. Particular attention will be paid to the presentation of critical issues for consideration and inclusion in the design of data collection instruments for each component. Special consideration will be given for innovative responses to the data collection issues raised in section II.B.

D. Implementation Plan (20 Points)

Appropriateness of allocation of resources to accomplish the goals and objectives of the study within the 18-month project period. Particular attention will be paid to the clarity and reasonableness of the time-task plan which identifies organizational, and individuals' roles and responsibilities for the completion of significant tasks and development of products.

E. Budget (20 Points)

Applicants must include on 18-month budget with a detailed narrative justifying the costs as specified in section VII.D. Applications will be rated based on the cost-competitiveness, completeness, reasonableness and appropriateness of the budget in relation to the task to be accomplished.

Applications will be evaluated by a peer review panel. The application which receives the highest total score on the above criteria will be recommended for funding to the Administrator, OJJDP, provided that required changes in the application can be successfully negotiated. The final decision will be made by the OJJDP Administrator.

IX. Deadline for Submission of Applications

One signed original and three copies of the application must be mailed or delivered to the Office of Juvenile Justice and Delinquency Prevention (OJJDP), Room 782, 633 Indiana Avenue, NW, Washington, D.C. 20531, by 5:30 p.m. on July 31, 1985. Those applications mailed to the above address must be postmarked on or before July 31, 1985 by the U.S. Postal Service. The necessary forms for applications may be obtained by writing to OJJDP. Questions regarding the solicitation may be directed to Barbara Allen-Hagen, 202/724-5929.

A Notification of Intent to apply for this program is included in the application kit, which can be obtained at the above address. Organizations which intend to submit applications are requested to return a complete Notification of Intent to OJJDP at the above address by July 12, 1985. The submission of this notification is optional and is for the purposes of estimating the workload associated with review of applications and for notifying potential applicants of any supplemental information related to the preparation of their applications.

X. Civil Rights Compliance

A. All recipient of OJJDP assistance, including any contractors, must comply with the non-discrimination

requirements of the Juvenile Justice and Delinquency Prevention Act of 1974 as amended; Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973 as amended; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; and the Department of Justice Non-Discrimination Regulations 28 CFR Part 42, Subparts C, D, E, and G.

B. In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office of Civil Rights Compliance (CRC) of the Office of Justice Programs.

C. Applicants shall maintain such records and submit to the OJJDP upon request timely, complete and accurate data establishing the fact that no person or persons will be or have been denied or prohibited from participation in, benefits of, or denied or prohibited from obtaining employment in connection with any program activity funded in whole or in part with funds made available under this program because of their race, national origin, sex, religion, handicap or age. In the case of any program under which a primary recipient of Federal funds extends financial assistance to any other recipient or contracts with any other person(s) or group(s), such other recipient, person(s) or group(s) shall also submt such compliance reports to the primary recipient as may be necessary to enable the primary recipient to assure its civil rights compliance obligations under an grant award.

Alfred S. Regnery,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 85-14407 Filed 6-13-85; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program; Unemployment Insurance Program Letter on Implementing Income and Eligibility Verification System

Section 2651 of the Deficit Reduction Act amended Title XI of the Social Security Act to establish an income and eligibility verification system for exchange of information among State agencies administering programs of unemployment compensation, AFDC, Medicaid, Food Stamps, Supplemental Security Income, and any State program under a plan approved under Titles I, X, XIV, or XVI of the Social Security Act. The provisions took effect April 1, 1985, with the exception of the requirement for employers to report quarterly wages which is delayed until September 30, 1988. Programs participating in the income and eligibility verification system are required to share information to assist in the child support program and to assist the Secretary of Health and Human Services in verifying eligibility amounts under Titles II and XVI of the Social Security Act.

Section 2651 of the Deficit Reduction Act of 1984 also amended section 303 of Title III of the Social Security Act to require the State agency charged with administering the unemployment compensation law to participate in the income and eligibility verification system. Section 303 has previously required only that State unemployment compensation agencies disclose certain specified information to Federal and State Food Stamp agencies, and State and local child support enforcement agencies.

Under the new verification system, employers will be required to make quarterly wage reports to a State agency (which may be the State unemployment compensation agency) except that the requirement may be waived if an alternate system for providing employment-related income and eligibility data is approved by the Secretary of Labor (in consultation with the Secretaries of Health and Human Services and Agriculture). The wage data will be available for all of the participating programs under the income and eligibility verification system. All agencies will also have access to information on income and earnings of individuals from the Social Security Administration and unearned income from the Internal Revenue Service.

The Department of Labor has issued proposed rules at 20 CFR Part 603 regarding the income and eligibility verification system. The proposed rules were published in the **Federal Register** on March 14, 1985, (50 FR 10450, 10456) and allowed for a 45 day comment period after publication.

The Department proposes to adopt the Unemployment Insurance Program Letter with this notice, to supplement UIPL 1-85 and the proposed regulations. This proposed UIPL provides instructions for use of social security data, for agreements with requesting agencies, funding for wage record systems and notification to claimants of use of information. Comments on the UIPL may be submitted in writing on or before July 29, 1985.

Submit comments to Carolyn M. Golding, Director, Unemployment Insurance Service, U.S. Department of Labor, Room 7112, Patrick Henry Building, 601 "D" Street NW., Washington, D.C. 20213.

The proposed Unemployment Insurance Program Letter is published below.

Dated: May 30, 1985

Frank C. Casillas,

Assistant Secretary of Labor.

Directive: Unemployment Insurance Program Letter No.

To: All State Employment Security Agencies

From: Barbara Ann Farmer, Acting Administrator for Regional Management

Subject: Status of Implementation of Pub. L. 98-369 (The Deficit Reduction Act of 1984)

1. *Purpose.* To provide additional guidance to States on implementation of the income and eligibility verification system.

2. *References.* Section 2651, Pub. L. 98-369; UIPL 1-85; Proposed rules at 20 CFR Part 603, published in the **Federal Register** on March 14, 1985.

3. *Background.* Section 2651 amended Title XI of the Social Security Act to establish an income and eligibility verification system for exchange of information among State agencies administering programs for AFDC, Medicaid, Food Stamps, SSI and UI, and any State program under a plan approved under Title I, X, XIV, or XVI of the Social Security Act. The guidance in this UIPL is intended to supplement UIPL 1-85 and the proposed regulations. The provisions took effect April 1, 1985, with the exception of the requirement for employers to report quarterly wages which is delayed until September 30, 1988. This UIPL is being published for comment in the **Federal Register**. The proposed rules were published at 20 CFR Part 603 in the **Federal Register**, March 14, 1985 for comment for 45 days.

4. *Social Security Administration (SSA) Benefit Data.* The SSA administers and maintains records of a wide variety of benefit programs. Currently ETA is exploring with SSA the nature and extent of information which will be made available to SESAs. ETA will identify those programs which might affect entitlement under State law.

Section 603.8 of the Proposed Rules require SESAs to obtain information from the Social Security Administration to the extent useful in verifying eligibility and benefit amounts. States where benefit eligibility and/or amount is affected by receipt of a primary Social

Security retirement pension should enter into an agreement to obtain benefit information from SSA to verify the accuracy of retirement amounts. Such agreements were to be entered into by April 1, 1985 (see paragraph 7 below).

SSA has two basic systems for providing this information. The first is Bendex, which permits mass cross-matching of computer files on a periodic (usually monthly) basis. The SSA prefers to enter into Bendex agreements with only one agency in each State, which is usually the welfare agency. The other method is the Third Party Query System, which provides for agreements between using agencies and SSA. It involves use of a marked-sensed card for individual cases. Cards are sent to a SSA field office for transmission to the central office computer and responses are available within 24 hours. We encourage SESA's use of the Bendex systems to verify the accuracy of the social security number.

ETA is working with SSA to facilitate State access to benefit data and will keep SESAs informed of these developments. In the meantime, SESAs should contact local SSA and State agency authorities to begin the development of the required agreements.

Although IRS is required to disclose information on unearned income, ETA is not requiring SESAs to sign agreements with IRS for access to this data. Unearned income is normally not a factor in determining UI eligibility.

5. *Standardized Formats.* An agreement has already been reached on standardized formats for use in the Internet program to communicate with Child Support Enforcement agencies for purposes of crossmatchng and verification. SESAs wil be furnished other standardized formats as rapidly as they are released (a responsibility of the Secretary of Health and Human Services).

6. *Agreements between SESAs and Requesting Agencies.* Effective April 1, 1985, agencies covered by the income and eligibility verification system must exchange information that is useful and productive in verifying eligibility and benefit amounts. In order to exchange information, SESAs must sign agreements with agencies providing information as well as those requesting information. When the SESA is the provider, rather than the user, of wage and/or benefit data, the using agency should initiate the agreement process This applies to AFDC, Food Stamps, Medicaid, Title XI (SSI), and Child Support.

The law also refers to State programs under Title I (Old Age Assistance), Title X (Aid to the Blind), and Title XIV (Permanently Disabled). These progrms are operative only in Guam, Puerto Rico, and the Virgin Islands. In all other jurisdictions, programs covered by these three titles are incorporated in Title XVI, Supplemental Security Income. The SESA must be able to enter into an agreement, which includes having statutory authority to release data, and preparing in advance the procedural arrangements, such as forms and timing, necessary to complete an agreement by April 1, 1985. In addition, SESAs are responsible to ensure that agreements adequately provide for users' safeguarding these data and users' reimbursement of SESA costs for providing the information.

Agreements already in place (i.e., with AFDC, Child Support Enforcement, and Food Stamp agencies) may be adequate or may require modification. Agreements providing for interstate arrangements for data exchange and verification via Internet should be consistent with UIPL 6–84 and 10–84 procedures. Note that under the proposed rules SESAs may enter into agreements with a single agency which can redisclose information to other agencies, so long as such redisclosure is provided for in the agreement.

7. *Waiver of April 1, 1985, Deadline for Agreements.* As pointed out in paragraph 4, the statute provides that SESAs (where Social Security affects benefits), were to enter into agreements with SSA by April 1, 1985. The Secretary of Labor may, by waiver, grant a delay in this effective date if the State submits a plan describing a good faith effort to comply. The waiver may not extend beyond September 30, 1986.

Any State which cannot meet the April 1, 1985, deadline is to request a waiver from the Secretary of Labor via the appropriate regional office within 90 days of the date of final publication of the rules in the **Federal Register.** Section 603.9 of the Proposed Rules provides for this deferral in requesting a waiver of the effective date. The request should include in detail what the State did to conclude the agreements, on time, why agreements were not reached, plans for completing and signing agreements, and firm target dates for completion.

Requests for waiver should be signed by the Governor or his formally appointed designee.

Copies of signed agreements are to be furnished to the appropriate regional office.

8. *Quarterly Wage Reporting.* Those request reporting States which enact legislation to adopt quarterly wage reporting for UI purposes are eligible for funding from Title III grants for start-up and continuing costs. However, funds are not available for planning activities prior to the enactment of legislation.

States which elect to operate a wage-record system apart from the UI program administration but which will provide crossmatch capabilities with benefit payments will not receive advance planning or developmental funds from Title III Grants. However, Title III administrative grant funds (from the State's existing benefit payment control allocation) may be utilized for the SESA's share of ongoing use of the system in accordance with cost principles and cost allocation methodologies set forth in OMB Circular A–87, as codified at 41 CFR 1–15.7. SESAs are encouraged to participate in the development of any such cost allocation plan and/or carefully review it to ensure costs refects use of the wage-record system for crossmatch purposes only.

At this time, ETA is aware of only one State proposing to adopt a system other than quarterly wage reporting. Under the Act, the Secretary of Labor in consultation with the Secretaries of Agriculture and Health and Human Services must approve such an alternative system. The mechanism for consultation among the Secretaries and the criteria for waiver of the requirement have not been finalized. If any other State contemplates this course of action, th SESA should notify the appropriate regional office as early as possible so that procedures can be supplied for the State to secure the necessary approval by the Secretary of Labor prior to establishing the system.

9. *Other Actions That Were Necessary by April 1, 1985.* The law also requires that SESAs obtain social security numbers (SSN) from claimants and use the numbers (as identifiers) in maintaining records.

Another requirement is that claimants be advised of the potential disclosure of their data to other agencies. Under Section 1137(a)(6) of the Social Security Act, the SESAs are required to notify claimants at the time of filing an initial claim and periodically thereafter that information available through the system will be requested and utilized Provision of a printed notice on or attached to any subsequent additional claims will satisfy the requirement for periodic notice thereafter. This amplifies on the requirement in Section 603.4 of the Proposed Rules relating to notification of claimants.

10. *OMB Approval.* The timing of the changes in the Deficit Reduction Act of 1984 did not allow for prior Office of Management and Budget (OMB) clearance under the Paperwork

Reduction Act of 1980. However, immediate dissemination of this information is imperative. OMB approval is being sought and States will be notified once this approval has been obtained.

11. *Action Required.* SESAs are requested to take steps to implement the amendments as explained above after notification of OMB approval.

12. *Inquiries.* Direct inquiries to appropriate regional office.

[FR Doc. 85-14388 Filed 6-13-85; 8:45 am]
BILLING CODE 4510-30-M

Job Training Partnership Act (Pub. L. 97-300); Program Year 1985 Allotments for Programs Under Title II, Part A; Training Services for the Disadvantaged; Adult and Youth Programs; Title III, Dislocated Worker Program; and 1985 Allotments for Title II, Part B, Summer Youth Employment and Training Programs

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces the final allotments for Program Year (PY) 1985 (July 1, 1985 through June 30, 1986) for programs under Title II-A and III of the Job Training Partnership Act (JTPA), and the 1985 Summer Program under Title II-B of the JTPA.

FOR FURTHER INFORMATION CONTACT: For JTPA inquiries, contact Robert N. Colombo, Director, Office of Employment and Training Programs, 601 D Street, NW., Washington, D.C. 20213, telephone number: (202) 376-6093.

SUPPLEMENTARY INFORMATION: Attached are the final allotments for PY 1985 (July 1, 1985 through June 30, 1986) for programs under Titles II-A and III of JTPA and the final allotments for the 1985 Summer Program under Title II-B of JTPA. The allotments are based on the funds appropriated by Pub. L. 98-139 (1984 DOL Appropriation Act), 98-619 (1985 DOL Appropriation Act), the statutory formulas contained in the act and the latest data available to the Secretary.

Title II-A Allotments.

Attachment I shows the PY 1985 JTPA Title II-A allotments by State based on a total figure of $1,886,151,000, the same total available for the PY 1984 program. This amount is composed entirely of PY 1985 formula funds. These funds support the basic job training program. For all States, Puerto Rico, the Virgin Islands and the District of Columbia, the following data were used in developing these allotments:

—Data for areas of substantial unemployment are averages for the 12-month period, July 1983 through June 1984.

—The number of excess unemployed individuals are averages for this same 12-month period, July 1983 through June 1984.

—The economically disadvantaged data are from the 1980 Census.

The allotments for the territories are based on estimated 1983 unemployment, using a 90 percent relative share hold-harmless of the Title II-A allotments for these areas and a minimum allotment amount of $125,000.

Title II-B Allotments

Allotments for the 1985 JTPA Title II-B summer program total $824,549,000 and are shown in Column 3 on Attachment II. This amount is composed of $724,549,000 of PY 1984 formula funds and $100 million (Column 2) of supplemental funds. These funds support summer youth activities. Except for the territories, the same data used for the Title II-A allotments were also used for the formula Title II-B allotments. The allotments for the territories are also based on the relative share of Section 251 funds those areas received for the CY 1984 summer program. As required by Pub. L. 98-619 the $100 million supplemental funds were provided to service delivery areas (SDAs) whose based 1985 allotment was less than the amounts received by the SDA for the 1984 summer youth program. The $100 million was sufficient to assure that all SDAs received at least 95.7 percent of the amount allotted for the 1984 program.

Title III Allotments

The PY 1985 JTPA Title III Dislocated Worker Program allotments are reflected in Column 3-5 of Attachment III. Column 3 shows the total appropriation of $222,500,000, which includes the base allotment of Federal funds totaling $167,250,000 and the national reserve of $55,250,000 to be distributed at a later date. The base funds are subject to the matching requirements contained in Section 304 of JTPA. The PY 1985 program's funding is $500,000 less than was available in PY 1984. This reduction was taken entirely in the national reserve. The total base allotments are the same as in PY 1984. Allotments for Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Marianas, are based on the proportion these jurisdictions received of Title II-A funds.

Except for the above listed territories, the unemployment data used for determining these allotments, relative numbers of unemployed and relative numbers of excess unemployed, are the averages for the September 1983 through August 1984 period. Long-term unemployed data used were for CY 1983.

Column 4 shows a total amount of $122,748,526. This represents the total amount States must provide in matching in accordance with Section 304 of the Act to be eligible for the Federal allotment listed in Column 3.

Column 5 shows a total amount of $345,248,526, the sum of Columns 3 and 4. This represents the total resources available for the Title III Dislocated Worker Program based on PY 1985 allotments.

Signed this 6th day of June 1985.

Roberts T. Jones,

Administrator, Office of Job Training Programs.

ATTACHMENT I.—U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION, OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS, FY 1985, JTPA TITLE II—A ALLOTMENTS TO STATES, APRIL 24, 1985

	Allotment
Alabama	$45,931,374
Alaska	4,702,878
Arizona	21,664,570
Arkansas	20,851,069
California	200,862,696
Colorado	17,968,234
Connecticut	15,291,391
Delaware	4,702,878
District of Columbia	7,682,743
Florida	68,598,664
Georgia	36,253,423
Hawaii	5,778,514
Idaho	7,640,428
Illinois	103,491,557
Indiana	46,030,277
Iowa	18,177,836
Kansas	10,722,953
Kentucky	36,435,653
Louisiana	42,458,841
Maine	8,606,435
Maryland	24,560,926
Massachusetts	32,564,222
Michigan	101,142,486
Minnesota	25,868,305
Mississippi	27,042,089
Missouri	39,068,427
Montana	6,793,934
Nebraska	6,936,914
Nevada	6,820,260
New Hampshire	4,702,878
New Jersey	45,624,938
New Mexico	12,215,430
New York	125,613,465
North Carolina	41,276,156
North Dakota	4,702,878
Ohio	98,942,168
Oklahoma	23,018,730
Oregon	25,006,321
Pennsylvania	104,638,166
Puerto Rico	68,699,129
Rhode Island	7,024,036
South Carolina	26,238,109
South Dakota	4,702,878
Tennessee	43,340,568
Texas	98,947,206
Utah	10,067,563

ATTACHMENT I.—U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION, OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS, FY 1985, JTPA TITLE II—A ALLOTMENTS TO STATES, APRIL 24, 1985—Continued

	Allotment
Vermont	4,702,878
Virginia	29,086,099
Washington	40,167,230
West Virginia	25,248,458
Wisconsin	38,832,871
Wyoming	4,702,878
American Samoa	315,023
Guam	1,311,514
Northern Marianas	125,000
Trust Territories	1,644,818
Virgin Islands	1,603,645
National total	1,886,151,000

ATTACHMENT II.—U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION, OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS, FY 1984 JTPA TITLE II—B ALLOTMENTS TO STATES, JUNE 10, 1985

	Initial	Supplemental	Total
Alabama	$17,051,881	$740,737	$17,792,618
Alaska	1,775,415	56,489	1,831,904
Arizona	7,898,757	907,734	8,806,491
Arkansas	7,744,872	791,110	8,535,982
California	74,607,971	6,343,104	80,951,075
Colorado	6,556,684	857,648	7,414,332
Connecticut	7,480,284	2,085,193	9,565,477
Delaware	1,775,415	51,538	1,826,953
District of Columbia	8,071,659	1,956,119	8,027,778
Florida	25,489,976	4,041,534	29,531,510
Georgia	13,475,335	2,249,065	15,724,400
Hawaii	2,147,781	594,198	2,741,979
Idaho	2,838,348	244,673	3,083,021
Illinois	38,423,704	9,797,874	48,221,578
Indiana	17,090,312	4,683,399	21,773,711
Iowa	6,753,877	1,150,567	7,904,444
Kansas	4,019,344	1,346,177	5,365,521
Kentucky	13,530,328	1,366,157	14,896,485
Louisiana	15,766,663	184,791	15,951,454
Maine	3,197,501	470,761	3,668,262
Maryland	9,463,689	4,242,579	13,706,268
Massachusetts	15,155,266	4,401,350	19,556,616
Michigan	37,539,857	2,430,187	39,970,044
Minnesota	9,612,580	1,751,681	11,364,261
Mississippi	10,042,816	259,211	10,302,027
Missouri	14,510,382	1,973,386	16,483,768
Montana	2,523,695	0	2,523,695
Nebraska	2,833,087	684,266	3,517,353
Nevada	2,532,971	99,291	2,632,262
New Hampshire	1,775,415	416,030	2,191,445
New Jersey	19,588,010	6,561,892	26,147,902
New Mexico	4,537,868	0	4,537,868
New York	46,671,914	12,909,624	59,581,538
North Carolina	15,337,543	2,324,606	17,662,149
North Dakota	1,775,415	0	1,775,415
Ohio	36,731,889	5,344,394	42,076,283
Oklahoma	8,551,134	119,416	8,670,550
Oregon	9,284,867	530,718	9,815,585
Pennsylvania	38,851,764	4,031,416	42,883,180
Puerto Rico	25,509,387	164,143	25,673,530
Rhode Island	2,826,536	682,685	3,509,221
South Carolina	9,199,817	586,383	9,786,200
South Dakota	1,775,415	0	1,775,415
Tennessee	16,094,934	1,477,056	17,571,990
Texas	36,770,844	3,693,631	40,464,475
Utah	3,740,329	133,514	3,873,843
Vermont	1,775,415	0	1,775,415
Virginia	11,362,506	3,992,939	15,355,445
Washington	14,912,266	33,813	14,946,079
West Virginia	9,369,825	0	9,369,825
Wisconsin	14,039,224	1,230,120	15,269,344
Wyoming	1,775,415	0	1,775,415

ATTACHMENT II.—U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION, OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS, FY 1984 JTPA TITLE II—B ALLOTMENTS TO STATES, JUNE 10, 1985—Continued

	Initial	Supplemental	Total
American Samoa	55,003	310	55,313
Guam	670,830	3,782	674,612
Northern Marianas	25,730	145	25,875
Trust Territories	74,374	420	74,794

ATTACHMENT II.—U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION, OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS, FY 1984 JTPA TITLE II—B ALLOTMENTS TO STATES, JUNE 10, 1985—Continued

	Initial	Supplemental	Total
Virgin Islands	380,370	2,144	382,514
Native Americans	13,176,511	0	13,176,511
National total	724,549,000	100,000,000	824,549,000

ATTACHMENT III.—U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION, OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS, PY 1985 JTPA TITLE III—DISLOCATED WORKER PROGRAM ALLOTMENTS AND MATCHING REQUIREMENTS, MAY 2, 1985

	Unemployment rate	Reduction units	Allotment	Required match	Total program
Alabama	11.7	4	$4,375,377	$875,075	$5,250,452
Alaska	10.5	3	423,383	169,353	592,736
Arizona	6.0	0	1,323,435	1,323,435	2,646,870
Arkansas	9.0	1	1,646,983	1,317,586	2,964,569
California	8.1	0	17,999,670	17,999,670	35,999,340
Colorado	5.3	0	1,154,720	1,154,720	2,309,440
Connecticut	4.7	0	930,630	930,630	1,861,260
Delaware	6.6	0	316,616	316,616	633,232
District of Columbia	10.5	3	680,962	272,385	953,347
Florida	6.9	0	5,228,930	5,228,930	10,457,860
Georgia	6.3	0	2,560,273	2,560,273	5,120,546
Hawaii	5.9	0	376,247	376,247	752,494
Idaho	7.6	0	604,865	604,865	1,209,730
Illinois	9.5	2	10,738,301	6,442,981	17,181,282
Indiana	9.3	2	4,771,790	2,863,074	7,634,864
Iowa	7.0	0	1,737,526	1,737,526	3,475,052
Kansas	5.2	0	854,101	854,101	1,708,202
Kentucky	9.7	2	3,241,553	1,944,932	5,186,485
Louisiana	9.9	2	3,674,881	2,204,929	5,879,810
Maine	7.3	0	645,335	645,335	1,290,670
Maryland	5.6	0	1,848,488	1,848,488	3,696,976
Massachusetts	5.6	0	2,477,850	2,477,850	4,955,700
Michigan	11.8	4	11,169,526	2,233,905	13,403,431
Minnesota	6.6	0	2,468,712	2,468,712	4,937,424
Mississippi	10.5	3	2,287,103	914,841	3,201,944
Missouri	8.1	0	3,540,734	3,540,734	7,081,468
Montana	8.2	1	546,566	437,253	983,819
Nebraska	4.5	0	423,466	423,466	846,932
Nevada	7.9	0	702,950	702,950	1,405,900
New Hampshire	4.2	0	222,742	222,742	445,484
New Jersey	6.6	0	4,006,433	4,006,433	8,012,866
New Mexico	8.2	1	844,531	675,625	1,520,156
New York	7.5	0	10,646,683	10,646,683	21,293,366
North Carolina	6.8	0	3,482,448	3,482,448	6,964,896
North Dakota	5.1	0	205,258	205,258	410,516
Ohio	10.0	2	11,236,251	6,741,751	17,978,002
Oklahoma	7.4	0	2,031,292	2,031,292	4,062,584
Oregon	9.6	2	2,493,309	1,495,985	3,989,294
Pennsylvania	9.7	2	11,134,643	6,680,786	17,815,429
Puerto Rico	21.5	14	4,111,275	0	4,111,275
Rhode Island	6.6	0	545,213	545,213	1,090,426
South Carolina	7.6	0	1,946,080	1,946,080	3,892,160
South Dakota	4.6	0	161,262	161,262	322,524
Tennessee	9.2	2	3,934,745	2,360,847	6,295,592
Texas	6.5	0	7,474,223	7,474,223	14,948,446
Utah	7.1	0	803,640	803,640	1,607,280
Vermont	6.0	0	231,705	231,705	463,410
Virginia	4.9	0	1,616,507	1,616,507	3,233,014
Washington	10.0	2	4,019,601	2,411,761	6,431,362
West Virginia	15.0	7	2,770,400	0	2,770,400
Wisconsin	8.1	0	3,883,145	3,883,145	7,766,290
Wyoming	6.3	0	254,278	254,278	508,556
American Samoa	0.0	0	27,934	0	27,934
Guam	0.0	0	116,295	0	116,295
Northern Marianas	0.0	0	11,084	0	11,084
Trust Territories	0.0	0	145,850	0	145,850
Virgin Islands	0.0	0	142,200	0	142,200
National Reserve	0.0	0	55,250,000	0	55,250,000
National total	8.1	0	222,500,000	122,748,526	345,248,526

[FR Doc. 85-14392 Filed 6-13-85; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

[V-85-3]

Temporary Variance and Interim Order; ASARCO, Inc.

AGENCY: Occupational Safety and Health Administration, Labor.

ACTIONS: (1) Notice of application for temporary variance and interim order; (2) Grant of interim order.

SUMMARY: This notice announces the application of ASARCO, Incorporated, for a temporary variance and interim order pending a decision on the application for variance from certain requirements of the medical removal provisions prescribed in 29 CFR 1910.1025(k)(l)(i)(D) of the standard for Occupational Exposure to Lead.

It also announces the granting of an interim order until a decision is rendered on the application for temporary variance.

DATES: The interim order became effective on April 17, 1985, the date of the letter granting the interim order. The last date for interested persons to submit comments is July 15, 1985. The last date for affected employers and employees to request a hearing on the application is July 15, 1985.

ADDRESSES: Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue NW., Room N-3656, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, Office of Variance Determination at the above address, Telephone: 202-523-7193

or the following Regional and Area Offices:

U.S. Department of Labor—OSHA, 555 Griffin Square Building, Room 602, Dallas, Texas 75202

U.S. Department of Labor—OSHA, Federal Building, Room 421, 1205 Texas Avenue, Lubbock, Texas 79401

U.S. Department of Labor—OSHA, 911 Walnut Street, Room 406, Kansas City, Missouri 64106

U.S. Department of Labor—OSHA, Overland-Wolf Building, Rm. 100, 6910 Pacific Street, Omaha, Nebraska 68106

U.S. Department of Labor—OSHA, 4300 Goodfellow Boulevard, Building 105E, St. Louis, Missouri 63120

U.S. Department of Labor—OSHA, Federal Building, Rm. 1554, 1961 Stout Street, Denver, Colorado 80294

U.S. Department of Labor—OSHA, Petroleum Building, Suite 210, 2812 1st Avenue North, Billings, Montana 59101.

Notice of Application

Notice is hereby given that ASARCO, Incorporated, 120 Broadway, New York, New York 10271, has made application pursuant to section 6(b)(6)(A) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.10 for a temporary variance from 29 CFR 1910.1025(k)(l)(i)(D) of the medical removal protection (MRP) provisions of the lead standard, which states:

> The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that the average of the last three blood sampling tests * * * (or the average of all blood sampling tests conducted over the previous six (6) months, whichever is longer) indicates that the employee's blood lead level is at or above 50 ug/100g of whole blood: provided, however, that an employee need not be removed if the last blood sampling test indicates a blood lead level at or below 40 ug/100g of whole blood.

The purpose of these provisions is to provide protection from excessive lead exposure for employees with substantially elevated blood-lead levels.

The addresses of the places of employment that will be affected by the application are as follows:

ASARCO, Incorporated, Post Office Box 7, Glover, Missouri 63646

ASARCO, Incorporated, East Helena, Montana 59835

ASARCO, Incorporated, Fifth and Doyle Streets, Omaha, Nebraska 68102

ASARCO, Incorporated, Post Office Box 1111, El Paso, Texas 79940.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that the implementation of the 50 μg/100g removal trigger of the lead standard is not feasible for the following reasons:

(1) Implementation would require the long-term removal of significant numbers of percentages of skilled and experienced employees who are critical to maintaining safe and healthful operations.

(2) The length of time these employees are predicted to have to remain on removal would create serious operational disruptions unless these employees can be quickly replaced, which they cannot.

Almost all jobs in ASARCO's primary lead facilities, the applicant claims, involve a degree of skill, training, and experience such that the widespread removals and transfers necessary under the 50 μg/100g trigger would severely impair the safety and efficiency of the plant. Limitation of the relief from removal/return trigger levels to supervisory, skilled or maintenance employees would, therefore, pose difficult administrative burdens. The applicant has requested a temporary variance to allow removal of employees under the MRP provisions when the employees' blood lead levels exceed 55 μg/100g rather than at the 50 μg/100g removal trigger. This relief would expire on February 1, 1986.

OSHA has decided to consider a step down process to assist the applicant in its endeavor to comply with the requirements of § 1910.1025(k)(1)(i)(D) by requiring medical removal at 55 μg/100g rather than at 60 μg/100g of whole blood as authorized under a recently expired temporary variance granted to the applicant. Whereby, the previous temporary variance required that at least 10 percent or more of the total lead-exposed supervisory, maintenance and skilled production employees have blood lead levels greater than 50 μg/100g of whole blood, OSHA will now consider the 55 μg/100g medical removal trigger when 5 percent or more of the applicant's employees have blood lead levels greater than 50 μg/100g of whole blood. OSHA believes that continued relief would be warranted if the applicant can show strict compliance with the Cooperative Assessment Program agreements reached with OSHA and the United Steelworkers of America (USWA), compelling evidence to show economic need for the relief and a significant reduction in the number of employees with blood lead levels above 50 μg/100g.

This request for relief comes at a time when ASARCO and the USWA have taken the initiative to apply the experience they gained under the arsenic standard. For the purpose of developing engineering compliance plans for ASARCO's four facilities, ASARCO, the USWA and OSWA are participating in a cooperative tripartite assessment to determine the lowest air lead levels that can be achieved by engineering controls, operation by operation, in each facility. Since OSHA

is very concerned that engineering solutions be found to lead exposure problems, the Agency looks favorably upon the tripartite arrangement as an effective way to achieve these solutions. As evidence of ASARCO's good faith in complying with the lead standard, it is signatory to several Cooperative Assessment Program (CAP) agreements in which milestones are established for the installation of feasible engineering controls and schedules are set for other related studies to be performed. OSHA commends ASARCO and the USWA for their initiative.

OSHA recognizes that the most effective solution to the problems of lead exposure at ASARCO is to implement engineering controls to the extent feasible and that such a solution will be most protective of employee's health. OSHA also recognizes that implementing engineering controls of the sort ASARCO has agreed to in the cooperative tripartite agreement will require the allocation of considerable technical expertise and supervisory and skilled personnel as well as the expenditure of large sums of money. Since ASARCO has committed itself to such a program, OSHA believes that its resources are stretched so thin that it cannot absorb the additional drain on professional, skilled and technical personnel that would be caused by the medical removal of all employees with blood lead levels over 50 μg/100g. Thus, in this case OSHA finds compelling evidence for the need for interim relief despite the fact that fewer than 10 percent of the total lead-exposed supervisory, maintenance and skilled production employees would have to be removed because of elevated blood lead levels. The 10 percent criterion for relief consistently has been treated by OSHA as a rule of thumb. Plants below that criterion have been eligible for relief if they could show by compelling evidence that relief is needed." (46 FR 37891, 37892; July 23, 1981.)

Our technical staff has reviewed the data submitted concerning ASARCO's primary lead smelting and refining plants located at Glover, Missouri; East Helena, Montana; Omaha, Nebraska; and El Paso, Texas. The applicant's data showed that 5.2 percent of the lead exposed employees had blood lead levels of at least 50 ug/100g of whole blood as averaged over a six-month period during calendar year 1984. During 1983, the applicant had shown that the percent of lead-exposed employees subject to removal under a 50 ug/100g trigger for the four plants ranged from 10.4 to 18.6 percent. The present 5.2 percent is a significant reduction in the number of the applicant's employees with a blood lead level above 50 ug/100g.

This relief is conditioned upon ASARCO's ongoing compliance with all other provisions of the lead standard as well as with all conditions of the order set forth below, in lieu of complying with the requirements of 29 CFR 1910.1025(k)(l)(i)(D). OSHA believes that the inclusion in the order of additional requirements for medical surveillance, in conjunction with the agreed upon tripartite process demonstrates all parties concerned with the health of ASARCO's employees be protected.

A copy of the application for variance will be made available for inspection and copying upon request at the locations listed above. All interested persons, including employers and employees who believe they would be affected by the grant or denial of the application for variance are invited to submit written data, views, and arguments relating to the pertinent application no later than July 15, 1985.

In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than July 15, 1985, in conformance with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

Grant of Interim Order

It appears from the application and supporting data that an interim order is necessary to prevent undue hardship on the applicant and its employees pending a decision on the variance. Therefore, it is ordered, pursuant to the authority in section 6(b)(6)(A) of the Occupational Safety and Health Act of 1970, in 29 CFR 1905.10(c) and in Secretary of Labor's Order No. 9–83 (48 FR 35736) that the facilities listed above are hereby authorized to comply with the requirements of the interim order set forth below, in lieu of complying with the requirements of 29 CFR 1910.1025(k)(l)(i)(D). All other provisions of the lead standard are unaffected by this order and therefore must be complied with in conjunction with the terms of the order.

The terms of the interim order are as follows:

(1) This order may be revoked upon the employer's failure to meet the requirements of its Cooperative Assessment Program agreements.

(2) The terms of the order apply to all employees in the lead-exposed workforce.

(3) As presently required by 29 CFR 1910.1025(j)(2) of the lead standard, the employer shall perform blood lead and zinc protoporphyrin (ZPP) tests every two months on each employee whose last blood test indicated a blood lead level at or above 40 ug/100g and who is exposed to lead above the action level or 30 ug/m³.

(4) The employer shall remove all employees in accordance with the provisions of § 1910.1025(k)(l)(i)(D) except that the average of the blood sampling tests shall indicate that the employee's blood lead level is at or above 55 ug/100g of whole blood instead of 50 ug/100g as the provision now reads.

(5) The employer shall return all employees in accordance with the provisions of § 1910.1025(k)(l)(iii)(A)(3) of the lead standard.

(6) For an employee with blood lead levels between 50 and 55 ug/100g, who need not be removed under the terms of this order and who work in jobs having air lead exposure at or above 30 ug/m³, the employer shall:

(a) Require that effective respiratory protection be worn at all times they are in the area;

(b) Do an immediate inspection and evaluation of the employee's respirator usage;

(c) Do an immediate inspection and evaluation of the lead-related work practices affecting the employee;

(d) Do an immediate inspection and evaluation of the use and availability of hygiene facilities, and the employee's relevant personal hygiene habits;

(e) Do an immediate inspection and evaluation of the existing engineering controls to determine whether they are maintained properly to insure that such systems do not have an adverse effect upon the employee;

(f) Provide a personal consultation with a licensed physician every two months; and

(g) Provide the comprehensive medical examination required under paragraph (j) of the lead standard by a licensed physician every three months.

(7) For all employees required to wear respiratory protection under the terms of this order, ASARCO, Incorporated shall provide:

(a) Quantitative face fit tests at the time of initial fitting and at least semi-annually thereafter;

(b) An evaluation by a licensed physician prior to the time of initial fitting and at least annually thereafter of:

(i) A pulmonary function test which includes FEV_1 and FVC; and

(ii) A physical examination; and

(c) A posterior-anterior chest x-ray on a 14 x 17 inch film, on a five-year time interval.

(8) Based upon the inspections and evaluations required in paragraphs 6(b), (c), (d), and (e), the employer shall take all reasonable and appropriate corrective steps to reduce the employee's absorption of lead. The employer shall submit to the Office of Variance Determination a written report documenting when and where the evaluations took place, the corrective actions that were necessary and taken, and the name and job classification of the affected employees. This submission shall be made within 45 days after the effective date of this order.

(9) After the various consultations, evaluations, examinations and tests required in paragraphs 6(f), 6(g), 7(b) and 7(c), the physician shall make a written determination as to whether the employee has a detected medical condition that places the employee at increased risk of material impairment to health from exposure to lead, or is unable to wear a respirator. If the employee is determined to have such a medical condition or to be unable to wear a respirator, he or she shall be removed from work areas where the exposure to airborne lead is at or greater than 30 ug/m³.

(10) For the duration of the variance, the employer shall submit every two months to the Office of Variance Determination, blood lead, zinc protoporphyrin, and air lead data as accumulated.

(11) The employer shall agree to allow OSHA to inspect its premises in connection with this order.

(12) The employer shall comply with all other provisions of the lead standard which are unaffected by this order.

As soon as possible ASARCO, Incorporated shall give notice to affected employees of the terms of this order by the same means required to be used to inform them of the application for temporary variance and interim order. The Assistant Secretary may revoke this order at any time, without prior notice, whenever the applicant does not comply with any requirement of the order or the relevant standards or if other information indicates that revocation of the interim order is warranted. Unless revoked, the interim order will remain in effect until February 1, 1986 or until a decision is made on the application for temporary variance, whichever occurs first.

Signed at Washington, D.C. this 10th day of June, 1985.

Robert A. Rowland,

Assistant Secretary of Labor.

[FR Doc. 85-14390 Filed 6-13-85; 8:45 am]

BILLING CODE 4510-26-M

[V-85-4]

St. Joe Lead Company; Application for Permanent Variance From Certain Provisions of the Standard for Occupational Exposure to Lead

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice of application for permanent variance.

SUMMARY: This notice announces the application of the St. Joe Lead Company for permanent variance from certain provisions of the occupational health standard governing exposure to lead, 29 CFR 1910.1025. Specifically, the applicant seeks relief from the requirements in § 1910.1025 (e)(1), (e)(3), and (e)(4), concerning engineering controls; § 1910.1025 (f)(1), (f)(2), and (f)(3), concerning respiratory protection; and § 1910.1025 (k)(1(i)(C), (k)(1)(i)(D), and (k)(1)(iii)(A)(3), concerning medical removal protection.

DATE: The last date for interested persons to submit comments on the variance application is July 15, 1985.

The last date for affected employers, employees and appropriate State authority having jurisdiction over employment or places of employment covered in the application to request a hearing on the application is July 15, 1985.

ADDRESSES: Send comments and hearing requests to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Rm. N-3656, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

James J. Concannon, Director, Office of Variance Determination at the above address, Telephone: (202) 523-7193

or the following Regional and Area Offices:

U.S. Department of Labor—OSHA, 911 Walnut Street, Room 406, Kansas City, Missouri 64106

U.S. Department of Labor—OSHA, 4300 Goodfellow Boulevard, Building 105E, St. Louis, Missouri 63120.

Notice of Application

Notice is hereby given that St. Joe Lead Company, 7733 Forsyth Boulevard, Clayton, Missouri 63105, has filed an application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596, 29 U.S.C. 655(d)) and 29 CFR 1905.11, requesting a permanent variance from the following provisions of the occupational health standard governing exposure to lead ("the lead standard"): 29 CFR 1910.1025 (e)(1), (e)(3), and (e)(4); 29 CFR 1910.1025 (f)(1), (f)(2), and (f)(3); and 29 CFR 1910.1025 (k)(1)(i)(C), (k)(1)(i)(D), and (k)(1)(iii)(A)(3).

The address of the place of employment, a primary lead smelter and associated operations, that will be affected by this application is as follows:

St. Joe Lead Company, Herculaneum, Missouri 63048.

The applicant certifies that it has informed employees who would be affected by the variance of the application by posting copies at all places where notices to employees are normally posted. It reports that employees have also been informed of their right to petition the Assistant Secretary for a hearing. The applicant asserts that, taken as a whole, its proposals in lieu of compliance "afford employment as healthful as would prevail under the terms prescribed by the standard."

Engineering Controls

The sections under the lead standard's paragraph (e), *Methods of compliance*, that are pertinent require that the employer implement engineering and work practice controls in order to reduce and maintain employee exposure to lead within prescribed limits, "except to the extent that the employer can demonstrate that such controls are not feasible" [29 CFR 1910.1025(e)(1)]. Where such controls are not sufficient to reduce exposures to or below the permissible exposure limit (PEL), the employer must implement them nonetheless in order to reach the lowest feasible level of exposure and must achieve the PEL by supplementing them with respiratory protection as prescribed under paragraph (f) [29 CFR 1910.1025(e)(2)]. The standard establishes a PEL of fifty micrograms of lead per cubic meter of air (50 $\mu g/m^3$) averaged over an 8-hour period. At present, employers in the primary smelting industry must achieve air lead exposures of 100 $\mu g/m^3$ by means of feasible engineering and work practice controls; the standard permits these employers to use respiratory controls to reduce employee exposures the rest of the way down to the 50 $\mu g/m^3$ permissible exposure limit (that is, down

from the currently prescribed level of 100 $\mu g/m^3$ or down from whatever is the lowest feasible level which may be attainable relying solely on engineering and work practice controls). In 1991, these employers must achieve air lead exposures of 50 $\mu g/m^3$ by means of feasible engineering and work practice controls.

Paragraph (e)(3) requires the employer to establish and implement a written compliance program in order to achieve the PEL. In addition, paragraph (e)(4) permits the employer to bypass compliance with the 100 $\mu g/m^3$ interim exposure level prescribed by the standard's implementation schedule where, according to his compliance plan, the employer would achieve the PEL solely by engineering and work practice controls and the diversion of resources necessary to comply with the interim exposure level would clearly preclude compliance, otherwise attainable, with the PEL by the time specified.

St. Joe Lead Company states that it cannot meet the requirements concerning engineering and work practice controls prescribed by the lead standard. The applicant asserts that, dating back to when it was issued a citation in 1974, it has been implementing engineering controls in some operations in order to reduce exposures down to 200 $\mu g/m^3$ (averaged over an 8-hour period). It also notes that "some engineering controls may materially assist in making the smelter cleaner thereby reducing the burden on housekeeping programs in particular." Moreover, such controls "have had some effect on area samples." Nevertheless, the applicant's experience is that these controls do not materially affect the exposure readings obtained from personal sampling and that high exposures still occur. Indeed, during some plant conditions an exposure to 10,000 $\mu g/m^3$ "would not be uncommon," given the high degree of mobility of lead-exposed employees in performing varying job tasks—e.g., start-up, keeping the material flowing, maintenance during "upset conditions," housekeeping, and shut-down. The company essentially contends that the salutary effects of engineering controls are limited to certain areas of the applicant's facility, wheras the varied responsibilities of many employees routinely take them throughout the facility, including into areas where feasible engineering controls are not available to reduce exposures. The applicant thus concludes that neither St. Joe Lead Company nor any other primary lead smelter will be able to satisfy the engineering control requirements of the lead standard at any time in the foreseeable future.

Accordingly, in lieu of complying with paragraphs (e)(1), (e)(3), and (e)(4) of the lead standard, the applicant proposes to implement a written compliance program "to reduce the average blood lead level of exposed employees to or below 35 $\mu g/dl$ [one deciliter is essentially the same as 100 grams] of whole blood," through a combination of administrative, respiratory and engineering controls. In the company's view, the purpose of the lead standard is "to reduce employee blood lead levels to the below those levels at which reversible physiological effects of lead exposure may appear." The company reads the standard as setting as a health goal "an average blood lead level of less than 40 $\mu g/dl$ for all exposed employees." Thus, the company believes that attainment of an "average plant-wide goal of a 35 $\mu g/dl$ blood lead" will produce equivalent health protection to that which would be obtained under the standard.

In the alternative, if the applicant fails to achieve the 35 $\mu g/dl$ target, but, within six years of the effective date of the variance order, succeeds in achieving a 37.5 $\mu g/dl$ average blood lead level for its exposed employees, then the applicant proposes that its obligations under this part of the variance would cease. In the event that the 37.5 $\mu g/dl$ target is not achieved after six years but the applicant "can demonstrate continued progress toward attainment of that level", the applicant proposes to revise its compliance program and to undertake to attain the 37.5 $\mu g/dl$ target by some other date determined by the applicant; if the applicant is unable to demonstrate continued progress after six years, then the company will revise its compliance program in order to attain the 37.5 $\mu g/dl$ target within four additional years.

The applicant also pledges its willingness to implement certain engineering controls which are feasible and cost-effective. Nevertheless, the applicant reserved the right over the course of the variance to substitute different cost-effective controls than those selected at the inception of the variance.

Respiratory Controls

The sections under the lead standard's paragraph (f), *Respiratory protection*, that are pertinent require the employer to provide and assure the use of appropriate respirators as prescribed in the standard. For example, the standard permits the use of a half-mask, air-purifying respirator with high efficiency filters for lead exposures not in excess of ten times the PEL. Respirators must be used where engineering and work practice controls are not sufficient to reduce exposures to or below the PEL [29 CFR 1910.1025(f)(1)]. The standard further provides that (after the dates for compliance with the interim levels specified in Table I) no employer shall require an employee to wear a negative pressure respirator longer than 4.4 hours per day [29 CFR 1910.1025(f)(1)]. Other appropriate respirators are not subject to this limitation [29 CFR 1910.1025(f)(2)]. The employer is also responsible for assuring that the respirator is fitted properly [29 CFR 1910.1025(f)(3)].

St. Joe Lead Company states that it has instituted a respirator program which includes quantitative fit testing, employee training, and mandatory, enforced work rules regarding respirator usage. The applicant asserts that the proper respirator use which is assured by its program will provide "equivalent air lead protection to that mandated by the standard." In this regard, the applicant contends that the protection factors (i.e., the ratio of air sample results taken at the employee's lapel to sample results taken inside the employee's respirator) which the lead standard atributes to different types of respirators are understated. For example, while the lead standard assigns a protection factor of 10 to half-mask, air purifying respirators equipped with high-efficiency filters, the applicant reports that test results obtained in its own fit testing program indicate protection factors of at least 100 for these respirators. Based on these findings, which the company believes to be supported both by field data collected at the Herculaneum plant in 1982 by the National Institute of Occupational Safety and Health as well as by the American National Standards Institute's standard Z88.2—1980, the applicant concludes that air-purifying, negative pressure, full or half-mask respirators that are fitted by quantitative fit testing will protect employees to below 50 $\mu g/m^3$ when air lead levels in the smelter are as high as 5000 $\mu g/m^3$.

Accordingly, in lieu of complying with paragraphs (f)(1), (f)(2) and (f)(3) of the lead standard, the applicant proposes to provide respirators consistent with the following scheme:

(1) Where airborne concentrations of lead do not exceed 0.5 mg/m^3 [500 $\mu g/m^3$], a half-mask air-purifying respirator equipped with a high-efficiency filter.

(2) Where airborne concentrations of lead do not exceed 5.0 mg/m^3 [5000 $\mu g/$

m^3], where St. Joe can demonstrate through quantitative fit testing that a protection factor of greater than 200 can be attained, a half-mask air-purifying respirator equipped with high-efficiency filters or a full facepiece air-purifying respirator with high-efficiency filters.

(3) Where airborne concentrations of lead do not exceed 20 mg/m^3 [20,000 μg/m^3], any powered air-purifying respirator with high-efficiency filters.

(4) Where airborne concentrations of lead do not exceed 50 mg/m^3 [50,000 μg/m^3], any half-mask supplied-air respirator.

(5) Where airborne concentrations of lead do not exceed 100 mg/m^3 [100,000 μg/m^3], a supplied-air respirator with full facepiece hood, helmet or suit operated in a positive-pressure mode.

(6) Where airborne concentrations of lead are greater than 100 mg/m^3 [100,000 μg/m^3], a full facepiece self-contained breathing apparatus operated in a positive-pressure mode.

The applicant also seeks exemption from the 4.4 hour limit per day governing employee use of negative pressure respirators. In the applicant's view, "at most it is a cosmetic provision in the sense that it arguably requires that employees be comfortable on the job." The applicant also contends that, given the necessity for its employees to wear respirators continuously during lead exposure, the 4.4 hour limit is infeasible because the company doubts that sufficient skilled maintenance and operating talent is available in the vicinity of its plant to operate it with such "part-time" labor.

Medical Removal Protection

The sections under the lead standard's paragraph (k), *Medical removal protection*, that are pertinent prescribe procedures for the temporary medical removal and return of an employee. By 1981, the employer must remove an employee from work having an exposure to lead at or above the 30 μg/m^3 action level on each occasion that a periodic and a follow-up blood sampling test conducted in accordance with the lead standard indicate that the employee's blood lead level is at or above 60 μg/100g of whole blood [29 CFR 1910.1025(k)(1)(i)(C)]. As of March 1, 1983, an employee whose lead exposure is at or above the action level must also be removed on each occasion that the average of the last three blood sampling tests conducted in accord with the lead standard (or the average of all blood sampling tests conducted over the previous six months, whichever is longer) indicates that the employee's blood lead level is at or above 50 μg/100g of whole blood [29 CFR 1910.1025(k)(1)(i)(D)]. Paragraph (k) provides, though, that an employee need not be removed if the last blood sampling test indicates a blood lead level at or below 40 μg/100g of whole blood.

The lead standard provides for the return to former job status for an employee removed due to a blood lead level at or above 60 μg/100g, or due to an average blood lead level at or above 50 μg/100g, when two consecutive blood sampling tests indicate that the employee's blood lead level is at or below 40 μg/100g of whole blood [29 CFR 1910.1025(k)(1)(iii)(A)(3)].

Under the terms of an interim order [49 FR 33757, August 24, 1984], St. Joe Lead Company is temporarily relieved from the requirement to comply with the 50 μg/100g removal trigger level; it must continue to comply with the 60 μg/100g removal trigger and the 40 μg/100g return trigger.

St. Joe Lead Company argues that compliance with the 60 μg/100g removal, 50 μg/100g removal and 40 μg/100g return triggers is not feasible at this time and may not be in the future. The applicant acknowledges that "tremendous progress" has been made in achieving blood lead reductions at the Herculaneum smelter, principally due to the company's hygiene, medical surveillance and respirator programs. The applicant contends, though, that the feasibility of medical removal protection (MRP) is ultimately defined by the percent of worker population actually on removal status at program equilibrium. In the company's view, this percent of population on removal is a function not only of the removal and return triggers but, most importantly, the removed individuals' lead absorption/excretion dynamics. According to this formulation, the applicant asserts that, at current exposures and resulting employee blood lead levels, the equilibrim percent of the company's exposed workforce on removal under the 60–40 and the 50–40 MRP programs would be in excess of 10% and of 50%, respectively. The applicant has calculated that, as of January 1983, 26.2% of the Herculaneum smelter's workforce had blood lead levels in the 50 μg/dl to 60 μg/dl range and fully 25% of the workforce would have been eligible for immediate removal on a blood lead "averaging" basis. The applicant has concluded that the maximum number of persons that can feasibly be sustained on medical removal is not more than four percent of the total exposed population.

In addition, in light of the asserted inefficacy of engineering controls, the company anticipates that relatively few work areas will have air lead measurements below the action level. Given the number of employees that the company expects to have on removal status, the applicant believes that sufficient work for all removed employees will not be available in the near future unless such employees are allowed to wear respirators in the removal areas and unless the respirators are assigned the higher protection factors which the company advocates.

The company belives that increased medical surveillance of lead exposed employees whose blood leads are at or above 50 μg/100g constitutes "an equally effective health substitute" for achieving "the principal health goals of the standard."

Accordingly, in lieu of complying with paragraphs (k)(1)(i)(C), (k)(1)(i)(D), and (k)(1)(iii)(A)(3), the applicant proposes "eventual compliance" with the 50/40 removal-return triggers as follows:

1. St. Joe shall remove each employee with a blood lead level at or above 10 μg/dl, and return the employee when his or her blood lead level is at or below 50 μg/dl.

2. At such time as a blood lead census of exposed employees indicates that the sum of employees on medical removal and the non-removed employees whose blood lead exceeds 58 μg/dl is less than 4% of the total exposed population, St. Joe shall adjust the removal/return triggers such that employees with blood lead levels at or above 58 μg/dl are removed. Such a removed employee shall not be returned until that employee's blood lead level is at or below 48 μg/dl.

3. At such time as a blood lead census of exposed employees idicates that the sum of employees on medical removal and the non-removed employees whose blood lead exceeds 55 μg/dl is less than 4% of the total exposed population, St. Joe shall adjust the removal/return triggers such that employees whose three most recent (or 6-month average, whichever is longer) blood lead level tests average 55 μg/dl or over are removed. Such an employee shall not be returned until that employee's blood lead level is at or below 45 μg/dl.

4. At such time as a blood lead census of exposed employees indicates that the sum of employees on medical removal and the non-removed employees whose blood lead exceds 53 μg/dl is less than 4% of the total exposed population, St. Joe shall adjust the removal-return triggers such that employees whose three most recent (or 6-month average, whichever is longer) blood lead level tests average 53 μg/dl or over are removed. Such an employee shall not be

returned until that employee's blood lead level is at or below 43 μg/dl.

5. At such time as a blood lead census of exposed employees indicates that the sum of employees on medical removal and the non-removed employees whose blood lead exceeds 50 μg/dl is less than 4% of the total exposed population, St. Joe shall adjust the removal-return triggers such that employees whose three most recent (or 6-month average, whichever is longer) blood lead level tests average 50 μg/dl or over are removed. Such an employee shall not be returned until that employee's blood lead level is at or below 40 μg/dl.

6. If after six years St. Joe has not made progress such that less than 5% of its exposed population exceeds a blood lead level of 55 μg/dl, then St. Joe shall undertake engineering control programs designed to reduce employee exposure to airborne lead.

7. If at any time in attempting to comply with paragraphs 2, 3, and 4 immediately above, St. Joe demonstrates that greater than 6% of its exposed employee population is on medical removal, St. Joe may raise its removal/return triggers as required to hold the removed population at or below 6% of its work force. In no case, however, may St. Joe adjust the removal/return triggers above 60 μg/dl removal and 50 μg/dl return.

8. If at any time St. Joe complies with paragraph 5 above, nothing further is required of this section of this order.

9. Beginning with the effective date of this order, St. Joe shall remove an employee from his normal work assignment to an erea where such employee's exposure is less than 30 μg/m^3 or to an area where his exposure is less than 150 μg/m^3 if respiratory protection is worn continuously and St. Joe can demonstrate for each affected employee through quantitative fit testing a protection factor of 100 or greater.

By way of increased medical surveillance, the applicant proposes to do the following:

1. St. Joe shall perform blood lead, zinc protoporphyrin (ZPP), hemoglobin, every two months on each employee whose last blood test indicted a blood lead level at or above 40 μg/100g.

2. For employees with blood lead levels above 50 μg/100g, St. Joe shall provide: (a) Personal consultation with a licensed physician every two months; and (b) a comprehensive medical examination by a licensed physician every six months.

3. After each personal consultation and the comprehensive medical examination, the physician shall make a written medical opinion as to whether the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead.

(a) If the employee is determined to have such a condition, he or she shall be removed from work having an exposure to lead at or above 30 ug/m^3; or

(b) If the employee is determined not to have such a condition, St. Joe shall retain and upon request make available to OSHA the written statements from the physician concerning each affected employee stating that it is medically appropriate for the employee to continue to work at his or her present job.

4. Commencing upon the effective date of this order, St. Joe shall submit to OSHA on a quarterly basis the names and job classifications of all employees on MRP and the areas to which removed employees are assigned.

5. For employees with blood lead levels at or above 50 ug/dl who are working in areas with air lead levels at or above 30 ug/m^3, respirator usage shall be mandatory during the entire work shift.

6. For all employees with blood lead levels at or above 50 ug/dl who need not be removed under the terms of this order, St. Joe shall make periodic inspections and evaluations of:

(a) The lead-related work practices affecting the employees;

(b) The employee's respirator use; and

(c) The use and availability of protective clothing and other "personnel equipment" and hygiene facilities and the employee's relevant personal hygiene habits.

Based on the inspection and evaluation, St. Joe shall take all reasonable and appropriate corrective actions in these regards to reduce its employees' absorption of lead. Commencing on the effective date of this order, St. Joe shall submit to OSHA a quarterly report setting forth blood lead, ZPP, hemoglobin, and air-lead data for all exposed employees.

7. St. Joe shall agree to allow OSHA to inspect its premises in connection with this order.

Request for Public Comment

Section 6(d) of the Occupational Safety and Health Act of 1970 provides for the issuance of a variance upon a showing by the proponent "that the conditions, practices, means, methods, operations or processes used or proposed to be used by an employer will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard." A copy of the application for variance will be made available for inspection and copying upon request at the locations listed above. Any affected employer, employee or appropriate State agency having jurisdiction over employment or places of employment covered in this application may file with the Assistant Secretary of Labor comments and/or a request for hearing concerning the merits of this application, as provided in 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate and must be directed to the Office of Variance Determination at the above address.

Signed at Washington, D.C. this 10th day of June 1985.

Robert A. Rowland,

Assistant Secretary of Labor.

[FR Doc. 85-14391 Filed 6-13-85; 8:45 am]

BILLING CODE 4510-26-M

Office of the Assistant Secretary

Secretary of Labor's Committee on Veterans' Employment; Meeting

The Secretary's Committee on Veterans' Employment was established under Section 308, Title III, Pub. L. 97-306 "Veterans Compensation, Education and Employment Amendments of 1982," to bring to the attention of the Secretary, problems and issues relating to veterans' employment.

Notice is hereby given that the Secretary of Labor's Committee on Veterans' Employment will meet on Tuesday, July 2, 1985, at 1:00 p.m., in the Secretary's Conference Room, S-2508, FPB.

Items to be discussed are:

Pre-separation Briefing Project

Colorado Partnership Project Interagency

VA/DOL Counseling Enhancement Project

Status-Emergency Veterans' Job Training Act

The public is invited.

Signed at Washington, D.C. this 11th day of June, 1985.

Donald E. Shasteen,

Deputy Assistant Secretary for Veterans' Employment and Training.

[FR Doc. 85-14389 Filed 6-13-85; 8:45 am]

BILLING CODE 4510-23-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 85-37]

Intent To Grant an Exclusive Patent License; H.J. Schock and W.J. Rice of Bay Village, OH

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant an Exclusive Patent License.

SUMMARY: NASA hereby gives notice of intent to grant to Harold J. Schock and William J. Rice of Bay Village, Ohio, a limited, exclusive, royalty-bearing, revocable license to practice the invention as described in U.S. Patent No. 4,111,041 for an "Indicated Mean-Effective Pressure Instrument," which issued on September 5, 1978 and U.S. Patent No. 4,428,226 for a "Real Time Pressure Signal System for a Rotary Engine," which issued on January 31, 1984, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 60 days of the date of the Notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentations. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Assistant General Counsel for Patent Matters whether to grant the exclusive license.

DATE: Comments to this notice must be received by August 13, 1985.

ADDRESS: National Aeronautics and Space Administration, Code GP Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John G. Mannix, (202) 453-2430.

Dated: June 6, 1985.

John E. O'Brien,

Deputy General Counsel.

[FR Doc. 85-14331 Filed 6-13-85; 8:45 am]

BILLING CODE 7510-01-M

[Notice 85-38]

Intent To Grant Partially Exclusive Licenses; Rust-Oleum Corp. et al.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant partially exclusive patent licenses.

SUMMARY: NASA hereby gives notice of intent to grant to Rust-Oleum Corporation, Shane Associates, Inc., Inorganic Coatings, Inc., and CM Technologies, Inc., limited, partially exclusive, revocable licenses to practice the inventions as described in the foreign counterparts of U.S. Patent No. 4,162,169 for "Alkali-Metal Silicate Binders and Methods of Manufacture," and U.S. Patent No. 3,620,784 for "Potassium Silicate-Zinc Coatings." These licenses would allow practice of the inventions in Australia, Canada, France, West Germany, Great Britain, Japan, The Netherlands, Sweden, and Switzerland. The proposed partially exclusive licenses will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive licenses unless, within 60 days of the date of the Notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentations. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Assistant General Counsel for Patent Matters whether to grant the partially exclusive licenses.

DATE: Comments to this notice must be received by August 13, 1985.

ADDRESS: National Aeronautics and Space Administration, Code GP, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John G. Mannix, (202) 453-2430.

Dated: June 6, 1985.

John E. O'Brien,

Deputy General Counsel.

[FR Doc. 85-14332 Filed 6-13-85; 8:45 am]

BILLING CODE 7510-01-M

[Notice 85-39]

NASA Wage Committee, Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Wage committee.

DATE AND TIME: July 10, 1985, 1:30 p.m. to 3:00 p.m.

ADDRESS: National Aeronautics and Space Administration, Room 5092, Federal Building 6, 400 Maryland Avenue SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah C. Green, Code NPC, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-2622).

SUPPLEMENTARY INFORMATION: The Committee's primary responsibility is to consider and make recommendations to the NASA Director, Personnel Programs Division on all matters involved in the development and authorization of a Wage Schedule for the Cleveland, Ohio, wage area, pursuant to Pub. L. 92-392. The Committee, chaired by Ms. Deborah Green, consists of 6 members. During this meeting the Committee will consider wage data, local reports, recommendations, and statistical analyses and proposed wage schedules reviewed therefrom. Discussions of these matters in a public session would constitute release of confidential commercial and financial information obtained from private industry. Since the session will be concerned with matters listed in 5 U.S.C. 552b(c)(4), it has been determined that this meeting will be entirely closed to the public. However, members of the public who may wish to do so, are invited to submit material in writing to the Chairperson concerning matters felt to be deserving of the Committee's attention.

Type of meeting: Closed.

Purpose of meeting: The NASA Wage Committee will recommend to the NASA Wage Fixing Authority the proposed wage schedule to be adopted.

Dated: June 7, 1985.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

[FR Doc. 85-14334 Filed 6-13-85; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

NSF Advisory Committee on Merit Review; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: NSF Advisory Committee on Merit Review.

Date and Time: July 2, 1985—9:00 am-4:30 pm.

Place: Room 523, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of Meeting: Open.

Contact Person: Dr. Carlos Kruytbosch, Acting Head, Science Indicators Unit, National Science Foundation, Washington, D.C. 20550, (202) 634–4682.

Anyone planning to attend this meeting should notify Dr. Kruytbosch no later then June 27, 1985.

Summary Minutes: Dr. Carlos Kruytbosch, at above address.

Purpose of Committee: To evaluate merit review as practiced by NSF and other agencies and provide its advice and recommendations concerning alternative systems of merit review and selection of projects.

Summarized Agenda: Reports from the NSF Director and staff; discussion of the Committee Charter and outline of work of the Committee and other items.

M. Rebecca Winkler,

Committee Management Officer.

June 11, 1985.

[FR Doc. 85–14379 Filed 6–13–85; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Availability of Volume 2, Volume 2 Addendum, and Volume 5 of "Report of the U.S. Nuclear Regulatory Commission Piping Review Committee"

The U.S. Nuclear Regulatory Commission announces the availability of NUREG–1061, Volume 2, "Report of the U.S. Nuclear Regulatory Commission Piping Review Committee: Evaluation of Seismic Design-A Review of Seismic Design Requirements for Nuclear Power Plant Piping"; NUREG–1061, Volume 2 Addendum, "Report of the U.S. Nuclear Regulatory Commission Piping Review Committee: Summary and Evaluation of Historical Strong-Motion Earthquake Seismic Response and Damage to Aboveground Industrial Piping"; and NUREG–1061, Volume 5, "Report of the U.S. Nuclear Regulatory Commission Piping Review Committee: Summary-Piping Review Committee Conclusions and Recommendations."

The NRC Piping Review Committee was established by the Executive Director for Operations of the USNRC to make a comprehensive review of the NRC requirements in the area of nuclear power plant piping. The activities of this Review Committee were divided into four tasks handled by appropriate task groups. These are:

- Pipe Crack Task Group.
- Seismic Design Task Group.
- Pipe Break Task Group.
- Dynamic Load and Load Combinations Task Group.

Each Task Group prepared a report appropriate to its scope that was published as a Volume of NUREG–1061. Volumes 1, 3 and 4, the reports of the Pipe Crack Task Group, the Pipe Break Task Group and the Dynamic Loads and Load Combinations Task Group were published in August, 1984, November 1984 and December 1984, respectively.

NUREG–1061, Volume 2 reports the position and recommendations of the NRC Piping Review Committee, Seismic Design Task Group. The Task Group considered overlapping conservatism in the various steps of seismic design, the effects of using two levels of earthquake as a design criterion, and industry practices. Issues such as damping values, spectra modification, multiple response spectra methods, nozzle and support design, design margins, inelastic piping response, and the use of snubbers are addressed.

Effects of current regulatory requirements for piping design are evaluated, and recommendations for immediate licensing action, changes in existing requirements, and research programs are presented. Additional background information and suggestions given by consultants are also presented.

NUREG–1061, Volume 2 Addendum was prepared by Stevenson and Associates, Inc., for the Seismic Design Task Group and was used as a reference in the preparation of NUREG–1061, Volume 2. Earthquake experience data for industrial piping is summarized in this report.

NUREG–1061, Volume 5 prepared by the NRC Piping Review Committee, is an overview summary report. This volume summarizes the major issues, reviews the interfaces, and presents the Committee's conclusions and recommendations for updating NRC requirements on these issues. The report also suggests research or other actions that may be required to respond to issues not amendable to resolution at this time.

Copies of NUREG–1061, Volume 2, Volume 2 Addendum, and Volume 5 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 10th day of June 1985.

R.H. Vollmer,

Cochairman, NRC Piping Review Committee.

L.C. Shao,

Cochairman, NRC Piping Review Committee.

[FR Doc. 85–14393 Filed 6–13–85; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN 50–454, STN 50–455, STN 50–456]

Commonwealth Edison Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the schedular requirement of 10 CFR 50.71(e)(3)(i) to the Commonwealth Edison Company (the licensee) for Byron Station, Units 1 and 2, and Braidwood Station, Unit 1 (the facilities). Byron Station is located at the licensee's site in Ogle County, Illinois and Braidwood Station is located at the licensee's site in Will County, Illinois. Byron Station, Unit 1, revceived its full power operating license on February 14, 1985; the other two units have not yet received operating licenses.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an exemption from the requirement of 10 CFR 50.71(e)(3)(i) to submit an updated Final Safety Analysis Report (FSAR) for the facilities within 24 months of the date of issuance of the operating license. By letter dated April 16, 1985, the licensee requested an exemption to defer submittal of the updated FSAR until 12 months after Braidwood Station, Unit 2, is licensed. This deferral is the proposed action being considered by the staff.

The Need for the Proposed Action

The FSAR applies to four units: Byron Station, Units 1 and 2, and Braidwood Station, Units 1 and 2. The licensee will continue to keep the FSAR up-to-date throughout the licensing of Byron Station, Unit 2, and Braidwood Station, Units 1 and 2. The licensee states that it is not practical to maintain an FSAR and an updated FSAR and proposes to submit the updated FSAR within twelve months after issuance of the operating license for Braidwood Station, Unit 2.

Environmental Impacts of the Proposed Action

The proposed exemption affects only the required date for updating the FSAR

and does not affect the risk of facility accidents. Thus, post-accident radiological releases will not differ from those determined previously, and the proposed exemption does not otherwise affect facility radiological effluents or occupational exposures. With regard to potential nonradiological impacts, the proposed exemption does not affect plant non-radiological effluents and has no other environmental impact. Therefore, the Commission concludes there are no measurable radiological or nonradiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed exemption, any alternatives with equal or greater environmental impacts need not be evaluated. The principal alternative to the exemption would be to require an earlier date for submittal of the updated FSAR. Such an action would not enhance the protection of the environment and is unnecessary in these circumstances since the purpose of maintaining a current FSAR will be met by compliance with 10 CFR 50.34 during the period of licensing review of Byron Unit 2 and Braidwood Units 1 and 2.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in the Final Environmental Statement for both Byron Station, Units 1 and 2, and Braidwood Station, Units 1 and 2.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based upon the environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this proposed action, see the licensee's letter dated April 16, 1985. This letter is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, at the Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61103, and at the Wilmington Public Library, 292 S. Kankakee Street, Wilmington, Illinois 60481.

Dated at Bethesda, Maryland, this 7th Day June, 1985.

Thomas M. Novak,

Assistant Director for Licensing, Division of Licensing.

[FR Doc. 85-14395 Filed 6-13-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp. et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-72, issued to Florida Power Corporation (the licensee), for operation of the Crystal River Unit No. 3 Nuclear Generating Plant located in Citrus County, Florida.

In accordance with the licensee's application dated February 27, 1985, as revised May 24, 1985, and June 7, 1985, the proposed amendment would move the Fire Service System tables from the Technical Specifications (TSs) to the Fire Protection Plan (FPP) to allow timely implementation of operability and surveillance requirements. The affected Technical Specifications are the Fire Detection Instrumentation (TS 3.3.3.7), Deluge and Sprinkler Systems (TS 3.7.11.2) and Fire Hose Stations (TS 3.7.11.4). Also a Fire Protection license condition would be added requiring that the FPP not be changed so as to significantly decrease the level of fire protection in the plant without the Commission's approval and that all changes be submitted annually to the Commission along with the updated FSAR. *See* 10 CFR 50.71.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibillity of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations relates to a purely administrative change to the TSs (Example (i)). The proposed amendment would not modify any requirements, but would merely relocate the tables covering the Fire Service System to the FPP. Many modifications to the Facility are now in progress to comply with he requirements of 10 CFR 50.48 and Appendix R. The proposed change would permit reduced processing and review time involved in revising the tables to accommodate these changes, (which might otherwise unnecessarily delay restart), while still assuring adequate licensee and Commission staff review and control.

Based on the reasons stated, the Commission's staff proposes to determine that the proposed amendment involves no significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By July 15, 1985, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing

Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to R.W. Neiser, Senior Vice President and General Counsel, Florida Power Corporation, P.O. Box 14042, St. Petersburg, Florida 33733.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida.

Dated at Bethesda, Maryland, this 7th day of June 1985.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch 4, Division of Licensing.

[FR Doc. 85–14394 Filed 6–13–85; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council Meeting

The White House Science Council, the purpose of which is to advise the Director, Office of Science and Technology Policy (OSTP), will meet on July 16 and 17, 1985 in Room 5104, New Executive Office Building, Washington, D.C. The meeting will begin at 6:00 p.m. on July 16, recess and reconvene at 8:00 a.m. on July 17. Following is the proposed agenda for the meeting:

(1) Briefing of the Council, by the Assistant Directors of OSTP, on the current activities of OSTP.

(2) Briefing of the Council by OSTP personnel and personnel of other agencies on proposed, ongoing, and completed panel studies.

(3) Discussion of composition of panels to conduct studies.

The July 16 session and a portion of the July 17 session will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of material that is formally classified in the interest of national defense or for foreign policy reasons. This is also true for a portion of the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b (c) (1), (2), and 9 (B).

A portion of the discussion of panel composition will necessitate the disclosure of information of a personal nature, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552b (c) (6).

The portion of the meeting open to the public will begin approximately 10:00 a.m. Because of the security in the New Executive Office Building, persons wishing to attend the open portion of the meeting should contact Annie L. Boyd, Secretary, White House Science Council at (202) 456-7740, prior to 3:00 p.m. on July 12. Ms. Boyd is also available to provide further information regarding this meeting.

Jerry D. Jennings,

Executive Director, Office of Science and Technology Policy.

June 5, 1985.

[FR Doc. 85-14355 Filed 6-13-85; 8:45 am]

BILLING CODE 3170-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Losses and Goals Advisory Committee; Meeting

AGENCY: Losses and Goals Advisory Committee of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1-4. Activities will include:

- Losses statement.
- Glossary of Terms Discussion.
- Accounting and Modeling issue paper.
- System Planning Principles Discussion Memorandum.
- Other.
- Public comment.

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Losses and Goals Advisory Committee.

DATE: June 20, 1985, 9:00 a.m.

ADDRESS: The meeting will be held at the Statehouse Inn (Alpine Room) in Boise, Idaho.

FOR FURTHER INFORMATION CONTACT: John Marsh, 503-222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 85-14328 Filed 6-13-85; 8:45 am]

BILLING CODE 000-00-M

POSTAL RATE COMMISSION

[Order No. 611; Docket No. C85-2]

Complaint of Tri-Parish Journal, Inc.; Notice and Order Fixing a Schedule for Statement of Issues and Appointing Officer of the Commission To Represent the Interests of the General Public

Issued: June 10, 1985.

Before Commissioners: Janet D. Steiger, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; James H. Duffy; Bonnie Guiton.

On June 7, 1985, Tri-Parish Journal, Inc. (Tri-Parish) filed a complaint with the Commission pursuant to 39 U.S.C. 3662, which alleged that certain regulations of the Postal Service are unconstitutional and violate the First and Fifth Amendments and/or contravene 39 U.S.C. 3623(c)(1). The complaint was docketed as No. C85-2.

Tri-Parish alleges that §§ 422.221 and 422.223 of the DMM "arbitrarily classify their publications as a third-class mailer." Complaint at 2. It states it cannot comply with those regulations because of its intent to provide the public with access to the news, and its belief in the right of all the public to have such access.

Tri-Parish cited the increased postage it has paid allegedly because of these regulations, as well as increased costs due to the folding requirements of holders of third-class permits as opposed to second-class permits. With regard to the latter requirements, Tri-Parish suggested certain procedures for immediate relief. Complaint at 3.

Tri-Parish also alleges that the relevant regulations which do not permit "requester publications" to receive the "in-county rate" violate the First and Fifth Amendments and 39 U.S.C. 3623(c)(1). Complaint at 3.

The Commission, in accordance with the provisions of section 3662, has determined to hold hearings on the complaint. The district court's decision in *Tri-Parish Journal, Inc.* v. *Bolger et al.*, Civil Action No. 84-5524, (E.D. La., May 13, 1985), concluded that the Commission is the appropriate forum to consider the issues raised by this complaint. The Commission is familiar with this dispute because of the litigation before the district court in Louisiana, as well as the parallel litigation in three additional cases. Specifically, similar issues have been raised in the following cases: *Gulf Times, Inc.* v. *Bolger et al.*, Civil Action No. 84-5361 BK (S.D.W., Va.); *Times Publications, Inc.* v. *Postal Service et al.*, Civil Action No. 85-0424-C-3 (E.D.Mo.) and *The Enterprise, Inc.* v. *Bolger et al.*, Civil Action No. 4-84-106 (E.D.Tenn., March 24, 1984), appeal docketed, Civil Action No. 84-5704 (6th Cir.). While we recognize that our determination to hold hearings under section 3662 is being made early in these proceedings, the court's opinion indicates that a hearing should begin within 90 days following the filing of the complaint. Furthermore, the Commission has examined the relevant judicial filings and has decided that a hearing in conformity with 39 U.S.C. 3624, as required by 39 U.S.C. 3662, is warranted in this docket.

Section 84 of our rules of practice provides for an answer by the Postal Service within 30 days after the filing of a complaint. In this case, given the time constraints indicated in the court's opinion and the opportunity provided in that case to become familiar with the issues, we are directing the Postal Service to file its answer within 20 days.[1] Additionally, the Postal Service is directed to file, along with its answer, a statement of the issues in the case. The statement of issues shall include legal issues, as well as issues of fact which it believes are in dispute.

Similarly, the intervenors are directed to file, along with their notices of intervention, a statement of issues—both legal and factual—within 15 days of the date of the Postal Service's filing. Again, these filings are being requested at an early date so that we can proceed as expeditiously as possible. We also request the parties to provide their views on Tri-Parish's request that the hearing be held in New Orleans, Louisiana. Complaint at 4. These comments are to be filed at the same time as the statements of issues.

The Commission appoints Stephen A. Gold, Director of our Office of Consumer Advocate, to represent the interests of the general public in this docket.[2] Any person who files a statement of issues and accompanying documents shall serve copies thereof on the Postal Service, the Consumer Advocate and Tri-Parish, pursuant to section 12 of the rules of practice. These statements also will be publicly available in the Docket Section.

[1] As with any deadline, the Postal Service may request additional time to file its answer.

[2] In addition to his other duties, the Consumer Advocate is directed to provide assistance to interested potential parties unfamiliar with Commission proceedings.

By the Commission.

Charles L. Clapp,

Secretary.

[FR Doc. 85-14329 Filed 6-13-85 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-23723; 70-7102]

Allegheny Power System, Inc., et al.; Proposal To Issue Limited Guarantee

June 7, 1985.

Allegheny Power System, Inc. ("APS"), 320 Park Avenue, New York, New York 10022, a registered holding company, and its wholly owned electric utility subsidiaries Allegheny Power Service Corporation, 320 Park Avenue, New York, New York 10022, Monogahela Power Company ("MPC"), 1310 Fairmont Avenue, Fairmont, West Virginia 26554, The Potomac Edison Company ("Potomac"), Downsville Pike, Hagerstown, Maryland 21740, and West Penn Power Company ("West Penn"), 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601, (collectively, the "Companies"), have filed a declaration with this Commission pursuant to section 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 thereunder.

West Penn and Potomac are currently certified under applicable state workmen's compensation statutes as self-insurers of workmen's compensation liability. Pursuant to these statutes, employers are liable for a wide range of expenses and disability payments for those of their employees (and their beneficiaries) who incur employment-related disabilities.

The Workmen's Compensation Commission of Maryland and the Bureau of Worker's Compensation of Pennsylvania have advised Potomac and West Penn, respectively, that they will require the guarantee by APS of the workmen's compensation liability of Potomac and West Penn as a condition of such subsidiaries' recertifications as self-insurers. In general, such guarantees provide that APS may be called on to pay all past, present, and future liabilities which may be incurred by those subsidiaries under the relevant workmen's compensation statutes while such subsidiaries maintain self-insured status.

To the extent that the Companies have determined or may in the future determine that it is beneficial to self-insure against workmen's compensation liabilities, the Companies believe that the issuance of the requested parental guarantees will not materially detract from such benefits. Accordingly, the Companies hereby propose that APS issue guarantees in the case of the workmen's compensation liabilities of Potomac and West Penn in Pennsylvania and Maryland, respectively; and issue substantially similar guarantees in the case of similar liabilities of Potomac in Virginia and West Virginia, and APSC and Monongahela in the states in which they conduct operations, should the same prove desirable.

Such guarantees will each be in a principal amount of up to $25 million and will be effective through December 31, 1989.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by July 1, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be granted and permitted to became effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-14362 Filed 6-13-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IA-979; 803-48]

The Baupost Group, Inc. and Baupost Partners; Application for an Order

June 7, 1985.

Notice is hereby given that The Baupost Group, Inc. ("Baupost"), P.O. Box 1288, Cambridge, Massachusetts 02238, registered as an investment adviser under the Investment Advisers Act of 1940 ("Act") and Baupost Partners (collectively, "Applicant"), which intends to register as an investment adviser under the Act, filed an applicantion on March 12, 1985, and an amendment thereto on May 17, 1985, requesting an order of the Commission, pursuant to section 206A of the Act: (1) Exempting Applicants; performance-based fee arrangement with certain limited partnerships ("Partnerships") from the provisions of section 205(1) of the Act; and (2) exempting Applicants from the recordkeeping requirements of section 204 of the Act and Rule 204-2 (b) and (c) thereunder to the extent such provisions require separate records to be maintained for each limited partner in the Partnerships. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable statutory provisions.

According to the application, Baupost was organized in 1982 to provide financial management and custodial services to a limited number of family groups with substantial net worth (not less than $1,000,000). Of the five directors of Baupost, three own a majority of Baupost's voting stock; of the remaining two directors, Howard Stevenson ("Stevenson") serves as president and is a stockholder, and Seth Klarman ("Klarman") is an officer and stockholder. Baupost acts as general partner of several investment partnerships offered to Baupost clients only; Stevenson and Klarman also act as general partners of those partnerships. The three investment partnerships that concentrate on equity investments are the Partnerships that are the subject of the instant application. At present, the Partnerships pay no advisory or custodial fee, but pay Baupost directly a quarterly fee of 3/16 of 1% (3/4 of 1% annually) of net assets under management, including funds invested in the Partnerships. As of January 31, 1985, the Partnerships had net assets of approximately $45 million. Applicants propose to amend the limited partnership agreements of these Partnerships to permit a performance-based fee arrangement.

Applicants state that Baupost Partners is being formed by Baupost, Stevenson and Klarman as a partnership pursuant to the Massachusetts Uniform Partnership Act. Baupost Partners, Baupost, Stevenson and Klarman will be the general partners of the Partnerships. Baupost Partners will be the managing general partner of the Partnership and will be primarily responsible for the management and administration of the Partnerships, including the making of all investment decisions. Applicants state that the concurrence of Baupost will be required for the purchase or sale of any securities by a Partnership.

Applicants propose to amend each Partnership's limited partnership agreement, with the consent of the limited partners, to provide that Baupost Partners be added as the managing general partner, and be allocated a Partnership share equal to 20% of the amount measured over a five-year period by which the net realized profits less unrealized losses of a Partnership exceeds on a cumulative basis the rate on one-year U.S. Treasury Bills available at the beginning of each year during such period. Such allocation will be subject, at the end of the five-year period, to adjustment to take into account net unrealized appreciation and will be subject to reduction (but not below zero) to the extent that net realized profits and unrealized gains less unrealized losses are less than what the profits would have been at the Treasury Bill rate. Applicants represent that no distributions will be made to Baupost Partners with respect to its performance fee allocation except as may be necessary to discharge tax liabilities, until the end of the five-year period. Applicants also state that Baupost Partners will be allocated its fee annually in a suspense account and that each limited and general partner will be allocated a share of the remaining profits and losses of a Partnership, based on the proportion which his Partnership percentage bears to the opening capital accounts of all that Partnership's partners.

According to the application, each Partnership agreement will provide that a general partner may be removed with or without cause by (a) Baupost, if it is a general partner, with the concurrence of at least one-half in number of the remaining general partners, or if the remaining general partner is Baupost Partners, with the concurrence of a majority of the general partners of Baupost Partners, or (b) if Baupost is not a general partner, by a majority in number of the remaining general partners.

According to the application, Baupost will pay the salaries of persons providing investment and administrative support services to the Partnerships, and will provide office space and maintain custody of Partnership assets. Baupost will not receive any fees from the Partnerships, but will rather be compensated by its clients with respect to the assets invested in the Partnership at a quarterly rate of 1/100 of 1% (1/10 of 1% annually), subject to modification from time to time by agreement. Partnership expenses relating to portfolio transactions and professional and related costs including legal and accounting fees, will be borne by the Partnerships.

Applicants state that the Partnerships are and will be exempt from the registration requirements of the Investment Company Act of 1940 pursuant to section 3(c)(1). Applicants further state that while each Partnership utilizes different tax strategies and risk tolerances, each has a portfolio that includes companies not widely followed or actively traded. Each Partnership also engages in arbitrage and short sale activities and invests in complex securities such as liquidating preferred stock, interests in royalty trusts, partnership interests and other securities whose value may be based on contractual arrangement. Partnership investments may from time to time be illiquid either because of the market for the securities.
or because the position taken by a Partnership was substantial.

Limited partners fo each Partnership will be restricted to only (a) members of families advised by Baupost and (b) Stevenson and Klarman and any additional partners of Baupost Partners. Each family will be required to have not less than $1 million, and each individual limited partner not less than $150,000, in assets under management by Baupost. For the purpose determining compliance with the financial criteria, a fiduciary with investment discretion for one or more family members will be deemed to be the limited partner. Trustees of trusts will be deemed limited partners unless the investment decisions are made by the beneficiary, who must then satisfy the financial criteria. Partnership interests have been and will be offered pursuant to Regulation D under the Securities Act of 1933. Baupots believes that each limited partner, and future limited partners will have, either alone or with his or her purchaser representative, sufficient knowledge and exprience in financial and business matters so as to be capable of evaluating the merits and risks of the proposed performance fee.

In addition, the directors of Baupost or their family members are presently limited partners in each of the Partnerships. During the period of the incentive compensation fee, each person who is a director of Baupost (other than Messrs. Stevenson and Klarman), either alone or together with members of their immediate families, will maintain investments of not less than an aggregate of $1 million in one or more of the Partnerships. Messrs. Stevenson and Klarman as general partners of each of the Partnerships together presently maintain investments of not less than 1% of the capital in each of the Partnerships and will continue their investments at least at their present amounts during the five-year measuring period.

Applicants state that the general partners will value the securities held by each Partnership quarterly, and upon valuation, the capital accounts of partners will be adjusted to reflect allocable share of partnership income, gains and loses. The limited partners of each Partnership will have the right to demand an independent review of any quarterly valuation of that Partnership's securities upon the request of 30 percent in interest of the limited partners or of four or more limited partners holding at least 20 percent in interest of each Partnership. Limited partners will be permitted to withdraw all, or with the consent of the general partners, any portion of their capital accounts at the end of each calendar quarter and may withdraw all or any portion of their capital accounts at the end of each calendar year.

The general partners will maintain financial records for each Partnership, and will provide quarterly reports to the limited partners. Each Partnership will be audited annually by an independent certified public accountant selected by the general partners. Limited partners will also be furnished with an annual report containing the audited financials. General partners will not be permitted. Applicants state, to borrow funds from the Partnerships.

Applicants request an exemption from section 205(1) of the Act to the extent necessary to permit Applicants to receive the proposed share of profits from the Partnerships. Applicants assert that the concerns underlying the prohibition in section 205(1) of the Act is that advisers who share in their clients' profits may be encouraged to take undue risks with those clients' funds. Applicants submit that the Partnerships have been structured so that the general partners will not be encouraged to take undue risks with the Partnerships's funds. First, the directors of Baupost, a general partner of Baupost Partners, and the individual partners of Baupost Partners will all have substantial funds invested in the Partnerships and will therefore be subject to the same risks as all other limited partners. Second, Baupost Partners will be rewarded only to the extent that the performance over the measuring period exceeds the one-year Treasury Bill rate set each year during the period and will be penalized for realized and unrealized profit below the one-year Treasury Bill rate. Third, distributions to and withdrawals by the general partners other than in respect of

their original capital contributions or for estimated tax liabilities are prohibited until the end of the measuring period, requiring Baupost Partners to subject any incentive amounts it may be allocated to future risks. Fourth, since Baupost Partners' share of profits is subject to offset for realized and unrealized capital losses during the five-year measuring period, the general partners can have no incentive selectively to realize gains and avoid realizing losses during the period. And last, Applicants submit that the limited partners will be wealthy investors who either alone or together with representatives not affiliated with the general partners (except for representatives of family members of Baupost directors) can reasonably be believed to be able to understand the impact on their investment of the general partners being allocated an interest in the profits and losses of the partnership.

Applicants also request an order granting exemption from the provisions of section 204 of the Act and Rules 204-2 (b) and (c) thereunder to the extent the provisions thereof require them to maintain books and records of the underlying interests of each limited partner in the Partnerships. The general partners, Applicants represent, will comply with all other applicable provisions of Rule 204-2. Applicants state it would be impractical and unduly burdensome to prepare and maintain all of the designated books and records for each limited partner individually. The general partners will, pursuant to the terms of the Partnerships agreements, maintain a capital account for each of the limited partners reflecting capital contribution, all income, gains, expenses and losses, withdrawals and distributions. As part of the Partnerships' annual audit, the independent accountants will reconcile the capital accounts of the limited partners. Applicants assert that such accounting will satisfy the limited partners' need for individual records.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 28, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-14365 Filed 6-13-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23721; 70-7115]

Central Power and Light Company et al.; Proposed Sublease of Railcars; Exception From Competitive Bidding

June 7, 1985.

Central Power and Light Company ("CPL"), P.O. Box 2121, Corpus Christi, TX, 78403, a wholly owned subsidiary of Central and South West Corporation, a registered holding company, and Monongahela Power Company ("MP"), 1310 Fairmont Avenue, Fairmont, WVA 26554, The Potomac Edison Company ("PE"), Downsville Pike, Hagerstown, MD 21740, and West Penn Power Company ("WP"), 800 Cabin Hill Drive, Greensburg, PA 15601, wholly owned subsidiaries of Allegheny Power System, Inc., a registered holding company, have filed an application-declaration subject to sections 9, 10, and 12 of the Public Utility Holding Company Act of 1935 ("ACT"), and Rule 50(a)(5) thereunder.

CPL proposes to sublease ("Sublease") 106, 4,000 cubic foot, 100 ton hi-side gondola railcars from WP as agent for itself, MP and PE. The Subleases shall be for a period of 18 months from the first day of the month following the date of acceptance of said coal cars by CPL. CPL has the option to renew the Sublease for an additional one-year period at the same rental, exercisable upon at least 120 days notice prior to the expiration of the initial term. CPL, in addition to agreeing to make all repairs, perform all maintenance and do all other things reguired by the Master Lease at CPL's expense, has and will pay the amount of $11.17 per day for each railcar under the Sublease. Assuming CPL subleases all 106 railcars, its payments would be $1,184.02 per day. Under the Sublease, the railcars will be used by CPL to transport coal from mines located in Colorado to CPL's Coleto Creek electric generating plant located in Fannin, Texas. MP and PE received the necessary approvals for the Sublease from West Virginia Public Service Commission and Virginia State Corporation Commission in November and April, 1985 respectively.

The application-declaration and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested person wishing to comment or request a hearing should submit their views in writing by July 1, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-14364 Filed 6-13-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14567 (File No. 813-63)]

First Boston Investment Limited Partnership No. 3 et al.; Application and Opportunity for a Hearing

June 10, 1984

Notice is hereby given that First Boston Investment Limited Partnership No. 3, a limited partnership (the "Partnership"), and FBGP INC., its general partner ("General Partner", collectively "Applicants"), Park Avenue Plaza, New York, New York 10055, filed an application of September 12, 1984, and an amendment thereto on May 29, 1985, for an order of the Commission, pursuant to sections 6(b) and 6(e) of the Investment Company Act of 1940 ("Act"), exempting Applicants and all similar partnerships offered to the same class of limited partner investors (such partnerships together with the Partnership, "Partnerships") from all provisions of the Act or, alternatively, from all provisions of the Act and the rules thereunder except section 9, sections 17(a) and 17(d), with certain exceptions, sections 36(a) and 36(b), section 37, and sections 38-53. Applicants also request an order of the Commission, pursuant to section 45(a) of the Act, granting confidential treatment

for certain reports to be filed with the Commission. All interested persons are referred to the application of file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of all applicable provisions thereof.

According to the application, the Partnerships will be limited partnerships established for the benefit of highly compensated key employees of First Boston, Inc. ("FBI") and its affiliates (collectively "First Boston") as a means of rewarding and retaining those employees. The application states that the Partnership will enable employees of First Boston to pool their investment resources and to receive the benefit of investment opportunities which come to the attention of First Boston.

Applicants state that interests in the Partnerships ("Interests") will be offered only to current employees of First Boston ("Eligible Employees"), and that each Partnership will qualify as an "employees' security company" under section 2(a)(13) of the Act. Applicants represent the Eligible Employees in addition to being professional engaged in various aspects of the investment banking and securities business, will in fact be sophisticated investors able to fend for themselves without benefit of regulatory safeguards. As senior employees of First Boston, it is represented that the Eligible Employees will have direct access to those individuals within First Boston who will serve as directors and officers of the General Partner of the Partnerships. The Eligible Employees will generally meet the current standard of "accredited investor" under Regulation D and will receive substantial income (not less than $100,000 on an annual basis) from First Boston.

Applicants state that the management of each of the Partnerships will be exclusively vested in the General Partner, a wholly-owned subsidiary of FBI. The directors and management of the General Partner are officers of First Boston and Eligible Employees. Applicants represent that the General Partner must have at least a 70% interest in each Partnership.

Applicants request an exemption from Section 17(a) of the Act and Rule 17a–6 thereunder, to the extent necessary to permit First Boston to engage in any transaction as principal with a Partnership. Applicants state that this exemption is requested to permit the Partnerships to (a) invest in, sell or resell, as appropriate, securities of companies or investment vehicles and other investment properties offered from or to First Boston or an affiliated partnership of First Boston on a principal basis, including interests previously acquired for the account of First Boston of the type which are consistent with the investment objectives of the Partnerships, and to purchase or sell securities or investment properties from such companies or vehicles through First Boston as agent; (b) purchase interests or property in, or lend money to, a company or other investment vehicle in which First Boston, an affiliated partnership of First Boston, or individual directors, officers, or employees of First Boston already own 5% or more of the voting securities of the company or vehicle, or where such company or vehicle is otherwise affiliated with First Boston or a Partnership (including through the Partnership's ownership of 5% or more of the voting securities of such entity); (c) sell, put or tender, or grant options in securities or interests in a company or investment vehicle back to such entity, where that entity is affiliated with First Boston, a First Boston affiliated partnership or individual directors, officers or employees of First Boston otherwise than as a result of the Partnership's ownership of voting securities; and (d) participate as a selling security holder in a public offering that is underwritten by First Bostonr in which First Boston acts as a member of the underwriting or selling group.

Applicant represents that these transactions willonly be effected upon a determination by the investment committee of the board of directors of the General Partner that the terms of the transaction are reasonable and fai to the limited partners of the Partnerships involved in the transaction and do not involve overreaching of the Partnerships or its limited partners on the part of any person concered. Moreover, Applicants represent that in any case where purchases or sales are made from or to an entity affiliated with a Partnership by reason of a 5% or more investment in such entity by a First Boston director, officer or employee, such individual will not participate in the Partnership's determination of whether or not to effect such purcase or sale. Applicants state that the foregoing exemption is requested on the undertaking that no Partnership will make loans (i) to any officer, director or employee of First Boston, or (ii) with the exception of short term repurchase agreementsof other fully secured loans, to First Boston. Applicants also represent that the principal reason for the requested exemption under clauses (a) and (b) above is to ensure the Partnerships will be able to invest in attractive investment opportunities in which First Boston, other First Boston investment partnerships, or individual directors, officers or employees of First Boston may have already made an investment.

Applicants request the exemption from Section 17(d) and Rule 17d–1 to permit the Partnership to engage in transactions in which First Boston or affiliated persons of the Partnership may also be participants (arising from coinvestment, the receipt of fees for structuring, negotiating or managing an investment) on the undertaking that a Partnership will not make any joint investment in which First Boston, another First Boston affiliated partnership (including another Partnership), or any officer, director or employee of the General Partner, or any affiliated person thereof, is a participating investor, directly or indirectly (otherwise than through an investment in or relationship with a Partnership or Partnerships), *provided, however,* that this undertaking shall not apply to (a) 40% of the total assets of each Partnership, and (b) as to the remaining 60% of the total assets of a Partnership, to other investments by a Partnership in any other companies, partnerships or investment vehicles or property which are not sponsored, managed or underwritten on a principal basis by First Boston or its affiliates.

Applicants state that where any coinvestment by a Partnership is on terms different than that made by the affiliated co-investor, the investment committee of the board of directors of the General Partner will make a determination at the time of such investment that the participation by the Partnership in such investment is not less advantageous than any other participant with respect to the making of such investment, maintaining its investment position or disposing of such position. Applicants state that the undertaking not to make joint investments will not apply, however, to limit or prevent joint investment by a Partnership and (i) individual officers, directors or employees of First Boston making their own individual investment decisions apart from First Boston or an affiliated partnership; and/or (ii) in the case of real estate investments, by an individual who maintains an office at FBI and overseas, as consultant, significant First Boston real estate projects and receives fees for such services as finding, structuring, managing or developing the investment, or acting as a general partner of the investment vehicle ("Real Estate Consultant"), *provided, however,* in the case of (i) above, the foregoing

undertaking on joint investments would apply to situations where one or more directors of FBI, First Boston Corporation, the principal subsidiary of FBI ("FBC"), or the General Partner who hold outstanding shares of Common Stock of FBI, agregating 15% or more of the outstanding Common Stock of FBI, make a joint investment with a Partnership (otherwise than through an investment by First Boston or an affiliated partnership).

In the case of a joint investment by a Partnership and (i) any officer, director or employee of the General Partner, (ii) directors of FBI or FBC who hold outstanding shares of Common Stock of FBI aggregating 15% or more of the outstanding Common Stock of FBI, or (iii) First Boston officers, directors, employees or the Real Estate Consultant who hold individually or in the aggregate 15% or more of the equity interest in such investment (in the case of (i), (ii) or (iii) above, otherwise than through an investment in other affiliated partnerships), the General Partner also undertakes to obtain in each such case a commitment from each such person that he or she will not dispose of his or her interest in such joint investment without giving sufficient, but not less than one day's, notice to the General Partner so that the Partnership has the opportunity to dispose of its interest in the joint investment prior to or concurrently with such person.

Applicants agree that the order shall provide that the General Partner shall observe the standards prescribed in Section 57(f)(3) of the Act. Also, in connection with the exemptions requested under Sections 17(a) and 17(d), the General Partner undertakes to use reasonable efforts to ascertain, prior to making any investment, whether First Boston, any director of FBI or any officer, director, or employee of the General Partner owns more than 5% of the equity of any entity in which a particular Partnership plans to invest. Applicants further represent that minutes of meetings of the General Partner's board of directors will be available at any reasonable time for inspection by any limited partner. Applicants represent that as a condition to the granting of the order requested, the Applicants agree to file with the Commission, within 150 days after the end of each Partnership fiscal year, a copy of the annual report of each Partnership required by the terms of the Partnership Agreements to be sent to limited partners. In addition, the Applicants agree to file Form N-SAR with the Commission on an annual basis by July 1 of each year with such information as required by the Form for the preceding calendar year. In connection with the foregoing undertaking, the Applicants request that all such filings be afforded confidential treatment under section 45(a) of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than July 5, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-14367 Filed 6-13-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14565 (File No. 812-6008)]

Koenig Tax-Advantaged Liquidity Fund, Inc.; Application for an Order Permitting Monthly Distributions of Long-Term Capital Gains

June 7, 1985.

Notice is hereby given that Koenig Tax-Advantaged Liquidity Fund, Inc. ("Applicant"), 50 Broadway, New York, NY 10004, filed an application on December 19, 1984 and an amendment thereto on May 15, 1985, requesting an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from the provisions of section 19(b) of the Act and Rule 19b-1 thereunder to the extent necessary to permit Applicant to distribute its long-term capital gains in accordance with its policy of making distributions at least monthly based upon the total economic return since its previous distribution. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, and to the Act and the rules thereunder for the text of their relevant provisions.

According to the application, the Applicant is registered under the Act as an open-end, non-diversified management investment company whose investment objective is to earn a high level of total return from dividends, interest and net short-term and long-term (if any) realized and unrealized capital gains (including net gains from options and futures, subject to certain limitations) while preserving capital. Applicant states that it attempts to manage its portfolio so that all or a substantial portion of its distributions (not including income from foreign fixed income and equity securities and net long-term capital gains, if any) will qualify for the 85 percent corporate dividends received deduction for Federal income tax purposes.

According to the application, the Applicant attempts to achieve its objective primarily by investing in and maintaining a portfolio of equity and fixed income securities (including preferred stock and debt instruments) hedged with various index options. At times, the Applicant may make hedged short sales (using options or otherwise), or write call or put options with respect to some or all of such securities. In addition, Applicant may use options to hedge some or all of its investments in the underlying instruments in an effort to reduce fluctuations in the Fund's rate of return and to preserve capital. At times, the Applicant may also invest in preferred stock (including adjustable rate preferred stock) and debt instruments to generate income, to preserve capital or provide liquidity.

The Applicant states that it is structured for conservative corporate investors of substantial means seeking high total return and preservation of capital. The minimum initial investment in Applicant is $1,000,000 and subsequent investments must be at least $150,000. Individuals are not eligible to invest in the Applicant.

The Applicant states that its policy is to distribute at least monthly (or more frequently depending on whether purchases or redemptions occur) all of its total economic return including net dividend, interest, and stock loan income as well as net realized and unrealized short-term and long-term capital gains. The portion of distributions relating to net long-term capital gains, if any, are reported to shareholders annually, even though distributions may be made throughout the year. In general, the Applicant projects zero long-term capital gain distributions at year end. Applicant asserts, however, that due to recent changes in the Internal Revenue Code ("Code"), it may realize and recognize net long-term capital gains on certain of its investments. Any such amounts

would have been distributed during the Applicant's fiscal year as part of its distribution of its total economic return. Since the Applicant's policy calls for distributions based upon total economic return to be made at least monthly, it is possible that the Applicant will distribute more than one "capital gain dividend", within the meaning of section 852(b)(3)(C) of the Code, with respect to any one taxable year of the Fund, thus violating section 19(b) of the Act and Rule 19b–1 thereunder.

The Applicant believes that the concerns which led to the adoption of section 19(b) of the Act and Rule 19b–1 thereunder are inapplicable to the continuation of its distribution policy. Applicant asserts that its high minimum investment requirements and its prohibition on individual investors purchasing shares of the Applicant insure that only sophisticated corporate investors will be Applicant shareholders. Applicant respectfully submits that such investors, by virtue of their sophistication, are not in need of the kind of protection which the Congress and Commission were seeking to provide through adoption of section 19(b) and Rule 19b–1, respectively. Applicant represents that its investors are capable of understanding the difference between regular investment income and capital gains and are not confused by the Applicant's distribution policies which are fully disclosed in its prospectus.

Applicant states that long-term capital gains realized by the Applicant, if any, are expected to be due principally to changes in the Code that treat as long-term capital gains income previously treated differently. Those changes, and the long-term capital gains treatment that results from them, Applicant asserts, do not present the types of concerns which section 19(b) was intended to address, because those long-term capital gains it may realize will principally be due to the application of new Code provisions to the Applicant's activities. For example, Applicant states that there have been recent changes to the Code which expand the application of the "60%–40%" rule under Section 1256 of the Code. According to the application, the "60%–40%" rule provides that each "Section 1256 contract" is treated as if it were sold at the end of the taxable year with 60 percent of the gain of loss treated as long-term capital gain or loss and 40 percent of the gain or loss treated as short-term capital gain or loss. The definition of a "Section 1256 contract" has been expanded to include broad-based index options and options on stock index futures which the Fund uses to hedge against risk. Thus, at the end of the year these "Section 1256 contracts" will be considered sold with 60 percent of all gain treated as long-term capital gain. In addition, it is more likely that there will be long-term capital gain on the disposition of other of Applicant's investments during the year because the long-term capital gain holding period has been shortened and is now applicable to capital assets held in excess of six months instead of one year. In a letter dated June 6, 1985, Applicant represents that except for long-term capital gains recognized as the result of the effect of the "60%–40%" rule it is Applicant's intention that long-term capital gains shall be a *de minimis* component of the Applicant's income in the future.

Applicant further states that it is managed in such a way that a substantial portion of its distributions qualify for the 85 percent corporate dividends received deduction for Federal income tax purposes. Since the portion of any distribution attributable to capital gains does not qualify for the 85 percent deduction, Applicant asserts that there is little incentive for its management to attempt to realize such gains on a frequent or regular basis. Applicant therefore submits that the Commission's concern that investment company managers might be under pressure to realize frequent and regular capital gains is of minor importance with respect to the Applicant. In addition, it is asserted that because of the Applicant's emphasis on the nature of its after-tax earnings there is little value in promoting the sale of its shares by emphasizing increased earnings achieved through the realization of long-term capital gains.

Applicant also asserts that the additional administrative expenses attendant in its distribution policy are more than offset by the benefit to its shareholders of distributions made at least monthly. Finally, Applicant represents that, since any long-term capital gains realized as described above will have been distributed in large part during the Applicant's fiscal year as part of its distribution of its total economic return, the distribution of those capital gains would not result in additional administrative cost to Applicant.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than July 2, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85–14366 Filed 6–13–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–14566; 811–283]

United States & Foreign Securities Corporation; Application for Order Declaring Applicant Has Ceased To Be an Investment Company

June 7, 1985.

Notice is hereby given that United States & Foreign Securities Corporation ("Applicant"), 39 Main Street, Chatham, NJ 07940, registered under the Investment Company Act of 1940 ("Act") as a closed-end, diversified, management investment company, filed an application on January 29, 1985, and an amendment thereto on June 3, 1985, for a Commission order pursuant to section 8(f) of the Act declaring that it has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the relevant provisions.

Applicant states it was incorporated in Maryland in 1924 and registered under the Act in 1941. Applicant represents that its Board of Directors adopted a Plan of Liquidation and Dissolution, which was approved by a two-thirds majority of its shareholders on February 28, 1984. Applicant represents further that its Articles of Dissolution were filed with the State of Maryland on June 18, 1984, at which time there were 6,689 shareholders of record holding 6,924,168 shares.

Applicant also represents that distributions in partial liquidation were made to shareholders on May 3 and June 15, 1984, in the amounts of $19.50 and $2.30 per share, respectively. Further, Applicant represents that distribution in final liquidation was made on December 20, 1984 to shareholders of record on June 18, 1984, in the amount of $7,678,902 or $1.109 per share. No other distributions have been made to date.

Applicant state that it transferred its

remaining assets to Manufacturers Hanover Trust Company, as trustee ("Trustee") of a liquidating trust, the beneficiaries of which were or are Applicant's shareholders. Such amount was intended to be used to pay the remaining debts and liabilities of Applicant and has since been paid to Applicant's former employees as severance pay and termination benefits. Applicant states further that dividends remaining unclaimed were transferred to the Trustee for distribution to Applicant's shareholders or, if appropriate, to the State Comptroller of Maryland. Applicant represents that as of May 14, 1985, shareholders holding 104,391 shares and entitled to receive $115,769.62 had not yet proved their interests.

Applicant states it now has no assets, debts or outstanding liabilities remaining and that it is not a party to any litigation or administrative proceeding. Further, Applicant states that it is not engaged nor does it proposed to engage, in any business activity other than those necessary to wind up its affairs.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than July 2, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-14363 Filed 6-13-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

[Order 85-6-28; Docket 42922]

Application of King Flying Service for Certificate Authority Under Subpart Q

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding King Flying Service fit and awarding it a certificate of public convenience and necessity to engage in scheduled interstate and overseas air transportation.

DATES: Persons wishing to file objections should do so no later than July 1, 1985.

ADDRESSES: Objections and answers to objections should be filed in Docket 42922 and addressed to the Documentary Services Division (C-55, Room 4107), U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590 and should be served upon the parties listed in Attachment B to the order.

FOR FURTHER INFORMATION CONTACT: Dayton Lehman, Jr., Aviation Enforcement and Proceedings (C-70, Room 4116), U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, (202) 426-7631.

SUPPLEMENTARY INFORMATION: The complete text of Order 85-6-28 is available for inspection from our Documentary Services Division at the above address.

Dated: June 11, 1985.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 85-14405 Filed 6-13-85; 8:45 am]

BILLING CODE 4910-62-M

[Order 85-6-21; Docket 42942]

Application of All Star Airlines, Inc. for Certificate Authority Under Subpart Q

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause.

SUMMARY: The Department is directing all interested persons to show cause why it should not issue an order finding All Star fit and awarding it a certificate of public convenience and necessity to engage in a scheduled interstate and overseas air transportation of persons, property, and mail.

Persons wishing to file objections shall do so no later than July 1, 1985, and answers to objections shall be filed no later than July 11, 1985.

ADDRESSES: Objections and answers to objections should be filed in Docket 42942 and addressed to the Documentary Services Division (C-55, Room 4107), U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590 and should be served upon the persons listed in Attachment B to the order.

FOR FURTHER INFORMATION CONTACT: Michael K. Nolan, Aviation Enforcement and Proceedings (C-70, Room 4116), U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, (202) 426-7631.

SUPPLEMENTARY INFORMATION: The complete text of Order 85-6-21 is available from the Documentary Services Division, whose address is provided above. Persons outside the metropolitan area may send a postcard request for Order 85-6-21 to that address.

Dated: June 10, 1985.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 85-14406 Filed 6-13-85; 8:45 am]

BILLING CODE 4910-62-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 115
Friday, June 14, 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

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, June 10, 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 Director H. Joe Selby (Acting 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:

Case No. 46,247-L (Amendment)
United Southern Bank of Nashville, Nashville, Tennessee and
United American Bank in Hamilton County, Chattanooga, Tennessee and
First People Bank of Washington County (formerly known as City & County Bank of Washington County), Johnson City, Tennessee and
City and County Bank of Anderson County, Lake City, Tennessee and
United American Bank in Knoxville Knoxville, Tennessee and
City and County Bank of Knox County Knoxville, Tennessee

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.

Dated: June 11, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-14417 Filed 6-12-85; 10:40 am]

BILLING CODE 6714-01-M

2

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: June 12, 1985, 49 FR 24736.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., June 13, 1985.

CHANGE IN THE MEETING: The Commission meeting for June 13, 1985, originally scheduled to be held in Room 9306 will be held in Hearing Room A.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-14465 File 6-12-85; 3:58 am

BILLING CODE 6717-02-M

3

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 10:30 a.m., Wednesday, June 19, 1985, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Federal Reserve Bank and Branch director appointments. (This matter was originally announced for a meeting on May 28, 1985).
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: June 1, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-14415 Filed 6-12-85; 10:39 am]

BILLING CODE 6210-01-M

4

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, June 19, 1985.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed amendment to Regulations G (Securities credit by Persons Other Than Banks, Brokers, or Dealers) to permit G-lenders to extend credit to employee stock ownership trusts on a good-faith basis. (Proposed earlier for public comment: Docket No. R-0529)
2. Proposed amendment to Regulation T (Credit by Brokers and Dealers) that would permit a premium-based margining system for the writing of options on equity securities. (Proposed earlier for public comment: Docket No. R-0538)
3. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: June 11, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-14416 Filed 6-12-85; 10:39 am]

BILLING CODE 6210-01-M

5

NATIONAL SCIENCE BOARD

DATE AND TIME:

June 20, 1985
8:15 a.m.—Open Session
1:30 p.m.—Open Session
June 21, 1985
9:00 a.m.—Closed Session
9:05 a.m.—Open Session

PLACE: National Science Foundation, Washington, D.C.

STATUS: Most of this meeting will be open to the public. Part of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPEN SESSION:

1. NSF Planning in Strategy for Fiscal Year 1987 and Future Years

4. Minutes—May 1985 Meeting
5. Grants, Contracts, and Programs—Action Items
6. Review of Conflict of Interests Principles
7. NSF Planning Strategy for FY 1987 and Future Years (Continued)—Summation, Conclusions, and Next Steps

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION:

2. Minutes—May 1985 Meeting
3. NSB and NSF Staff Nominees

Margaret L. Windus,

Executive Officer.

[FR Doc. 85-14664 Filed 6-12-85; 3:58 pm]

BILLING CODE 7555-01-M

6

SYNTHETIC FUELS CORPORATION

Meeting of the Board of Directors

ENTITY: United States Synthetic Fuels Corporation.

ACTION: Notice of Meeting.

SUMMARY: Interested members of the public are advised that a meeting of the Board of Directors of the United States Synthetic Fuels Corporation will be held at the time, date and place specified below. This public announcement is made pursuant to the open meeting requirements of section 116(f)(1) of the Energy Security Act (94 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1)) and section 4 of the Corporation's Statement of Policy on Public Access to Board meetings. During the meeting, the Board of Directors will consider a resolution to close the meeting pursuant to Article II, section 4 of the Corporation's By-Laws, sections 116(f) of the said Act and Sections 4 and 5 of the said policy.

MATTERS TO BE CONSIDERED:

Open Session

I. Call to Order—Chairman's Opening Remarks
II. Board Minutes
  1. Approval of Minutes
  2. Approval of Release of Portions of Minutes Previously Withheld
III. Approval of Revised Policy on Standards of Conduct
IV. Approval of Comprehensive Strategy Report and Appendices
V. Negotiation Update on Great Plains
VI. Approval of Tar Sands Solicitation
VII. Resolution to Close Meeting

Closed Session

VIII. Negotiation Update on Great Plains (Confidential Material)
IX. Negotiation Update—Fourth General Solicitation Projects
  1. Keystone
  2. ASC/Indiana
  3. Utah Methanol

TIME AND DATE: 9:30 a.m., June 18, 1985.

PLACE: 2121 K Street, NW., Rooms 403 and 503, Washington, D.C. 20586.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Ms. Karen Hutchison, Director—Media Relations, at (202) 822-6455.

United States Synthetic Fuels Corporation.

March Coleman,

Assistant General Counsel—Corporate & Litigation.

June 11, 1985.

[FR Doc. 85-14404 Filed 6-11-85; 4:59 pm]

BILLING CODE 0000-00-M

7

TENNESSEE VALLEY AUTHORITY

(Meeting No. 1351)

TIME AND DATE: 10:15 a.m. (EDT), Tuesday, June 18, 1985.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on May 21, 1985.

Discussion Items

1. "Orphans of the Valley"—Report on status of abandoned mine land reclamation.

Action Items

Old Business

1. Grant of permanent easement to Watts Bar Utility District for construction, operation, and maintenance of a public water supply system affecting 8.1 acres of Watts Bar Reservoir land in Rhea County, Tennessee—Tract No. XTWBR-131WS.

New Business

B—Purchase Awards

B1. Requisition 12—Barge services for coal transportation to Allen, Colbert, Cumberland, Gallatin, and Paradise steam plants.

B2. Invitation 31-969126-Reissue—Secondary superheater first- and second-stage elements, loose tubes, lugs, and castings for Allen Fossil Plant.

C—Power Items

C1. Renewal power contract with Johnson City, Tennessee.

C2. Renewal power contract with Erwin, Tennessee.

C3. Renewal power contract with Mountain Electric Cooperative.

C4. Renewal power contract with Bristol, Virginia.

C5. Renewal power contract with Bristol, Tennessee.

C6. Renewal power contract with Greeneville, Tennessee.

C7. Renewal power contract with Elizabethton, Tennessee.

C8. Letter agreement with Knoxville Utilities Board covering arrangements for TVA's partial funding for Phase I of the Two-Way Powerline Carrier Communication, Distribution Automation, and Control Project.

D—Personnel Items

D1. Renewal of personal services contract with ITT Grinnell Corporation, Providence, Rhode Island, for services in connection with the design of onsite pipe supports for the Bellefonte Nuclear Plant, requested by the Office of Engineering.

*D2. Personal services contract with General Electric Company of Atlanta, Georgia, for engineering and related support to the Browns Ferry Nuclear Plant's Site Services Group, requested by the Office of Nuclear Power.

D3. Personnal services contract with Manpower Temporary Services, Chattanooga, Tennessee, to furnish part-time or temporary clerical services to TVA's offices in the Tennessee Valley region, with major use at Chattanooga, and Knoxville, Tennessee, and Muscle Shoals, Alabama, requested by the Division of Property and Services.

E—Real Property Transactions

E1. Abandonment of certain easement rights to Curtis Ray Mullins, affecting 0.1 acre of Cherokee Reservoir land located in Hawkins County, Tennessee—Tract No. XCK-389.

E2. Proposed sales of 13 noncommercial, nonexclusive permanent recreation easements affecting a total of 3.54 acres of Tellico Reservoir shoreland located in Loudon and Monroe Counties, Tennessee—Tract Nos. XTELR-27RE, -28RE, -29RE, -30RE, -31RE, -32RE, -33RE, -34RE, -35RE, -37RE, -38RE, -39RE, and -41RE.

E3. Resolution designating Tract No. XTM-2, known as the Power Building and located at the corner of Market and East Sixth Streets in Chattanooga, Tennessee, as surplus and for sale at public auction under Section 31 of the TVA Act.

F—Unclassified

F1. Fertilizer distribution agreement between Rio-Ag Products, Inc., and TVA.

*F2. Interagency agreement between TVA and the United States Department of the Army for analysis of engineering studies for the Department of the Army for RDX Expansion Program.

F3. Supplement to interagency agreement with the Department of Energy for TVA application of integrated on-farm alcohol production system.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office, (202) 245-0101.

Dated: June 11, 1985.

W.F. Willis,

General Manager.

[FR Doc. 85-14422 Filed 6-12-85; 11:34 am]

BILLING CODE 8120-01-M

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* Item approved by individual Board members. This would give formal ratification to Board's action.

federal register

Friday
June 14, 1985

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions; Notice

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Orders 9–83, 48 FR 35736 (1983), and 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Order 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Program Operations, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arizona: AZ84-5005	Mar. 9, 1984.
California: CA84-5022	Oct. 5, 1984.
District of Columbia: DC84-3009	Apr. 6, 1984.
Idaho:	
ID85-5010	Feb. 15, 1985.
ID85-5012	Mar. 22, 1985.
Michigan:	
MI84-5026	Dec. 21, 1984.
MI83-2008	Feb. 11, 1983.
MI83-2009	Do.
Ohio: OH83-5127	Dec. 23, 1983.
Oklahoma: OK85-4012	May 10, 1985.
Oregon: OR84-5020	June 22, 1984.
Pennsylvania: PA83-3001	Aug. 19, 1983.
Texas: TX85-4003	Feb. 22, 1985.
Washington: WA84-5040	Nov. 16, 1984.
West Virginia: WV83-3023	Nov. 25, 1983.

Supersedeas Decisions to General Wage Determination Decisions

The number 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.

Iowa:	
IA84-4018 (IA85-4016)	Mar. 23, 1984.
IA83-4022 (IA85-4017)	Mar. 11, 1983.
Michigan: MI83-2015 (MI85-5001)	Do.
New Mexico: NM84-4099 (NM85-4014)	Oct. 19, 1984.
Texas:	
TX84-4112 (TX85-4018)	Dec. 28, 1984.
TX84-4036 (TX85-4019)	May 25, 1984.

Signed at Washington, D.C. this 7th Day of June 1985.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

DECISION NO. AZ84-3005 - MOD.6* (49 FR 9059 - March 9, 1984) Statewide, Arizona	Basic Hourly Rates	Fringe Benefits
Change:		
CARPENTERS:		
Northern Area:		
Carpenters: Saw Filer	$17.915	2.80
Piledriverman	18.26	2.80
Central & Southern Areas:		
Carpenters: Saw Filer	15.415	2.80
Piledriver	15.76	2.80
CEMENT MASONS:		
Zone 1:		
Northern Area:		
Cement Masons	17.50	3.05
Concrete Troweling Machine, Sawing and Scoring Machine: Curb and Gutter Machine	17.72	3.05
Central & Southern Areas:		
Cement Masons	15.00	3.05
Concrete Troweling Machine; Sawing and Scoring Machine: Curb and Gutter Machine	15.22	3.05
Zone 2:		
Cement Masons	15.43	2.62
Concrete Troweling Machine; Sawing and Scoring Machine; Curb and Gutter Machine Clary and similar type of power Screed Operator	15.65	2.62
LABORERS:		
Area 1:		
Group 1	12.30	2.77
Group 2	14.66	2.77
Group 3	15.20	2.77
Group 4	15.45	2.77
Group 5	16.905	2.77
Area 2:		
Group 1	9.80	2.77
Group 2	12.16	2.77
Group 3	12.70	2.77
Group 4	12.95	2.77
Group 5	14.405	2.77

	Basic Hourly Rates	Fringe Benefits
LABORERS (CONT'D):		
(Tunnel and Shaft Work)		
Area 1:		
Group 1	$15.015	2.77
Group 2	15.25	2.77
Group 3	15.43	2.77
Group 4	15.94	2.77
Group 5	16.235	2.77
Area 2:		
Group 1	12.515	2.77
Group 2	12.75	2.77
Group 3	12.93	2.77
Group 4	13.43	2.77
Group 5	13.735	2.77
POWER EQUIPMENT OPERATORS:		
Area 1:		
Group 1	13.01	3.08
Group 2	15.37	3.08
Group 3	15.93	3.08
Group 4	16.55	3.08
Group 5	17.38	3.08
Group 6	18.09	3.08
Group 7	18.53	3.08
Group 8	19.01	3.08
Group 9	19.59	3.08
Area 2:		
Group 1	10.31	3.08
Group 2	12.87	3.08
Group 3	13.42	3.08
Group 4	14.05	3.08
Group 5	14.93	3.08
Group 6	15.59	3.08
Group 7	16.03	3.08
Group 8	16.51	3.08
Group 9	17.39	3.08
TRUCK DRIVERS:		
Area 1:		
Group 1	14.96	2.67
Group 2	15.15	2.67
Group 3	15.47	2.67
Group 4	15.98	2.67
Group 5	16.20	2.67
Group 5A	16.48	2.67
Group 6	16.67	2.67
Group 7	17.28	2.67
Group 8	18.015	2.67
Group 8A	19.12	2.67
Group 8B	19.50	2.67
Area 2:		
Group 1	$12.46	2.67
Group 2	12.65	2.67
Group 3	12.97	2.67
Group 4	13.48	2.67
Group 5	13.70	2.67
Group 5A	13.98	2.67
Group 6	14.17	2.67
Group 7	14.76	2.67
Group 8	15.515	2.67
Group 8A	16.62	2.67
Group 8B	16.00	2.67

DECISION NO. CA84-5022-MOD# 9 (49 FR 39414-October 5, 1984) Alameda, Alpine, Amador Counties, etc., California	Basic Hourly Rates	Fringe Benefits
Omit:		
Painters:		
Area 9		
Add:		
Painters:		
Area 9-A:		
Brush	$19.29	6.23
Spray	19.79	6.23
Paperhangers and Spray Coatings	20.04	6.23
Tapers	20.83	6.23
Area 9-B:		
Brush and Paperhangers	14.66	6.23
Spray	15.66	6.23
Tapers	20.83	6.23
AREA DESCRIPTIONS TO READ:		
Area 9-A: Alapeda, Contra Costa, Napa and Solano Counties		
Area 9-B: El Dorado, Nevada, Placer, Sacramento, Sierra and Yolo Counties		

DECISION #OK85-4013-Mod.#1 53FR198595 - May 10, 1985 Adair, Atoka, Bryan, Coal, Cherokee, Craig, Creek, Delaware, Haskell, Hughes, Latimer, LeFlore, McIntosh Mayes, Muskogee, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Pittsburg, Pushmataha, Rogers, Sequoyah, Tulsa, Wagoner, and Washington Counties, Oklahoma	Basic Hourly Rates	Fringe Benefits
ADD:		
LINE CONSTRUCTION (except Braden, Pacola and Spiro Townships in LeFlore County):		
POWDERMAN	$13.99	3-1/2% +$1.25
GROUNDMAN	10.31	3-1/2% +$1.25
TRUCK DRIVER (FLAT BED, TON-HALF AND UNDER)	10.96	3-1/2% +$1.25

DECISION NUMBER OH83-5127 - MOD. #14 (48 FR 56903 - December 23, 1983) Adams, Allen,...Wood and Wyandot Counties, Ohio	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers:		
Area 4	$17.97	$3.36
Carpenters:		
Area 7	16.00	3.90
Cement Masons:		
Area 7	16.23	2.75
Elevator Constructors:		
Area 1:		
Elevator Constructors	16.97	3.29 +a+f
Helpers	70%JR	3.29 +a+f
Helpers (Prob.)	50%JR	
Lathers:		
Area 4	16.00	3.90
Millwrights:		
Area 7	17.32	3.90
Piledrivermen:		
Area 8	16.00	3.90

DECISION NO. DC84-3009-MOD. #15 (49 FR 13800-April 6, 1984) DISTRICT OF COLUMBIA, MARYLAND-MONTGOMERY & PRINCE GEORGES COUNTIES, THE D.C. TRAINING SCHOOL, VIRGINIA-INDEPENDENT CITY OF ALEXANDRIA & ARLINGTON & FAIRFAX COUNTIES	Basic Hourly Rates	Fringe Benefits
CHANGE:		
MARBLE & STONE MASONS	$16.25	$3.10

MODIFICATIONS P. 3

DECISION NO. ID85-5010 - Mod #3 (50 FR 6501 - February 15, 1985) Statewide Idaho	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS:		
Area 1:		
Projects under $2,000,000 exclusive of mechanical and electrical subcontracts:		
Carpenters	$13.37	$3.67
Piledrivers:		
Piledrivers	13.49	3.67
Boom Man	13.57	3.67
Creosote	13.49	3.67
Millwrights	13.77	3.67
All other work:		
Carpenters	16.82	3.67
Piledrivers:		
Piledrivers	16.97	3.67
Boom Man	17.07	3.67
Creosote	17.22	3.67
Millwrights	17.32	3.67
CEMENT MASONS:		
Area 1:		
Group 1	15.62	3.90
Group 2	16.12	3.90
Group 3	16.62	3.90
POWER EQUIPMENT OPERATORS:		
Area 1:		
Group 1	14.70	4.35
Group 2	15.00	4.35
Group 3	15.55	4.35
Group 4	15.70	4.35
Group 5	15.85	4.35
Group 6	16.10	4.35
Group 7	16.35	4.35
Group 8	17.35	4.35
TRUCK DRIVERS:		
Area 1:		
(See Footnote "a")		
Group 1	13.43	4.10
Group 2	15.87	4.10
Group 3	15.91	4.10
Group 4	15.97	4.10
Group 5	16.06	4.10
Group 6	16.27	4.10
Group 7	16.31	4.10
Group 8	16.37	4.10
Group 9	16.41	4.10
Group 10	16.52	4.10
Group 11	16.56	4.10
Group 12	16.87	4.10
Group 13	17.01	4.10
Group 14	17.17	4.10
Group 15	17.31	4.10

DECISION NO. ID85-5010 (Cont'd)	Basic Hourly Rates	Fringe Benefits
UNIT:		
Omit the reference to Power Equipment Operators in Footnote "a" (Footnote "a" now applies to Laborers & Truck Drivers only)		

DECISION NO. ID85-5012 - Mod#2 (50 FR 11617 March 22, 1985) Benewah, Bonner, Boundary, Clearwater, Idaho (North of 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties, Idaho		
CHANGE:		
POWER EQUIPMENT OPERATORS:		
Backhoe under 1 yd	15.85	4.35
Backhoe 1 to 3 yds, Cranes over 25 tons to 45 tons, Draglines & Shovels under 3 yds, Loaders (front end or Overhead) 4 yds to 8 yds Multiple dower units with single Blade	16.10	4.35
Backhoe over 3 yds, Cranes over 45 tons to 85 tons, Draglines 3 yds and over, Shovels 3 yds and over	16.35	4.35
TRUCK DRIVERS: (See Footnote"a")		
Dump Truck under 6 yds	15.97	4.10
Over 6 yds to 12 yds	16.27	4.10
UNIT:		
Omit reference to footnote "a" under Power Equipment Operators. (Footnote "a" now applies to Truck Drivers only)		

MODIFICATIONS P. 4

DECISION NO. MI84-5026 MOD #5 (49 FR 49812-December 21, 1984) Statewide, Michigan	Basic Hourly Rates	Fringe Benefits
Change:		
Power Equipment Operators: Airport, Bridge and Highway construction:		
Contracts over $400,000:		
Zone 1:		
Class 1	$13.71	4.35+13%
Class 2	11.22	4.35+13%
Class 3	12.78	4.35+13%
Class 4	12.65	4.35+13%
Zone 2:		
Class 1	13.71	4.35+13%
Class 2	13.11	4.35+13%
Class 3	12.66	4.35+13%
Class 4	12.42	4.35+13%
Contracts $400,000 or less:		
Zone 1:		
Class 1	12.82	4.35+13%
Class 2	12.34	4.35+13%
Class 3	11.89	4.35+13%
Class 4	10.56	4.35+13%
Zone 2:		
Class 1	12.38	4.35+13%
Class 2	11.78	4.35+13%
Class 3	11.34	4.35+13%
Class 4	11.09	4.35+13%
Truck Drivers:		
Airport, Bridge and Highway construction:		
Contracts over $400,000:		
Zone 1:		
Class 1	13.77	.50+c
Class 2	13.87	.50+c
Class 3	14.02	.50+c
Zone 2:		
Class 1	13.67	.50+c
Class 2	13.77	.50+c
Class 3	13.92	.50+c
Contracts $400,000 or Less:		
Zone 1:		
Class 1	12.74	.50+c
Class 2	12.84	.50+c
Class 3	12.99	.50+c
Zone 2:		
Class 1	13.14	.50+c
Class 2	13.24	.50+c
Class 3	13.39	.50+c
Footnote C to read: C. $125.00 per week per employee		

DECISION NO. MI83-2008-MOD 4 & 14 (48 FR 6456-February 11, 1983 Alger, Baraga, Chippewa, etc., Counties, Michigan	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Alger & Marquette Counties:		
Contracts $80,000 or less:		
Electricians	16.02	2.33+ 3.75%
Cable Splicers	18.02	2.33+ 3.75%
Contracts over $80,000:		
Electricians	13.09	2.33+ 3.75%
Cable Splicers	15.09	2.33+ 3.75%
PLUMBERS and PIPEFITTERS	16.47	2.80

DECISION NO. MI83-2009-MOD #3 (48 FR 6451-February 11, 1983) Marquette County, Michigan	Basic Hourly Rates	Fringe Benefits
Change:		
Plumbers & Pipefitters	11.98	2.80

DECISION NO. PA83-3001 - MOD. #11 (48 FR 37805 - August 19, 1983) Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Leghigh, Lurerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming and York Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
IRONWORKERS: Bradford & Tioga Cos. Structural, Ornamental & Reinforcing	14.48	3.10
CARPENTERS/PILEDRIVERMEN	13.17	2.60
LABORERS: Asphalt, tampers, concrete pitmen, puddlers & rubbers, Highway guard-rail, right of way and property line fence, Highway slab reinforcing placers, laborers, landscape, planters, seeders and arborists, magazine tenders, railroad trackmen & Signalmen, leaser beam men (pipe laying, paving machine)	11.56	1.65
Pneumatic and Electric tool op. jackhammers, paving breakers, concrete saws, whacher vibrators, sheet hanners, steward, chain saws, pipelayers, asphalt rake, lute or screed men, concrete block layers	11.76	1.65
Caisson-open air below 8 feet, cofferdam open air below 8 feet where excavations for circular caissons and cofferdams 8 feet and below level of natural grade adjacent to starting point, form setters (road) wagon drill diamond point drill., gunite nozzle operators	12.11	1.65
Blasters	12.34	1.65
Reinforcing steel placers, bonding, aligning and securing and burning and welding in conjunction with reinforcing steel	12.40	1.65
Concrete surfaces	12.78	1.65
FREE AIR TUNNELS AND ROCK SHAFTS		
Outside laborers in conjunction tunnels & rock shafts	12.20	1.65
Chuck Tenders, Muckers, Nippers, Miners, & Drillers Helpers, Inside laborers	12.49	1.65
Miners, Drillers, Blasters, Pneumatic Shield Operators Lining, Spotting & Timers Workmen, Reinforcing Steel placer, Bonding, Aligning and Securing and Concrete Surfacers	12.97	1.65
POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION, AND WATER LINES CONSTRUCTION (OFF PLANT SITE)		
Group 1	14.26	.50+ 26.6%
Group 2	13.42	.50 26.6%
Group 3	12.92	.50+ 26.6%
Group 4	12.48	.50+ 26.6%
Group 5	11.93	.50+ 26.6%
Group 6	14.50	.50+ 26.6%
Group 6-A	14.75	.50+ 26.6%
Group 6-B	15.00	.50+ 26.6%
TRUCK DRIVERS: Class I - Helper, stake body truck (single axle), dumpster	13.57	

DECISION NO. PA83-3001	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS (CONT'D)		
CLASS II - Dump Trucks, Tandem & Batch Trucks, Semi-Trailer, Agitator Mixer Trick, Ready Mix and Dumpcrete Type Vehicles, Asphalt Distributor when used for transportation State Body Truck Tandem	13.64	
Class III - Euclid type Off-Highway Equipment Back or Belly Dump Truck and Double Hitched Equipment, Straddle (toos) carrier, Lowbed Trailers	14.13	

DECISION NO. 0884-5020 - Mod#12 (49 FR 25821 - June 22, 1984) Statewide Oregon	Basic Hourly Rates	Fringe Benefits
CRANE:		
CARPENTERS: See Footnote "c"		
Zone 1:		
Group 1	$17.02	$4.02
Group 2	17.17	4.02
Group 3	17.27	4.02
Group 4	17.42	4.02
Group 5	17.12	4.02
Group 6	17.22	4.02
Zone Differential (add to zone 1 rates)		
Zone 2 $0.65		
Zone 3 1.15		
Zone 4 1.70		
Zone 5 2.75		
CEMENT MASONS: See Footnote "c"		
Cement Masons	16.19	4.72
Composition workers & power earthmovers operators	16.51	4.72
POWER EQUIPMENT OPERATORS: See Footnote "c"		
Group 1	15.52	5.15
Group 2	15.72	5.15
Group 3	15.87	5.15
Group 4	16.07	5.15
Group 5	16.10	5.15
Group 6	16.22	5.15
Group 7	16.29	5.15
Group 8	16.43	5.15
Group 9	16.52	5.15
Group 10	16.60	5.15
Group 11	16.62	5.15
Group 12	16.72	5.15
Group 13	16.82	5.15
Group 14	17.06	5.15
Group 15	17.25	5.15
Group 16	17.50	5.15
Group 17	17.70	5.15
Group 18	17.95	5.15
Group 19	18.13	5.15
TRUCK DRIVERS: See Footnote "c"		
Group 1	15.24	4.77
Group 2	15.29	4.77
Group 3	15.34	4.77
Group 4	15.39	4.77
Group 5	15.44	4.77
Group 6	15.54	4.77
Group 7	15.64	4.77
Group 8	15.74	4.77
Group 9	15.84	4.77
Group 10	16.01	4.77
Group 11	16.11	4.77
Group 12	16.21	4.77
Group 13	16.31	4.77
Group 14	16.41	4.77

MODIFICATIONS P. 7

DECISION NO. WA84-5040 - Mod #5 (49 FR 45532 - Nov. 16, 1984) Statewide Washington

	Basic Hourly Rates	Fringe Benefits
UNIT:		
Omit reference to Footnote "e" under Power Equipment Operators Area 1		
Omit reference to Power Equipment operators Area 1 in Footnote "e"		
BRICKLAYERS, MARBLE SETTERS:		
Area 1:		
Masonry contracts under $100,000	13.07	4.04
Masonry Contracts over $100,000	16.23	4.04
ADD:		
BRICKLAYERS, MARBLE SETTERS:		
Area 1	16.73	3.70
CHANGE:		
CARPENTERS:		
Area 1:		
Projects under $2,000,000 exclusive of mechanical and electrical subcontracts:		
Carpenters	13.37	3.67
Piledrivers:		
Piledrivers	13.49	3.67
Boom Man	13.57	3.67
Creosote	13.69	3.67
Millwrights	13.77	3.67
All Other Work:		
Carpenters & Lathers	16.82	3.67
Piledriver, saw filer, stationary power woodworking tool	16.97	3.67
Boom man, carpenters working on burned charred, creosoted or similarly treated material	17.07	3.67
Piledriver, creosoted material	17.22	3.67
Millwright, machine erector	17.32	3.67
CEMENT MASONS:		
Area 1:		
Group 1	15.62	3.80
Group 2	16.12	3.80
Group 3	16.62	3.80
POWER EQUIPMENT OPERATORS:		
Area 1:		
Group 1	14.70	4.35
Group 2	15.00	4.35
Group 3	15.35	4.35
Group 4	15.70	4.35
Group 5	15.85	4.35
Group 6	16.10	4.35
Group 7	16.35	4.35
Group 8	17.35	4.35

DECISION NO. WA84-5040 Cont'd

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
TRUCK DRIVERS:		
Area 1:		
See Footnote "e"		
Group 1	13.43	4.10
Group 2	15.87	4.10
Group 3	15.91	4.10
Group 4	15.97	4.10
Group 5	16.06	4.10
Group 6	16.27	4.10
Group 7	16.31	4.10
Group 8	16.37	4.10
Group 9	16.41	4.10
Group 10	16.52	4.10
Group 11	16.56	4.10
Group 12	16.87	4.10
Group 13	17.01	4.10
Group 14	17.17	4.10
Group 15	17.31	4.10

DECISION NO. TX85-4003 - MOD. #3 (50 FR 7544 - 2/22/85) Bell, Coryell & McLennan Cos., Texas

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Incidental Paving & Utilities:		
Plumbers (Bell & Coryell):		
Within 45 miles of the McLennan Co. Courthouse incl. towns of Temple & Belton	$14.11	1.54
Over 45 miles from McLennan Co. Courthouse	15.61	1.54

MODIFICATIONS P. 8

DECISION #WV83-3023 - MOD. #4 (48 FR 53273 - November 25, 1983) Statewide, West Virginia (Heavy & Highway Construction)

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS & PILEDRIVERMEN:		
Brooke, Hancock, Marshall, & Ohio Counties:		
Heavy Construction:		
Carpenters	$14.90	3.29
Piledrivermen	15.38	3.29
Highway Construction:		
Carpenters	14.60	3.29
Piledrivermen	15.06	3.29
Cabell, Lincoln (West of the Guyandot River), Mingo, & Wayne Counties:		
Heavy Construction:		
Carpenters	14.90	3.10
Piledrivermen	15.38	3.10
Highway Construction:		
Carpenters	14.60	3.10
Piledrivermen	15.06	3.10
Remainder of Counties:		
Heavy Construction:		
Carpenters	14.90	3.14
Piledrivermen	15.38	3.14
Highway Construction:		
Carpenters	14.60	3.14
Piledrivermen	15.06	3.14
LABORERS:		
Heavy Construction:		
Class I	14.47	2.70
II	13.89	2.70
III	13.47	2.70
IV	13.00	2.70
V	12.63	2.70

(LABORERS - Cont'd.):	Basic Hourly Rates	Fringe Benefits
Highway Construction:		
Class I	$14.21	2.70
II	13.63	2.70
III	13.16	2.70
IV	12.68	2.70
V	12.26	2.70
Classifications Definitions for Laborers Heavy & Highway Construction:		
Class I - Blacksmith, Tunnel driller, Tunnel miner, Powderman;		
Class II - Mucker-chucker, Reinforcing bar handler (structures);		
Class III - Caisson bottom man, Pipe layer (including laser beam set-up), Form setter (road), Drill operator, Inside laborer, Air tool operator, Grade checker, Asphalt raker;		
Class IV - Vibrator man, Whacker, Chainsaw operator, Mortar man, Mason tender, Blacksmith tender, Cement finisher tender, Drill tender, Powderman tender, Waterproofer, Sheeter & Shorer, Pipe layer tender, Bull float man, Pavement Reinforcing placer, Handyman, Signal man, Green cutter, Georgia Power buggie, Burner, Cement blower man, Bituminous hand sprayer;		
Class V - Laborer, Deckhand, Mulcher & Seeder (Hand or Machine), Tree trimmer.		
POWER EQUIPMENT OPERATORS:		
Heavy Construction:		
Group 1	$16.09	3.65
2	14.96	3.65
3	13.90	3.65
4	13.56	3.65
5	12.63	3.65
6	14.36	3.65
Highway Construction:		
Group 1	15.86	3.65
2	14.67	3.65
3	13.61	3.65
4	13.28	3.65
5	12.34	3.65
6	14.08	3.65

SUPERSEDEAS DECISION

STATE: IOWA

COUNTIES: STATEWIDE (except Black Hawk and Scott Cos.)

DECISION NO.: IA85-4016

DATE: Date of Publication

Supersedes Decision No. IA84-4018 dated March 23, 1984 in 49 FR 11063).

DESCRIPTION OF WORK: Highway Projects (does not include building structures in rest area projects & work on or pertaining to the Mississippi & Missouri Rivers)

	Basic Hourly Rates	Fringe Benefits
CARPENTERS & PILEDRIVERMEN:		
ZONE 1 - Carpenters	$13.33	$2.10
Carpenters (creosote)	13.58	2.10
Piledrivermen	13.455	2.10
ZONES 2 & 3	11.22	1.38
ZONES 4 & 5	11.12	1.00
ZONE 6	8.78	.90
ZONE 7	8.53	
ZONES 8, 9 & 10	7.92	
CEMENT MASONS:		
ZONE 1	12.17	2.45
ZONES 2 & 3	11.22	1.38
ZONES 4 & 5	11.12	1.00
ZONE 6	8.78	.90
ZONE 7	8.53	
ZONES 8, 9 & 10	7.92	
LABORERS:		
ZONE 1 - GROUP 1	9.70	1.80
GROUP 2	9.82	1.80
GROUP 3	10.05	1.80
GROUP 4	9.99	1.80
GROUP 5	10.43	1.80
ZONES 2 & 3 - GROUP 1	10.00	1.30
GROUP 2	9.50	1.30
ZONES 4 & 5 - GROUP 1	9.76	1.20
GROUP 2	9.46	1.20
GROUP 3	9.26	1.20
ZONE 6 - GROUP 1	7.00	1.30
GROUP 2	6.50	1.30
ZONE 7 - GROUP 1	7.00	.82
GROUP 2	5.90	.82
ZONES 8, 9 & 10 - GROUP 1	7.00	
GROUP 2	5.50	
POWER EQUIPMENT OPERATORS:		
ZONES 1 & 2 - GROUP 1	12.25	2.25
GROUP 2	11.55	2.25
GROUP 3	10.76	2.25
ZONE 3 - GROUP 1	11.65	2.78
GROUP 2	10.00	2.78
GROUP 3	8.90	2.78
ZONE 4 - GROUP 1	11.91	2.00
GROUP 2	11.26	2.00
GROUP 3	10.56	2.00
POWER EQUIPMENT OPERATORS (CONT'D):		
ZONE 5 - GROUP 1	$11.40	$2.13
GROUP 2	9.79	2.13
GROUP 3	8.94	2.13
ZONE 6 - GROUP 1	9.75	1.10
GROUP 2	9.15	1.10
GROUP 3	8.50	1.10
GROUP 4	7.50	1.10
ZONE 7 - GROUP 1	9.03	.70
GROUP 2	8.54	.70
GROUP 3	8.11	.70
GROUP 4	7.31	.70
ZONES 8, 9 & 10 -		
GROUP 1	8.35	.70
GROUP 2	7.93	.70
GROUP 3	7.31	.70
GROUP 4	6.57	.70
STEEL WORKERS (Structural):		
Linn County	10.70	1.90
TRUCK DRIVERS:		
ZONE 1:		
Single axle, jack & spreader, tandem axle euclid, power lift form truck & jack, jack & spreader trucks low-boys, tractor-trailer water pulls, tandem dump w/auxiliary end, dump trailer	10.27	1.75
Water pulls	10.62	1.75
Lumber carrier	10.92	1.75
ZONES 2 & 3	10.48	.85
ZONES 4 & 5	9.18	.75
ZONE 6	8.35	.65
ZONE 7	7.02	.35
ZONES 8, 9 & 10	6.15	.35

ZONE DEFINITIONS

ZONE 1 - City of Council Bluffs

ZONE 2 - Linn & Polk Cos.; City of Dubuque

ZONE 3 - City of Clinton

ZONE 4 - Cities of Ames & Iowa City

ZONE 5 - City of Burlington (including Burlington Ordnance Plant)

ZONE 6 - Pottawattamie Co. (area west of the eastern boundaries of Minden, York, Washington & Silver Creek Townships); Benton, Boone, Buchanan, Cedar, Clinton, Dallas, Delaware, Dubuque, Jackson, Jasper, Johnson, Jones, Madison, Marion, Marshall, Story, Warren, Cos.; the Cities of Fort Madison, Keokuk, Muscatine & their abutting municipalities (excluding the Cities of Ames, Clinton, Council Bluffs, Dubuque & Iowa City & their abutting municipalities

ZONE 7 - Des Moines, Louisa & Muscatine Cos. (excluding Cities of Burlington (including Burlington Ordnance Plant), Muscatine & abutting municipalities)

ZONE 8 - Allamakee, Appanoose, Bremer, Butler, Cerro Gordo, Chickasaw, Clayton, Davis, Fayette, Floyd, Franklin , Grundy, Hamilton, Hancock, Hardin, Henry, Howard, Iowa, Jefferson, Keokuk, Lee, Mahaska, Mitchell, Monroe, Poweshiek, Tama, Van Buren, Wapello, Washington, Webster, Winnebago, Winneshiek, Worth & Wright Cos. (excluding Cities of Keokuk, Fort Madison & abutting municipalities)

ZONE 9 - Adair, Adams, Audubon, Calhoun, Carroll, Cass, Clarke, Crawford, Decatur, Fremont, Greene, Guthrie, Harrison, Ida, Lucas, Mills, Monona, Montgomery, Page, Ringgold, Sac, Shelby, Taylor, Union, Wayne & Woodbury Cos. & Pottawattamie Co. (east of Minden, York, Washington & Silver Creek Townships)

ZONE 10 - Buena Vista, Cherokee, Clay, Dickinson, Emmet, Humboldt, Kossuth, Lyon, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas & Sioux Cos.

LABORERS CLASSIFICATION DEFINITIONS - ZONE 1

GROUP 1 - General Laborers

GROUP 2 - Towboats & dredge deckhands

GROUP 3 - Rakers & Screedman on Asphalt; Mortar Mixers; Chain Saw Operators

GROUP 4 - Pipelayers; Concrete Saw Op.

GROUP 5 - Form Setters & Precast Manhole Setter, Inlet Builders & Manhole Setters

LABORERS CLASSIFICATION DEFINITIONS - ZONES 2,3,6,7,8,9 & 10

GROUP 1 - Powderman Blaster; Powderman Helper; Pipelayer, Sewer, Water, Telephone Conduits, etc.; Laser Operator; Gunnite Nozzleman; Diamond & Core Drills powered by air; Drill Operators of air tracs, Wagon Drills & similar Drillings; Form Setters/Stringman on paving work; Automatic asphalt & concrete curbing machine (without a seat)

GROUP 2 - Sandblasters; All work performed by laborers working from a bos'n chair, swinging stage, tag line or block & tackle; Tree Climber; Rakers; Potman, not mechanical; Timberman; Underpinning & aboring; Caisons over 12' in depth; Grade checker & cutting

LABORERS CLASSIFICATION DEFINITIONS ZONES 2,3,6,7,8,9 & 10 (CONT'D)
torches on demolition work; Trencher operator (walk behind); Self-propelled vibrating compactors (walk behind); Safety boat operators; Power buggymen; Concrete & paving sawman; Form line expansion joint assembler; Sewer utility topman/bottom man; Caulker, jointer & painter; Timber & chain-sawman; Mechanical grouters; Stresser or stretcherman on post tension or pre-stressed concrete on or offf the job; Form tamper; Air, gas & electric tool operators, vibrators, Barco hammer, paving breakers, spaders, tampers, electric drills, hammers & jackhammers; Tree groundman; Chain tenders; Drill tenders, Tool room men & checkers; Sandblaster tenders; Concrete processing material & monitors; Cement finisher tender; Power broom operator (not self-propelled); Fence erectors; Handling & placing of metal mesh, dowel bars, reinforcing bars & chairs; Dumpmen & spotters; Carrying reinforcing rods; Corrugated culvert pipe; Stake chaser, seeding or mulching & planting of trees, shrubs & flowers; Mechanic tender; Group greaser tender; Water pumps (under 3"); Compressor (under 400 cfm); General labor; Rodman; Carpenter tender; Hot asphalt labor

LABORERS CLASSIFICATION DEFINITIONS ZONES 4 & 5
GROUP 1 - Sandblasters; Powderman & blaster; Powderman tender; Pipelayer, sewer, water, telephone conduits, etc.; Sewer utility topman & laser op.; Gunnite nozzleman; Diamond & core drills, powered by air; All work performed by laborers working from a bos'n chair, swinging stage, tag line or block & tackle; Drill ops. of air tracs, wagon drills & similar drillings; Tree climber; Form setters; Rakers; Automatic asphalt & concrete power curbing machines; Formen, not mechanical; Timbermen; Underpinning & shoring; Caissons over 12' depth; Grade checker & cutting torches on demolition work; Trenchers; Self-propelled vibrating compactors; Safety boat ops.
GROUP 2 - Power buggymen; Concrete & paving sawmen; Form line expansion joint assembler; Bottom man; Caulker, jointer & painter; Timber & chain-sawman; Mechanical grouters; Stresser or stretcherman on post tension or pre-stressed concrete on or off the job; Form tamper; Air, gas, electric tool ops.; Vibrator, barco hammer, paving breakers, spaders, tampers, electric drills, hammer & jackhammers; Tree groundman; chain tender; Drill tender; Tool room men & checkers; Sandblaster tender; concrete processing material & monitors; Cement finisher tenders; Stringman on paving work & power broom op.
GROUP 3 - Fence erectors; Handling & placing of metal mesh, dowel bars, reinforcing bars & chairs; Dumpmen & spotters; Carrying reinforcing rods; Corrugated culvert pipe; Stake chaser, seeding & mulching & planting of trees, shrubs & flowers; Mechanic tenders; Group greaser tender; Water pumps (under 3"); Compressors (under 400 CFM); Common labor; Carpenter tender & hot asphalt labor

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS - ZONES 1,2,3,4 & 5
GROUP 1 - Power shovel, crane, backhoe & dragline; Central mix plant; Dredge engineer; Dredge leverman; Paver or spreader; Hoisting engineer (steel erection); Motor patrol; Piledriver machine; Concrete mixer; Tow or push boat; Master mechanic; CMI paver; CMI subgrader (or equivalent); Asphalt plant; Front end loader; Scraper; Bulldozer; Push cat; Tractor pulling scraper; Sideboom tractor; Churn or rotary drill; Trenching machine (Cleveland 80 or similar capacity); Asphalt laydown; Asphalt screed; Asphalt heater-planer unit;Asphalt roller; Self-propelled elevating grader or similar machine; spreader (concrete); Horizontal boring machine; Mechanics-welders; Group equipment greaser; Concrete pump; Self-propelled curb machine

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS - ZONES 1,2,3,4 & 5(CONT'D
GROUP 2 - Concrete curb breaking machine; Concrete widening machine; Paving breaker; Barber greene, haiss loader or similar machine; Tractor-pulling ripper, disc, sheepsfoot or flat roller; Self-propelled sheepsfoot roller; Self-propelled roller (other than asphalt); Distributor; Screening & washing plant; Self-propelled vibrating compactor; Trenching machine (other than above); Steel placing machine; Conveyor; Finishing machine (on concrete); Flexplane; Bullfloat; Form grader; Water wagon on compaction
GROUP 3 - Boiler; Mechanical broom; Oiler; Farm-type tractor (pulling disc, harrow or roller); Welding machine; Pump (other than dredge); Boom & winch truck; Compressor; Tank car heater (combination boiler & booster); Pumps on well points & deep wells for dewatering; Truck crane combination driver-oiler; Concrete curbing machine; Safety boat; Batch plant, dry; Light plants; Compressors; Mechanical heaters; Pumps; Welding machines; Conveyors

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS ZONES 6,7,8,9 & 10
GROUP 1 - Power shovel; Crane; Backhoe (3/4 cu. yd. or larger); Dragline; Dredge engineer & leverman; Hoisting engineer (steel erection); Motor patrol (finish); Piledriver; Master mechanic; Sideboom tractor; Horizontal boring machine
GROUP 2 - Central mix plant; Paver or self-propelled spreader; Tow or push boat; CMI paver, subgrader or equivalent; Asphalt plant; Scraper (over 12 cu. yd.); Bulldozer (finish); Push cat; Mechanics-welders; Churn or rotary drill; Trenching machine (Cleveland 80 or similar capacity); Asphalt laydown; Asphalt screed; Asphalt heater-planer; Concrete pump; Self-propelled curb machine
GROUP 3 - Motor patrol (rough); Front end loader (3 cu. yd. or over); Scraper (12 cu. yd. & under); Bulldozer (rough); Backhoe (under 3/4 cu. yd.); Asphalt roller; Group equipment greaser; Concrete curb breaking machine; Concrete widening machine; Paving breaker; Barber greene, haiss loader or similar machine; Crawler tractor (pulling disc, sheepsfoot, ripper or flat roller; Self-propelled sheepsfoot roller; Self-propelled roller; Distributor; Screening & washing plant; Self-propelled vibrating compactor; Trenching machines (other than above); Steel placing machine; Conveyor; Finishing machine (on concrete); Flex plane; Bullfloat; Form grader
GROUP 4 - Boiler; Mechanical boom; Oiler; Farm-type tractor (pulling disc, harrow or roller); Welding machine; Pump (other than dredge); Boom & winch trucks; Compressor; Tank car heater (combination boiler & booster); Pumps on well points & deep wells for dewatering; Truck crane combination driver-oiler; Concrete curbing machine; Safety boat; Batch plant, dry; Spreader attachments; Utility tractor with attachments

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

STATE: IOWA

COUNTIES: STATEWIDE (except Black Hawk and Scott Cos.)

DECISION NO.: IA85-4017

DATE: Date of Publication

Supersedes Decision No. IA83-4022 dated March 11, 1983 in 48 FR 10577.

DESCRIPTION OF WORK: Heavy Projects (does not include work on or pertaining to the Mississippi or Missouri Rivers or on water & sewage treatment plants in Clinton, Des Moines, Dubuque, Johnson, Linn, Polk & Pottawattamie Cos.)

	Basic Hourly Rates	Fringe Benefits
CARPENTERS, PILEDRIVERMEN & MILLWRIGHTS:		
ZONE 1:		
Carpenters	$13.33	$2.10
Carpenters (creosote)	13.58	2.10
Piledrivermen	13.455	2.10
ZONES 2 & 3	11.22	1.38
ZONE 4	8.78	.90
ZONE 5	8.53	
ZONES 6, 7 & 8	7.92	
CEMENT MASONS:		
ZONE 1	12.17	2.45
ZONES 2 & 3	11.22	1.38
ZONE 4	8.78	.90
ZONE 5	8.53	
ZONES 6, 7 & 8	7.92	
LABORERS:		
ZONE 1 - Group 1	9.70	1.80
Group 2	9.82	1.80
Group 3	10.[illegible]3	1.80
Group 4	9.[illegible]9	1.80
Group 5	10.43	1.80
ZONES 2 & 3 - Group 1	10.00	1.30
Group 2	9.50	1.30
ZONE 4 - Group 1	7.00	1.30
Group 2	6.50	1.30
ZONE 5 - Group 1	7.00	.82
Group 2	5.90	.82
ZONES 6, 7 & 8 - Group 1	7.00	
Group 2	5.50	
POWER EQUIPMENT OPERATORS:		
ZONES 1 & 2 - Group 1	12.25	2.25
Group 2	11.55	2.25
Group 3	10.76	2.25
ZONE 3 - Group 1	11.65	2.78
Group 2	10.00	2.78
Group 3	8.90	2.78
ZONE 4 - Group 1	9.75	1.10
Group 2	9.15	1.10
Group 3	8.50	1.10
Group 4	7.50	1.10

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS (CONT'D):		
ZONE 5 - Group 1	$ 9.03	$ .70
Group 2	8.54	.70
Group 3	8.11	.70
Group 4	7.31	.70
ZONES 6, 7 & 8 - Group 1	8.35	.70
Group 2	7.93	.70
Group 3	7.31	.70
Group 4	6.57	.70
TRUCK DRIVERS:		
ZONE 1:		
Single axle, jacks & spreader tandem axle euclid; power lift form truck & jack; jack & spreader truck lowboys, tractor-trailer water pulls, tandem dump w/auxiliary end, dump trailer	10.27	1.75
Lumber carrier	10.82	1.75
Water pulls	10.62	1.75
ZONES 2 & 3	10.48	.65
ZONE 4	8.35	.65
ZONE 5	7.02	.35
ZONES 6, 7 & 8	6.15	.35

ZONE DEFINITIONS

ZONE 1 - City of Council Bluffs

ZONE 2 - Linn & Polk Cos.; Cities of Ames, Dubuque & Iowa City

ZONE 3 - Cities of Burlington (including Burlington Ordnance Plant) & Clinton

ZONE 4 - Pottawattamie Co. (area west of the eastern boundaries of Minden, York, Washington & Silver Creek Townships); Benton, Boone, Buchanan, Cedar, Clinton, Dallas, Delaware, Dubuque, Jackson, Jasper, Johnson, Jones, Madison, Marion, Marshall, Story, Warren Cos.; the Cities of Fort Madison, Keokuk, Muscatine & their abutting municipalities (excluding the Cities of Ames, Clinton, Council Bluffs, Dubuque & Iowa City & their abutting municipalities)

ZONE 5 - Des Moines, Louisa & Muscatine (excluding Cities of Burlington (incl. Burlington Ordnance Plant), Muscatine & abutting municipalities)

ZONE 6 - Allamakee, Appanoose, Bremer, Butler, Cerro Gordo, Chickasaw, Clayton, Davis, Fayette, Floyd, Franklin , Grundy, Hamilton, Hancock, Hardin, Henry, Howard, Iowa, Jefferson, Keokuk, Lee, Mahaska, Mitchell, Monroe, Poweshiek, Tama, Van Buren, Wapello, Washington, Webster, Winnebago, Winneshiek, Worth & Wright Cos. (excluding Cities of Keokuk, Fort Madison & abutting municipalities)

ZONE 7 - Adair, Adams, Audubon, Calhoun, Carroll, Cass, Clarke, Crawford, Decatur, Fremont, Greene, Guthrie, Harrison, Ida, Lucas, Mills, Monona, Montgomery, Page, Ringgold, Sac, Shelby, Taylor, Union, Wayne & Woodbury Cos. & Pottawattamie Co. (east of Minden, York, Washington & Silver Creek Townships)

ZONE 8 - Buena Vista, Cherokee, Clay, Dickinson, Emmet, Humboldt, Kossuth, Lyon, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas & Sioux Cos.

CLASSIFICATION DEFINITIONS

LABORERS - ZONE 1

Group 1 - General laborers

Group 2 - Towboat & dredge deckhands

Group 3 - Rakers & screedman on asphalt; Mortar mixers; Chain saw operators

Group 4 - Pipelayers; Concrete saw operator

Group 5 - Form setters & precast manhole setter, inlet builders & manhole setters

LABORERS CLASSIFICATION DEFINITIONS - ZONES 2 thru 8

GROUP 1 - Powderman Blaster; Powderman Helper; Pipelayer, Sewer, Water, Telephone Conduits, etc.; Laser Operator; Gunnite Nozzleman; Diamond & Core Drills powered by air; Drill Operators of air tracs, Wagon Drills & similar Drillings; Form Setters/Stringman on paving work; Automatic asphalt & concrete curbing machine (without a seat)

GROUP 2 - Sandblasters; All work performed by laborers working from a bos'n chair, swinging stage, tag line or block & tackle; Tree Climber; Rakers; Potman, not mechanical; Timberman; Underpinning & shoring; Caisons over 12' in depth; Grade checker & cutting

torches on demolition work; Trencher operator (walk behind); Self-propelled vibrating compactors (walk-behind); Safety boat operators; Power buggymen; Concrete & paving sawman; Form line-expansion joint assembler; Sewer utility topman/bottom man; Caulker, jointer & painter; Timber & chair-sawman; Mechanical grouters; Streaser or stretcherman on post tension or pre-stressed Concrete on or off the job; Form tamper; Air, gas & electric tool operators, vibrators, Barco Hammer, paving breakers, spaders, tampers, electric drills, hammers & jackhammers; Tree Groundman; Chain Tenders; Drill Tenders, Tool Room Men & Checkers; Sandblaster Tenders; Concrete processing material & monitors; Cement Finisher Tenders; Power Broom Operator (not self-propelled); Fence Erectors; Handling & placing of metal mesh, dowel bars, reinforcing bars & chairs; Dumpmen & spotters; carrying reinforcing rods; Corrugated culvert pipe; Stake Chaser, Seeding or mulching & planting of trees, shrubs & flowers; mechanic tender; Group Greaser tender; Water pumps (under 3"); Compressors (under 400 cfm); General labor; Rodman; Carpenter Tender; Hot Asphalt Labor

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS - ZONES 1,2, & 3

GROUP 1 - Power Shovel, Crane, Backhoe & Dragline; Central Mix Plant; Dredge Engineer; Dredge Leverman; Paver or Spreader; Hoisting Engineer (steel erection); Motor Patrol; Piledriver Machine; Concrete Mixer; Tow or Push Boat; Master Mechanic, CMI Paver; CMI Subgrader (or equivalent); Asphalt Plant; Front End Loader; Scraper; Bulldozer; Push Cat; Tractor Pulling Scraper; Sideboom Tractor; Churn or Rotary Drill; Trenching Machine (Cleveland 80 or similar capacity); Asphalt Laydown; Asphalt Screed; Asphalt Beater-Planer Unit; Asphalt Roller; Self-propelled Elevating Grader or similar machine; Spreader (Concrete); Horizontal Boring Machine; Mechanics-Welders; Group Equip. Greaser; Concrete Pump; Self-propelled Curb Machine

GROUP 2 - Concrete Curb Breaking Machine; Concrete Widening Machine; Paving Breakers; Barber Greene, Haiss Loader or similar machine; Tractor-pulling ripper, disc, sheepsfoot or flat roller; Self-propelled Sheepsfoot Roller, Self-propelled Roller (other than asphalt); Distributor; Screening & Washing Plant; Self-propelled Vibrating Compactor; Trenching Machine (other than above); Steel Placing Machine; Conveyor; Finishing Machine (on concrete); Flex-plane; Bullfloat; Form Grader; Water Wagon on Compaction

GROUP 3 - Boiler; Mechanical Broom; Oiler; Farm-type Tractor (pulling disc, harrow or roller); Welding Machine; Pump (other than dredge); Boom & Winch Truck; Compressor; Tank Car Heater (combination boiler & booster); Pumps on Well Points & Deep Wells for dewatering; Truck Crane Combination Driver-Oiler; Concrete Curbing Machine; Safety Boat; Batch Plant, dry; Light Plants; Compressors; Mechanical Heaters; Pumps; Welding Machines; Conveyors

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS - ZONES - 4, 5, 6, 7 & 8

GROUP 1 - Power Shovel; Crane; Backhoe (3/4 cu. yd. or larger); Dragline; Dredge Engineer & Leverman; Hoisting Engineer (steel erection); Motor Patrol (finish); Piledriver; Master Mechanic; Sideboom Tractor; Horizontal Boring Machine

POWER EQUIPMENT OPERATORS - ZONES 4,5,6,7 & 8 (Cont'd)

GROUP 2 - Central Mix Plant; Paver or Self-propelled Spreader; Tow or Push Boat; CMI Paver, Subgrader or equivalent; Asphalt Plant; Scraper (over 12 cu. yd.); Bulldozer (finish); Push Cat; Mechanics-Welders; Churn or Rotary Drill; Trenching Machine (Cleveland 80 or similar capacity); Asphalt Laydown; Asphalt Screed; Asphalt Beater-Planer; Concrete Pump; Self-propelled Curb Machine

GROUP 3 - Motor Patrol (rough); Front End Loader (3 cu. yd. or over); Scraper (12 cu. yd. & under); Bulldozer (rough); Backhoe (under 3/4 cu. yd.); Asphalt Roller; Group Equip. Greaser; Concrete Curb Breaking Machine; Concrete Widening Machine; Paving Breaker; Barber Greene, Haiss Loader or similar machine; Crawler Tractor (pulling disc, sheepsfoot, ripper or flat roller); Self-propelled Sheepsfoot Roller; Self-propelled Roller; Distributor; Screening & Washing Plant; Self-propelled Vibrating Compactor; Trenching Machine (other than above); Steel Placing Machine; Conveyor; Finishing Machine (on concrete); Flex Plane; Bullfloat; Form Grader

GROUP 4 - Boiler; Mechanical Boom; Oiler; Farm-type Tractor (pulling disc, harrow or roller); Welding Machine; Pump (other than dredge); Boom & Winch Trucks; Compressor; Tank Car Heater (combination boiler & booster); Pumps on Well Points & Deep Wells for dewatering; Truck Crane Combination Driver-Oiler; Concrete Curbing Machine; Safety Boat; Batch Plant, dry; Spreader attachments; Utility Tractor with attachments

WELDERS: Receive rate prescribed for craft performing operations to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MICHIGAN DECISION NUMBER: MI85-5001
COUNTIES: ALLEGAN, BARRY, BERRIEN, BRANCH, CALHOUN, CASS, CLINTON, EATON, HILLSDALE, INGHAM, IONIA, JACKSON, KALAMAZOO, LENAWEE, ST. JOSEPH, & VAN BUREN.
Supersedes Decision Number MI83-2015, dated March 11, 1983, in 48 FR 10579
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including four stories) and HEAVY CONSTRUCTION PROJECTS (does not include Bridge, Airport, Sewer, Water Lines, or TV/Grout projects.)
DATE: DATE OF PUBLICATION

	Basic Hourly Rates	Fringe Benefits
BOILERMAKERS:		
Area 1	$20.325	$3.58
Area 2	16.94	5.70
BRICKLAYERS, MARBLE MASONS, TERRAZZO WORKERS, TILE SETTERS:		
Area 1:		
Bricklayers	13.90	1.29
Marble Masons, Terrazzo Workers, Tile Setters	12.51	1.10
Area 2:		
Bricklayers	13.76	2.34
Marble Masons, Terrazzo Workers, Tile Setters	13.02	1.35
Area 3	14.10	2.35
Area 4:		
Bricklayers	15.59	1.40
Marble Masons, Terrazzo Workers, Tile Setters	13.03	2.65
CARPENTERS:		
Area 1	14.77	2.15
Area 2	17.10	3.82
Area 3	15.12	2.15
Area 4:		
Contracts $3,000,000 and over	13.94	2.20
Contracts under $3,000,000	11.84	2.20
CEMENT MASONS AND PLASTERERS:		
Area 1:		
Cement Masons	13.90	2.44
Plasterers	13.55	2.44
Area 2	12.87	2.39
Area 3:		
Cement Masons	13.40	2.12
ELECTRICIANS:		
Area 1	16.66	2.26+3%
Area 2	17.40	.84+ 9.5%
Area 3	17.03	3.19+3%
Area 4	20.00	3.00+ 3.3%
Electrician (Cont'd)		
Area 5:		
Electricians	16.96	1.76 + 19%
Cable Splicers	19.50	1.76 + 19%
Area 6:		
Electricians	13.00	1.23+ 9.25%
Cable Splicers	14.625	1.23+ 9.25%
Sound Technicians	11.35	3%
Area 7	16.40	1.20+ 10%
ELEVATOR CONSTRUCTIONS:		
Area 1:		
Mechanics	13.465	3.29+a
Helpers	9.425	3.29+a
Probationary Helpers	6.73	
Area 2:		
Mechanics	17.38	3.29+a
Helpers	12.15	3.29+a
Probationary Helpers	8.69	
Area 3:		
Mechanics	17.29	3.29+a
Helpers	12.10	3.29+a
Probationary Helpers	8.645	
Area 4:		
Mechanics	17.37	2.69+a
Helpers	12.16	2.69+a
Probationary Helpers	8.69	
Area 5:		
Mechanics	15.71	3.00+a
Helpers	11.00	3.00+a
Probationary Helpers	7.855	
GLAZIERS:		
Area 1	11.60	1.20
Area 2	14.73	
Area 3	13.42	16%
Area 4	14.69	3.55
Area 5	13.14	2.31
IRONWORKERS:		
Area 1	14.25	5.71
Area 2	19.19	3.84
Area 3	13.53	3.13+ 38.64%
Area 4:		
Bridges, Dams, Locks, and Powerplants	13.12	2.91
All other construction	11.00	2.91

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	Basic Hourly Rates	Fringe Benefits
LATHERS:		
Area 1	16.97	4.34
Area 2	15.02	2.57
Area 3	14.05	2.57
MILLWRIGHTS:		
Area 1	15.4037	33.5%+ 2.8611
Area 2	16.10	2.20
LINE CONSTRUCTION:		
Area 1:		
Linemen-Technicians	17.63	13.5%+ 2.05
Cable Splicers	18.38	13.5%+ 2.05
Combination equipment operators & groundmen	14.14	13.5%+ 2.05
Combination truck driver & groundmen	13.31	13.5%+ 2.05
Groundmen	12.26	13.5%+ 2.05
Area 2:		
Linemen-Technicians	15.50	8.5%+ 1.00+c
Cable Splicers	16.13	8.5%+ 1.00+c
Combination digger operators, tractor operators, groundmen	12.07	8.5%+ 1.00+c
Light equipment operators-groundmen: Distribution line truck drivers, operators, groundmen	10.59	8.5%+ 1.00+c
Combination winch truck drivers-groundmen	10.10	8.5%+ 1.00+c
Combination truck drivers-groundmen	8.55	8.5%+ 1.00+c
PAINTERS:		
Area 1:		
Brush and Roller Paperhangers, wall coverers, drywall finisher and painter on railroad bridges	12.00	1.07
Swing Stage and window jacks	12.25	1.07
Spray, pressure roller, Steam cleaning, sand and water blast	12.50	1.07
	12.75	1.07
PAINTERS (Cont'd)		
Area 2:		
Brush-Roll:		
Paperhanger; Drywall-taping	14.55	
Spray: Sandblasting: work above 30 ft.: Bazooka gun: Mud box: Brush-steel: All work with mitts	16.30	
Area 3:		
Brush, Pan Roller, taping and Sign	13.65	1.75
Spray, Sandblasting and Swing Stage	14.85	1.75
Steeplejack	14.50	1.75
Mechanical Roller	14.35	1.75
Vinyl Hanger	13.85	1.75
Area 4:		
Brush and Roller	12.90	.95
Swing stage, Spray, Sandblast, drywall Tapers, wall coverers	13.50	.95
Area 5:		
Brush and Roller	14.75	5.02
Spray, under 40 ft.	15.25	5.02
Spray, over 40 ft.	15.375	5.02
Area 6:		
Brush, roller, drywall (hand)	14.20	1.7525
Paperhangers	14.55	1.7525
Structural Steel and towers	14.60	1.7525
Spray, sandblast, drywall (machine)	14.95	1.7525
PLUMBERS:		
Area 1	14.30	3.22
Area 2	16.87	3.63
Area 3	17.07	3.56
Area 4	16.61	2.10
Area 5	15.81	2.45
Area 6	16.19	4.24
Area 7	16.40	3.86
ROOFERS:		
Area 1:		
Asbestos, Slate and Tile	11.00	3.05
Built-up	10.75	3.05
Area 2:		
Composition	14.60	2.55
Slate and Tile	15.10	2.55
Area 3	11.83	3.65
Area 4	15.02	4.09
Area 5	16.45	3.85

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	Basic Hourly Rates	Fringe Benefits
ROOFERS (Cont'd)		
Area 6:		
Roofers	13.65	1.35
Slate and Tile	13.90	1.35
Pitch work	14.15	1.35
SHEET METAL WORKERS:		
Area 1	16.16	2.46
Area 2	16.825	3.635
Area 3	16.32	4.29
SPRINKLER FITTERS	17.17	2.83
TRUCK DRIVERS:		
Area 1:		
Trucks 8 cu. yds. & under	11.50	*76.50
Trucks, over 8 cu. yds.	11.60	*76.50
Semi-trucks, mechanics	11.70	*76.50
Area 2:		
Dump trucks, 8 cu. yds. and over, and pole trailers	10.26	*89.50
Lowboy and double bottom trucks	10.36	*89.50
All others trucks	10.16	*89.50
Area 3	10.50	2.46
*PER WEEK PER EMPLOYEE.		
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		
LABORERS:		
Area 1:		
Contracts over $3,000,000:		
Class 1	9.95	2.24
Class 2	10.10	2.24
Class 3	10.20	2.24
Class 4	10.45	2.24
Contracts under $3,000,000:		
Class 1	7.85	2.24
Class 2	8.00	2.24
Class 3	8.10	2.24
Class 4	8.35	2.24
Area 2:		
Contracts over $3,000,000:		
Class 1	9.56	2.24
Class 2	9.71	2.24
Class 3	9.81	2.24
Class 4	10.06	2.24

	Basic Hourly Rates	Fringe Benefits
LABORERS (Cont'd)		
Area 2 (Cont'd)		
Contracts under $3,000,000:		
Class 1	7.46	2.24
Class 2	7.61	2.24
Class 3	7.71	2.24
Class 4	7.96	2.24
Area 3:		
Class 1	11.69	1.69
Class 2	11.84	1.69
Area 4	10.90	1.69
LABORERS- open cut construction:		
Area 1:		
Contracts over $400,000:		
Class 1	12.07	2.54
Class 2	12.17	2.54
Class 3	12.27	2.54
Class 4	12.32	2.54
Class 5	12.43	2.54
Contracts $400,000 or less:		
Class 1	9.66	2.54
Class 2	9.77	2.54
Class 3	9.87	2.54
Class 4	9.93	2.54
Class 5	10.02	2.54
Area 2:		
Contracts over $400,000:		
Class 1	11.66	2.54
Class 2	11.77	2.54
Class 3	11.87	2.54
Class 4	11.92	2.54
Class 5	12.02	2.54
Contracts $400,000 or less:		
Class 1	10.31	2.54
Class 2	10.42	2.54
Class 3	10.52	2.54
Class 4	10.57	2.54
Class 5	10.67	2.54
Area 3:		
Class 1	9.80	2.29
Class 2	9.90	2.29
Class 3	10.00	2.29
Class 4	10.05	2.29
Class 5	10.15	2.29

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	Basic Hourly Rates	Fringe Benefits
LABORERS- open cut Construction (Cont'd)		
Area 4:		
Class 1	10.61	2.29
Class 2	10.71	2.29
Class 3	10.81	2.29
Class 4	10.86	2.29
Class 5	10.96	2.29
LABORERS- Tunnel, Shaft and Caisson Construction:		
Contracts over $400,000:		
Class 1	12.56	2.99
Class 2	12.65	2.99
Class 3	12.70	2.99
Class 4	12.85	2.99
Class 5	13.06	2.99
Class 6	13.31	2.99
Contracts $400,000 or less:		
Class 1	10.55	2.99
Class 2	10.63	2.99
Class 3	10.68	2.99
Class 4	10.84	2.99
Class 5	11.04	2.99
Class 6	11.30	2.99
LANDSCAPE LABORERS:		
Class A	8.18	a+b
Class B	6.14	a+b
POWER EQUIPMENT OPERATORS:		
Area 1:		
Class A	16.67	4.35
Class B	16.25	4.35
Class C	15.69	4.35
Class D	15.21	4.35
Class E	14.84	4.35
Class F	12.59	4.35
Class G	11.77	4.35
Area 2:		
Class A	16.10	4.35
Class B	15.85	4.35
Class C	15.35	4.35
Class D	13.75	4.35
Class E	13.45	4.35
Class F	12.05	4.35
Class G	11.20	4.35

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS- Steel Erection:		
Area 1:		
Class 1	17.37	4.35+13%
Class 2	18.26	4.35+13%
Class 3	17.13	4.35+13%
Class 4	18.02	4.35+13%
Class 5	16.49	4.35+13%
Class 6	17.37	4.35+13%
Class 7	16.17	4.35+13%
Class 8	17.05	4.35+13%
Class 9	15.96	4.35+13%
Class 10	12.98	4.35+13%
Class 11	11.82	4.35+11%
Area 2:		
Class A	16.45	4.35
Class B	16.20	4.35
Class C	15.70	4.35
Class D	14.10	4.35
Class E	12.75	4.35
Class F	11.49	4.35
POWER EQUIPMENT OPERATORS- Underground Construction:		
Area 1:		
Contracts over $400,000:		
Class A	14.93	4.35+13%
Class B	14.55	4.35+13%
Class C	13.90	4.35+13%
Class D	13.40	4.35+13%
Contract $400,000 or less:		
Class A	14.04	4.35+13%
Class B	13.66	4.35+13%
Class C	13.02	4.35+13%
Class D	12.51	4.35+13%
Area 2:		
Contracts over $400,000:		
Class A	13.42	4.35+13%
Class B	12.89	4.35+13%
Class C	12.45	4.35+13%
Class D	12.20	4.35+13%
Contracts $400,000 or less:		
Class A	12.09	4.35+13%
Class B	11.57	4.35+13%
Class C	11.12	4.35+13%
Class D	10.88	4.35+13%

FOOTNOTES:

A. SEVEN PAID HOLIDAYS: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving; Christmas Day. VACATION PAY CREDIT: Employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% for employees with 6 months to 5 years of service.

B. FOUR PAID HOLIDAYS: New Year's Day; Decoration Day; Labor Day; Christmas Day.

C. SEVEN PAID HOLIDAYS: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving; Christmas Day; Provided the Employee worked the scheduled work day preceding and following the day observed.

AREA DESCRIPTIONS

BOILERMAKERS:

Area 1: Hillsdale and Lenawee Counties
Area 2: Remainder of Counties

BRICKLAYERS, MARBLE MASONS, TERRAZZO WORKERS, TILE SETTERS:

Area 1: Allegan County (townships of Dorr, Leighton and Wayland), Barry County (townships of Carlton, Castleton, Hastings, Irving, Rutland, Thornapple, Woodland and Yankee Springs), and Ionia County (except the townships of Danby, Lyons, North Plains and Portland).
Area 2: Allegan County (townships of Allegan, Casco, Cheshire, Clyde, Ganges, Gun Plain, Lee, Martin, Otsego, Trowbridge Valley and Watson), Barry County (townships of Barry, Hope, Orange and Prairieville), Berrien County, Cass County, Kalamazoo County, St. Joseph County and Van Buren County
Area 3: Barry County (townships of Assyria, Baltimore, Johnstown and Maple Grove), Calhoun County, and Eaton County (townships of Bellevue, Carmel, Kalamo and Walton)
Area 4: Clinton County, Eaton County (except the townships of Bellevue, Carmel, Kalamo and Walton), Ingham County (except the townships of Bunker Hill, Leslie, Onondaga and Stockbridge) and Ionia County (townships of Danby, Lyons, North Plains and Portland)

CARPENTERS: Jackson and Lenawee Counties

Area 1: Jackson and Lenawee Counties
Area 2: Berrien County (townships of Chickaming, New Buffalo and Three Oaks)
Area 3: Clinton County, Eaton County (Except the townships of Bellevue, Kalamo, Vermontville and Walton), Ingham County, and Ionia County (townships of Danby, Orange, Portland and Sebewa)
Area 4: Remainder of Counties

CEMENT MASONS AND PLASTERERS:

Area 1: Branch, Hillsdale and Lenawee Counties
Area 2: Allegan County (townships of Allegan, Casco, Cheshire, Clyde, Ganges, Gun Plain, Lee, Martin, Otsego, Trowbridge, Valley and Watson), Barry County (townships of Barry, Hope, Orange and Prairieville), Berrien County, Cass County, Kalamazoo County, St. Joseph County and Van Buren County
Area 3: Clinton County, Eaton County, Ingham County and Livingston County (North Half, including the town of Howell)

ELECTRICIANS:

Area 1: Barry County (townships of Assyria, Baltimore, Carlton, Castleton, Hastings, Johnstown, Maple Grove and Woodland), Branch County, Calhoun County and Eaton County (townships of Bellevue, Brookfield, Kalamo, Sunfield, Vermontville and Walton)
Area 2: Berrien and Cass Counties
Area 3: Clinton County, Eaton County (townships of Benton, Carmel, Chester, Delta, Eaton, Eaton Rapids, Hamlin, Oneida, Roxand and Windsor), Gratiot County (townships of Alaiedon, Aurelius, Delhi, Ingham, Lansing, Leroy, Locke, Meridian, Vevay, Wheatfield, White Oak and Williamson), Ionia County (townships of Danby, Orange, Portland and Sebewa), Livingston County (townships of Cohoctah, Conway, Handy, Howell, Iosco and Marion), Shiawassee County (townships of Perry and Woodhull)
Area 4: Hillsdale and Lenawee Counties
Area 5: Ingham County (townships of Bunker Hill, Leslie, Onondaga and Stockbridge), Jackson County, Livingston County (townships of Green Oaks, Hamburg, Putnam and Unadilla) and Washtenaw County
Area 6: Allegan County (townships of Dorr, Fillmore, Laketon, Leighton, Overisel, and Salem), Barry County (townships of Irving and Thornapple) and Ionia County (townships of Berlin, Boston, Campbell, Easton, Ionia, Keene, Lyons, North Plains, Odessa, Orlean, Otisco, and Ronald)
Area 7: Allegan County (townships of Allegan, Casco, Cheshire, Clyde, Ganges, Gun Plain, Heath, Hopkins, Lee, Manlius, Martin, Monterey, Otsego, Saugatuck, Trowbridge, Valley, Watson and Wayland), Barry County (townships of Barry, Hope, Orangeville, Prairieville, Rutland and Yankee Springs), Kalamazoo County, St. Joseph County and Van Buren County

ELEVATOR CONSTRUCTORS:

Area 1: Ionia County
Area 2: Clinton County
Area 3: Eaton, Hillsdale, Ingham and Jackson Counties
Area 4: Lenawee County
Area 5: Remainder of Counties

GLAZIERS:

Area 1: Allegan County (Northern Half of County), Barry County (Northern Half of County) and Ionia County
Area 2: Allegan County (Southern Half of County), Barry County (Southern Half of County), Branch County, Calhoun County, Kalamazoo County, St. Joseph County and Van Buren County
Area 3: Berrien and Cass Counties
Area 4: Lenawee County
Area 5: Remainder of Counties

IRONWORKERS:

Area 1: Berrien and Cass Counties
Area 2: Lenawee County
Area 3: Clinton, Ingham and Jackson Counties
Area 4: Remainder of Counties

LATHERS:

Area 1: Lenawee County (Eastern Half of County)
Area 2: Clinton County, Eaton County (Except Southwest Corner), Ingham County, Ionia County (Southeast Corner), Jackson County, Lenawee County (Remainder of County)
Area 3: Berrien County (Southwest Corner)

LINE CONSTRUCTION:

Area 1: Ingham County (townships of Leroy, Locke, Wheatfield, White Oak and Williamson)
Area 2: Remainder of Counties

MILLWRIGHTS:

Area 1: Clinton County, Eaton County, Ingham County and Jackson County
Area 2: Allegan County, Barry County, Berrien County (Except the townships of Chickaming, New Buffalo and Three Oaks), Branch County, Calhoun County, Cass County, Hillsdale County, Ionia County, Kalamazoo County, St. Joseph County and Van Buren County

PAINTERS:

Area 1: Allegan County (Northern Portion) and Ionia County (Western Half of County)
Area 2: Allegan County (Southwest Half of County), Berrien County, Cass County (Western Half of County) and Van Buren County (Western Half of County)
Area 3: Allegan County (Southwest Half of County), Barry County (Southwest Half of County), Cass County (East Half of County), Kalamazoo County, St. Joseph County and Van Buren County (East Half of County)
Area 4: Barry County (Remainder of County), Branch County, Calhoun County, Hillsdale County (Western Third of County)
Area 5: Hillsdale County (Remainder of County), Jackson County, Lenawee County
Area 6: Remainder of Counties

PLUMBERS:

Area 1: Allegan County (townships of Dorr, Fillmore, Laketown, Leighton, Overisel and Salem), Barry County (townships of Carlton, Irving, Thornapple and Woodland), and Ionia County (Except the townships of Danby and Portland)
Area 2: Allegan County (Except the townships of Dorr, Fillmore, Laketown, Leighton, Overisel and Salem), Barry County (townships of Barry, Hope, Orangeville, Prairieville, Ruthland and Yankee Springs), Kalamazoo County, St. Joseph County and Van Buren County
Area 3: Barry County (townships of Assyria, Baltimore, Castleton, Hastings, Johnstown and Maple Grove), Branch County, Calhoun County and Eaton County (Except the townships of Delta, Oneida, Roxand, Sunfield and Windsor)
Area 4: Berrien County (Except the townships of Bertrand, Buchanan, Chickaming, Galien, New Buffalo, Niles, Three Oaks and Weesaw)
Area 5: Berrien County (City of Niels and Vicinity), Cass County
Area 6: Clinton County, Eaton County (townships of Delta, Oneida, Roxland, Sunfield and Windsor), Ingham County, Ionia County (townships of Danby and Portland)
Area 7: Hillsdale County, Jackson County and Lenawee County (Except the townships of Clinton, Macon and Tecumseh)

ROOFERS:

Area 1: Allegan County, Barry County and Ionia County
Area 2: Berrien County
Area 3: Clinton, Eaton and Ingham Counties
Area 4: Hillsdale and Jackson Counties
Area 5: Lenawee County
Area 6: Branch, Calhoun, Kalamazoo, St. Joseph and Van Buren Counties

SHEET METAL WORKERS:

Area 1: Berrien, Cass and St. Joseph Counties
Area 2: Lenawee County
Area 3: Remainder of Counties

TRUCK DRIVERS:

Area 1: Ionia County (Western Half of County)
Area 2: Clinton County, Eaton County (Northern Half of County), Ingham County, Ionia County (Remainder of County)
Area 3: Barry County, Branch County, Calhoun County, Kalamazoo County (townships of Barry, Charleston, Climax, Comstock, Pavilion, Richland, Ross and Wakeshma)

LABORERS:

Area 1: Allegan, Barry, Berrien, Branch, Calhoun, Cass, Kalamazoo, St. Joseph and Van Buren Counties
Area 2: Ionia County (Excluding the City of Portland)
Area 3: Clinton, Eaton and Ingham Counties
Area 4: Hillsdale, Jackson and Lenawee Counties

LABORERS- Open Cut Construction:

Area 1: Clinton County, Eaton County, Ingham County and Ionia County (Southeast Corner)
Area 2: Hillsdale, Jackson and Lenawee Counties
Area 3: Ionia County (Remainder of County)
Area 4: Remainder of Counties

POWER EQUIPMENT OPERATORS:

Area 1: Lenawee County
Area 2: Remainder of Counties

POWER EQUIPMENT OPERATORS- Steel Erection:

Area 1: Lenawee County
Area 2: Remainder of Counties

POWER EQUIPMENT OPERATORS- Underground Construction:

Area 1: Branch, Calhoun, Clinton, Eaton, Hillsdale, Ingham, Jackson and Lenawee Counties
Area 2: Remainder of Counties

GROUP DEFINITIONS

LABORERS:

Area 1 and 2:
Group 1: General Laborers
Group 2: Plasterer Tender, Material Mixer, Portable Mixer, Air/Electric/Gas Tool Operators, Motor-Driver Buggy, Swing Scaffold
Group 3: Jackhammer Operator, Crock Layer, Caisson in Building
Group 4: Top Men on Chimney or Tower over 30' in height

Area 3:
Group 1: General Laborers, Mortar Mixer, Plasterer Tender, Portable Concrete Mixer (14 H.P. and under), Air/Electric/Gas Tool Operators, Hot Dope Carrier, Tar Kettle Tender, Gasoline Vibrator, Concrete Gas Buggy, Concrete Saw, Signal men and Top Men on Sewer, Caisson Construction (open cut work), Tunnel Men, Concrete Shoveler, Car Pusher, Bottom Men on Sewer work
Group 2: Windlass Operator on Caisson work, Crock or Pipe layers, Caisson Worker, Tunnel Mucker, Tunnel Miner, Jackhammer, Burner

LABORERS- Open Cut Construction:

Class 1 - Construction Laborers
Class 2 - Mortar & material mixer, concrete form man, signal man, well point man, manhole, headwall & catch basin builder, guardrail builder, & fence erector
Class 3 - Air/gas/electric tool operators, vibrator operator, driller, pump man, tar kettle operator, bracer, rodder, reinforced steel or mesh man (e.g. wire mesh, steel mats, dowel bars), cement finisher's laborer, pipe jacking & boring man, wagon drill & air track operator, concrete saw operator (under 40 HP.), windlass & tugger man
Class 4 - Trench or excavating grade man
Class 5 - Pipe layer (including crock, metal pipe, multi-plate or other conduits).

LABORERS - Tunnel, Shaft and Caisson Construction:

Class 1: Tunnel, Shaft, and Caisson Laborer, Dump Man, Shanty Man, Hog House Tender, Testing Man on Gas

Group Definitions (Cont'd)

LABORERS- Tunnel, Shaft and Caisson Construction (Cont'd):
Class 2: Manhole, Headwall, Catch Basin Builder, Bricklayer Tender, Mortar Man, Material Mixer, Fence Erector and Guard Rail Builder
Class 3: Air Tool Operator (Jackhammer, Bush Hammer and Grinding), First Bottom Man, Second Bottom Man, Cage Tender, Car Pusher, Carrier Man, Concrete Man, Concrete Form Man, Concrete Repair Man, Cement Invert Laborer, Cement Finisher Laborer, Concrete Shoveler, Conveyor Man, Floor Man, Gas and Electric Tool Operator, Gunnite Man, Grout Operator, Pump Man, Outside Lock Tender, Scaffold Man, Top Signal Man, Switch Man, Track Man, Tugger Man, Utility Man, Vibrator Man, Winch Operator, Pipe Jacking, Boring Man, Wagon Drill/Air Track Operator/Concrete Saw Operator (under 40 HP)
Class 4: Tunnel, Shaft and Caisson Mucker, Braker Man, Liner Plate Man, Long Haul Dinky Driver and Well Point Man.
Class 5: Tunnel, Shaft and Caisson Miner, Drill Runner, Power Knife Operator, Reinforced Steel or Mesh Man (e.g., wire mesh, Steel Mats, powel Bars)
Class 6: Dynamite Man and Powder Man

LANDSCAPE LABORERS:
Class A: Landscape Specialist (including Air, Gas, Diesel, Electric Tool and Equipment)
Class B: Landscape Laborers, Truck Drivers, Material Haulers and Small Powered Equipment

POWER EQUIPMENT OPERATORS:
Area 1:
Class A: Crane with Boom and Jib or Leads 220' or longer
Class B: Crane with Boom and Jib or Leads 140' or longer
Class C: Crane with Boom and Jib or Leads 120' or longer
Class D: Regular Crane Operator
Class E: Regular Engineer
Class F: Engineer when operating compressor or welding machine
Class G: Fireman or Oiler
Area 2:
Class A: Crane with main Boom and Jib 220' or longer
Class B: Crane with main Boom and Jib 140' or longer, Tower Crane, Gantry Cranes, Whirley Derrick
Class C: Regular Equipment Operator, Cranes, Stiff Leg Derrick, Scraper, Dozer, Grader, Front End Loader, Hoist, Job Mechanic
Class D: Air Tugger (single drum), Material Hoist, Boiler Operators, Sweeping Machine, Winch Truck, Bobcat & Similar type Equipment, Fork Truck (over 20' Lift)
Class E: Pump 6" or over, Well Points, Freeze Systems, Boom Truck (nonswinging), Fork Truck (20' Lift)
Class F: Air Compressor, Welder, Generators, Pumps under 6," Grease Men, Conveyors
Class G: Oiler, Firemen and Heater Operators

GROUP DEFINITIONS (CONT'D)

POWER EQUIPMENT OPERATORS- Steel Erection:

Area 1:
Class A: Engineer when operating combination of boom and jib 220' or longer
Class B: Engineer when operating combination of boom and jib 140' or longer
Class C: Crane Operator, Job Mechanic
Class D: Hoisting Engineer
Class E: Compressor or Welder Operator
Class F: Oiler or Fireman
Area 2:
Class A: Crane Operator with main boom and jib 220' or longer
Class B: Crane Operator with main boom and jib 140' or longer, Tower Crane, Gantry Crane, Whirley Derrick
Class C: Regular Equipment Operator, Crane, Dozer, Loader, Hoist, Straddle Wagon, Job Mechanic
Class D: Air Tugger (single drum), Material Hoist, Pump 6" and over
Class E: Air Compressor, Welder, Generator, Conveyor
Class F: Oiler or Fireman

POWER EQUIPMENT OPERATORS- Underground Construction:

Class A - Backfiller tamper, backhoe, batch plant operator (concrete), clamshell, concrete paver (2-drum or larger), conveyor loader (fluclid type), crane (crawler, truck type or pile driving), dozer (9' blade & over), dragline, elevating grader, end loader (over 1½ cu yds. capacity), gradall, mechanic, power shovel, roller (asphalt), scraper (self-propelled or tractor drawn), side boom tractor (D-4 type), slip form paver, slope paver, trencher (over 8' digging capacity), well drilling rig;
Class B - Boom truck (power swing type boom), crusher, dozer (less than 9' blade), end loader (1½ cu. yds & smaller), hoist, pump (1 or more - 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more - inclusive of generator), side boom tractor (smaller than D-4 type), sweeper (Wayne type), tractor (pneu-tired, other than backhoe or front end loader), trencher (8' digging capacity)
Class C - Air compressor (600 CFM or larger), air compressor (2 or more - less than 600 CFM), boom truck (non-swinging, non-powered type boom), concrete breaker (self-propelled or truck mounted - includes compressor), concrete paver (1-drum, 1½ yd. or larger), elevator (other than passenger), maintenance man, mechanic tender, pump (2 or more, 4" to 6" discharge, gas or diesel powered, excluding submersible pumps), pumpcrete machine, wagon drill (multiple), welding machine or generator (2 or more, 300 amps or larger, gas or diesel powered)

GROUP DEFINITIONS (CONT'D)

POWER EQUIPMENT OPERATORS- Underground Construction (Cont'd):

Class D - Boiler, concrete saw (40 HP. or over), curing machine (self-propelled), farm tractor with attachment, finishing machine (concrete), fireman, hydraulic pipe pushing machine, mulching equipment, oiler, pumps (2 or more up to 4" discharge, gas or diesel powered, excluding submersible pumps), roller (other than asphalt), stump remover, trencher (service), vibrating compaction equipment (self-propelled, 4' wide or over).

Unlisted classification 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: NEW MEXICO

COUNTY: STATEWIDE (excluding Eddy & Lea Cos. for building construction)

DECISION NO.: NM85-4014

DATE: Date of Publication

SUPERSEDES DECISION NO. NM84-4099, dated October 19, 1984 (49 FR 41140).

DESCRIPTION OF WORK: GENERAL BUILDING AND HEAVY ENGINEERING CONSTRUCTION shall include the construction, alteration, repair and demolition of buildings, including office buildings, warehouses, industrial and commercial buildings, institutional and public buildings, and all air conditioning, conduit, heating and other mechanical and electrical works and site preparation for building or heavy engineering projects under this classification, stadia; and shall include electrical, gas, water, sewer lines, and other such utility construction which are part of projects under this classification and included within the property line or less than five (5) feet from the building or heavy engineering structure, whichever is closer, provided, however, regard to electrical utilities such construction shall include construction from the first attachment of incoming power source without regard to the property line or proximity to the building or the heavy engineering structure; and include construction, alteration, repair and demolition of heavy engineering work such as power generating plants, pump stations, natural gas compressing stations; covered reservoirs and covered sewage and water treatment facilities; concrete linings for canals, ditches and channels; concrete dams; earth dams of one million (1,000,000) cubic yards or over; radio towers, ovens, furnaces, kilns, silos, shafts and tunnels (other than highway shafts and tunnels), hydro-electric projects; and well drilling, telephone and electrical transmission lines which are part of GENERAL BUILDING & HEAVY ENGINEERING PROJECTS: mining appurtenances such as tipples, washeries and loading and discharging chutes, and specialized structures for testing, launching and recovering space and other rocket-type missiles.

DECISION NO. NM85-4014 PAGE 2

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
ZONE I	$16.78	3.56
ZONE II	17.95	2.37
BOILERMAKERS	14.43	4.25
BRICKLAYERS-STONEMASONS:		
ZONE I	14.11	2.07
ZONE II	15.61	2.07
ZONE III	16.36	2.07
ZONE IV	14.46	1.72
ZONE V	15.96	1.72
ZONE VI	14.66	1.52
ZONE VII	16.16	1.52
ZONE VIII-A	14.16	1.62
ZONE VIII-B	15.66	1.62
ZONE XI	15.90	1.42
ZONE X	14.14	1.42
CARPENTERS/LATHERS/PILE-DRIVERMEN:		
Construction,erection, alteration,repair,modification,addition to or improvement in whole or in part of structures for which the major support system is wood frame construction and will also include all apartments over 4 stories, all convenience stores,fast food restaurants,automobile service stations & motels up to 2 stories high	8.00	1.20
All other work	13.15	3.45
CEMENT MASONS:		
BUILDING CONSTRUCTION:		
AREA I:		
Construction,erection, repair,modification, addition to or improvement in whole or in part of structures for which the major support system is wood frame & will also include all apartments over 4 stories,convenience stores,fast food restaurants,automobile service stations & motels up to 2 stories high regardless of type of construction	8.00	1.20
All other work	11.99	2.22

	Basic Hourly Rates	Fringe Benefits
CEMENT MASONS (CONT'D):		
BUILDING CONSTRUCTION:		
AREA II:		
Apartments over 4 stories	$ 8.08	1.12
All other work	11.99	2.22
HEAVY CONSTRUCTION	11.99	2.22
COMPOSITION & MACHINE OPERATORS	12.24	2.22
ELECTRICIANS:		
ZONE I:		
AREA I-A	17.00	2.20+ 3.75%
AREA I-B	18.53	"
AREA I-C	19.55	"
AREA I-D	21.42	"
ZONE II	19.55	"
ZONE III-		
3-A	14.20	.80+ 3.5%
3-B	15.65	"
ZONE IV:		
4-A	16.30	1.64+3%
4-B	16.75	1.64+3%
4-C	16.90	1.64+3%
4-D	17.15	1.64+3%
CABLE SPLICERS:		
ZONE I:		
AREA I-A	18.70	2.20+ 3.75%
AREA I-B	20.23	"
AREA I-C	21.25	"
AREA I-D	23.12	"
ZONE II	21.25	"
ZONE III:		
3-A	14.45	.80+ 3.5%
3-B	15.90	"
ZONE IV:		
4-A	16.65	1.64+3%
4-B	17.10	1.64+3%
4-C	17.25	1.64+3%
4-D	17.70	1.64+3%

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	Basic Hourly Rates	Fringe Benefits
ELEVATOR CONSTRUCTORS:		
AREA I:		
Mechanics	$16.44	3.00+a
Helpers	70%JR	3.00+a
Helpers (Prob.)	50%JR	
AREA II:		
Mechanics	12.38	2.69+a
Helpers	70%JR	2.69+a
Helpers (Prob.)	50%JR	
a-Employer contributes 8% of basic hourly rate for over 5 years service & 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Seven Paid Holidays - New Years' Day,Memorial Day,Independence Day,Labor Day,Thanksgiving Day, the Friday after Thanksgiving Day & Christmas Day		
GLAZIERS	12.69	1.40
IRONWORKERS:		
ZONE I:		
Construction,erection, alteration,repair,modification, addition to or improvement in whole or in part of structures for which the major support system is wood frame construction & will include apartments over 4 stories, convenience stores, fast food restaurants, automobile service stations,motels up to 2 stories high regardless of the type of construction,all pre-engineered metal buildings except the structural portion of said buildings with eave height in excess of 40 ft. & all steel fencing	8.07	1.43
All other work	14.10	3.28

	Basic Hourly Rates	Fringe Benefits
IRONWORKERS (CONT'D):		
ZONES II & III:		
Construction,erection, alteration,repair,modification,addition to or improvement in whole or in part of structures for which the major support system is wood frame construction & will also include apartments over 4 stories, convenience stores, fast food restaurants, automobile service stations,motels up to 2 stories high regardless of the type of construction,all pre-engineered metal buildings except the structural portion of said buildings with eave height in excess of 30 ft. & all steel fencing	$ 8.23	.95
All other work:		
ZONE II	13.55	2.97
ZONE III	14.55	2.97
LABORERS:		
GROUP 1	8.75	1.91
GROUP 2	9.25	1.91
GROUP 3	9.80	1.91
LEADBURNERS:		
ZONE I	17.29	3.73
ZONE II	17.29	3.73
ZONE III	17.29	3.73
ZONE IV (SPECIFIC AREA)	18.09	3.73

	Basic Hourly Rates	Fringe Benefits
COMMERCIAL LINE WORK:		
AREA A:		
Linemen-Technicians:		
ZONE I	$17.00	2.20+ 3.5%
ZONE II	18.53	"
ZONE III	19.55	"
ZONE IV	21.42	"
Cable splicers:		
ZONE I	18.70	"
ZONE II	20.23	"
ZONE III	21.25	"
ZONE IV	23.12	"
Equipment Op.(includes helicopter op.):		
ZONE I	16.15	"
ZONE II	17.69	"
ZONE III	18.70	"
ZONE IV	20.57	"
Equipment mechanic (include helicopter mech.) & powderman:		
ZONE I	14.79	"
ZONE II	16.32	"
ZONE III	17.34	"
ZONE IV	19.21	"
Groundman-Jackhammer op:		
ZONE I	12.07	"
ZONE II	13.60	"
ZONE III	14.62	"
ZONE IV	16.49	"
AREA B:		
Linemen-Technicians:		
ZONE I	14.50	1.00+ 3.5%
ZONE II	15.95	"
Cable splicers:		
ZONE I	14.79	"
ZONE II	16.27	"
Equipment op. (includes helicopter ops.):		
ZONE I	12.62	"
ZONE II	13.88	"
Equipment mechanic (including helicopter mechanic)		
ZONE I	12.62	"
ZONE II	13.88	"
Powderman:		
ZONE I	12.18	"
ZONE II	13.40	"
Jackhammer-Groundman:		
ZONE I	10.30	"
ZONE II	11.32	"

	Basic Hourly Rates	Fringe Benefits
COMMERCIAL LINE WORK(CONT'D):		
AREA C:		
Linemen-Technicians:		
ZONE I	$17.10	1.00+ 3.5%
ZONE II	17.55	"
ZONE III	17.70	"
ZONE IV	17.95	"
Cable splicers:		
ZONE I	17.45	"
ZONE II	17.90	"
ZONE III	18.05	"
ZONE IV	18.30	"
Equipment Op. & mechanics (includes helicopter op.& mechanics:		
ZONE I	14.88	"
ZONE II	15.33	"
ZONE III	15.48	"
ZONE IV	15.73	"
Powderman:		
ZONE I	14.36	"
ZONE II	14.81	"
ZONE III	14.96	"
ZONE IV	15.21	"
GROUNDMAN-JACKHAMMER:		
ZONE I	12.14	"
ZONE II	12.59	"
ZONE III	12.74	"
ZONE IV	12.99	"
MARBLE, TILE & TERRAZZO WORKERS	13.95	1.02
MARBLE, TILE & TERRAZZO FINISHERS	11.80	1.02
MILLWRIGHTS:		
ZONE I	14.30	3.45
ZONE 2	15.80	3.45
ZONE 3	16.55	3.45
PAINTERS:		
ZONE I:		
Mines,mills,power plants,energy plants,refineries,coal gassification plants,nuclear related facilities & all steel work incidental thereto including stacks of all descriptions:		
Brush,roller,pot tender,sandblaster		
grinder operator:		
New work	13.15	2.10
Repaint/remodel	11.18	2.10
Spray:		
New work	13.65	2.10
Repaint/remodel	11.60	2.10

	Basic Hourly Rates	Fringe Benefits
PAINTERS (CONT'D):		
ZONE I (CONT'D):		
Mines, mills,etc.(Cont'd):		
Drywall finisher & ames tool op.:		
New work	$13.65	2.10
Repaint/Remodel	11.60	2.10
Handfinisher, machine textures:		
New work	13.45	2.10
Repaint/remodel	11.43	2.10
Paperhangers:		
New work	14.15	2.10
Repaint/remodel	12.03	2.10
All other work:		
Brush & roller, hand texture:		
New work	11.85	2.10
Repaint/remodel	10.07	2.10
Spray:		
New work	12.35	2.10
Repaint/remodel	12.50	2.10
Special coating applicator, sandblaster, steel painter:		
New work	12.35	2.10
Repaint/remodel	10.50	2.10
Paperhanger:		
New work	12.85	2.10
Repaint/remodel	10.92	2.10
Ames tool op.:		
New work	12.43	2.10
Repaint/remodel	10.57	2.10
Hand finisher, machine texture:		
New work	12.18	2.10
Repaint/remodel	10.35	2.10
ZONE II:		
Building Construction:		
Brush, roller, paperhanger, tapers	9.21	1.02
Steel after erection, power driven tools	9.35	1.02
Spray	9.63	1.02
Sandblast, swing stage, striping machine	10.36	1.02
Ames tools	9.35	1.02
Heavy Construction:		
Brush, roller	9.77	1.02
Spray, sandblast, swing stage, steam cleaning, power driven tools	10.36	1.02
Water tanks, towers, smoke stacks	10.51	1.02

	Basic Hourly Rates	Fringe Benefits
PLASTERERS:		
Construction,erection, alteration,repair,modification,addition to or improvement in whole or in part of structures for which the major support system is wood frame construction & will also include all apartments over 4 stories, convenience stores, fast food restaurants, automobile service stations & motels up to 2 stories high regardless of type of construction:		
AREA I	$ 7.04	2.16
AREA II	8.08	1.12
All other work:		
AREAS I & II	13.15	2.12
PLUMBERS & PIPEFITTERS:		
AREA I	16.79	3.73
AREA II	16.79	3.73
AREA III	16.79	3.73
Specific Area	17.59	3.73
Plumbers, Pipefitters		
Light Commercial - all 5-M type construction work under the uniform building code of a project of 150 fixture units or less; Motels not over two stories in height regardless of type of construction; Refrigeration-limited to 49 tons per unit or lers for comfort refrigeration only; Indoor swimming pools in conjunction with work covered above; All utilities except on industrial work; and all remodel work up to $120,000 in volume:		
Bernalillo County	10.00	2.31
Remainder of New Mexico	9.00	2.31
All Irrigation & Lawn Sprinkler Work	7.00	2.31

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
BUILDING CONSTRUCTION:		
GROUP I	11.88	1.90
GROUP II	12.22	1.90
GROUP III	12.30	1.90
GROUP IV	12.51	1.90
GROUP V	12.57	1.90
GROUP VI	12.67	1.90
GROUP VII	12.77	1.90
GROUP VIII	13.95	1.90
HEAVY CONSTRUCTION:		
GROUP I	11.31	2.15
GROUP II	12.47	2.15
GROUP III	12.56	2.15
GROUP IV	12.77	2.15
GROUP V	12.83	2.15
GROUP VI	12.94	2.15
GROUP VII	13.04	2.15
GROUP VIII	14.25	2.15
ROOFERS	10.62	1.30
SHEET METAL WORKERS:		
ZONE I-A	$16.67	3.92+3%
ZONE I-B	18.67	3.92+3%
ZONE I-C	19.92	3.92+3%
ZONE I-D	19.92	3.92+3%
ZONE II-A	14.01	2.61+3%
ZONE II-B	15.51	2.61+3%
ZONE II-C	16.26	2.61+3%
SPRINKLER FITTERS	16.17	3.23
SOFT FLOOR LAYERS	11.55	2.10
SOUND INSTALLERS:		
SOUNDMAN:		
ZONE I	13.75	1.75+ 3.5%
ZONE II	15.47	"
ZONE III	18.91	"
TECHNICIANS:		
ZONE I	11.00	"
ZONE II	12.72	"
ZONE III	14.16	"
SOUND INSTALLERS:		
ZONE I	8.94	"
ZONE II	10.66	"
ZONE III	14.10	"
TRUCK DRIVERS:		
BUILDING CONSTRUCTION:		
ZONE I		
GROUP I	9.93	1.79
GROUP II	10.20	1.79
GROUP III	10.28	1.79
GROUP IV	10.40	1.79
GROUP V	10.45	1.79
GROUP VI	10.55	1.79
GROUP VII	10.65	1.79
GROUP VIII	10.79	1.79
GROUP IX	10.94	1.79
TRUCK DRIVERS (CONT'D): BUILDING CONST.(CONT'D):	Basic Hourly Rates	Fringe Benefits
ZONE II		
GROUP I	11.68	1.79
GROUP II	11.95	1.79
GROUP III	12.03	1.79
GROUP IV	12.15	1.79
GROUP V	12.20	1.79
GROUP VI	12.30	1.79
GROUP VII	12.40	1.79
GROUP VIII	12.54	1.79
GROUP IX	12.69	1.79
ZONE III		
GROUP I	$12.18	1.79
GROUP II	12.45	1.79
GROUP III	12.53	1.79
GROUP IV	12.65	1.79
GROUP V	12.70	1.79
GROUP VI	12.80	1.79
GROUP VII	12.90	1.79
GROUP VIII	13.04	1.79
GROUP IX	13.19	1.79
HEAVY CONSTRUCTION:		
ZONE I		
GROUP I	10.09	1.54
GROUP II	10.35	1.54
GROUP III	10.43	1.54
GROUP IV	10.55	1.54
GROUP V	10.60	1.54
GROUP VI	10.70	1.54
GROUP VII	10.80	1.54
GROUP VIII	10.94	1.54
GROUP IX	11.09	1.54
ZONE II		
GROUP I	11.38	1.54
GROUP II	11.50	1.54
GROUP III	11.58	1.54
GROUP IV	11.70	1.54
GROUP V	11.75	1.54
GROUP VI	11.85	1.54
GROUP VII	11.95	1.54
GROUP VIII	12.09	1.54
GROUP IX	12.24	1.54
ZONE III		
GROUP I	11.63	1.54
GROUP II	11.75	1.54
GROUP III	11.85	1.54
GROUP IV	11.95	1.54
GROUP V	12.00	1.54
GROUP VI	12.10	1.54
GROUP VII	12.20	1.54
GROUP VIII	12.34	1.54
GROUP IX	12.49	1.54

CLASSIFICATION AREAS AND ZONES DEFINITIONS

ASBESTOS WORKERS
ZONE I - Statewide except Union, Harding, Curry, Roosevelt & Quay Counties
ZONE II - Union, Harding, Curry, Roosevelt & Quay Counties

BRICKLAYERS-STONEMASONS
ZONE I - Bernalillo County, townships of Bernalillo & Rio Rancho in Sandoval Co. & townships of Los Lunas & Belen in Valencia Co.
ZONE II - Santa Fe County
ZONE III - Catron, Colfax, Cibola, Harding, Los Alamos, McKinley, Mora, Rio Arriba, Sandoval (excluding townships of Bernalillo & Rio Rancho), San Juan, San Miguel, Socorro, Taos, Torrence, Union & Valencia (excluding townships Los Lunas & Belen) Counties
ZONE IV - Curry & Roosevelt Counties
ZONE V - DeBaca, Guadalupe & Quay Counties
ZONE VI - Chaves County
ZONE VII - Lincoln County
ZONE VIII-A - Eddy & Lea Cos. (except at mine & refinery sites outside municipal limits)
ZONE VIII-B - Eddy & Lea Cos. (employees at mine & refinery sites outside municipal limits)
ZONE IX - Grant (excluding Communities of Silver City, Bayard, Central, Hurley & town site of Tyrone), Hidalgo, Luna, Otero (excluding Community of Alamogordo (Area Residents)) & Sierra Counties
ZONE X - Dona Ana, Communities of Silver City, Bayard, Central, Hurley & town site of Tyrone in Grant Co. & Community of Alamogordo (Area Residents) in Otero Co.

CEMENT MASONS
AREA I - Bernalillo, Catron, Chaves, Cibola, Curry, DeBaca, Dona Ana, Eddy, Grant, Guadalupe, Hidalgo, Lea, Lincoln, Luna, McKinley, Otero, Quay, Roosevelt, Sandoval, Sierra, Socorro, Torrance, Union & Valencia Counties
AREA II - Colfax, Harding, Los Alamos, Mora, Rio Arriba, San Juan, San Miguel, Santa Fe & Taos Counties

ELECTRICIANS - CABLE SPLICERS
ZONE I
AREA I - Bernalillo, Santa Fe, Torrance, DeBaco, Guadalupe, Quay, San Miguel, Mora, Harding, Union, Colfax, Taos, Rio Arriba, Grant, Sandoval, Valencia, Socorro, Catron, McKinley, Sierra, San Juan, Chaves, Curry, Lincoln, Cibola & Roosevelt Counties
AREA I-A
From nearest basing pointcities, towns & mileage from main post office in the following towns:

- Albuquerque - 15 miles
- Santa Fe - 10 miles
- Las Vegas - 8 miles
- Farmington - 6 miles
- Raton - 6 miles
- Tucumari - 6 miles
- Aztec - 6 miles
- Roswell - 12 miles
- Ruidoso - 12 miles
- Portales - 12 miles
- Carrizozo - 12 miles
- Clovis - 12 miles
- Gallup - 10 miles
- *Pojoaque - 2 miles

*All areas adjacent to Pojoaque are over 2 miles distant from main post office in that town will be zoned out of Santa Fe

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CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

ELECTRICIANS - CABLE SPLICERS (CONT'D):
AREA 1-B
Extending up to 20 miles beyond Area 1-A
AREA 1-C
Extending up to 30 miles from Area 1-A
AREA 1-D
Anything beyond 30 miles from Area 1-A
ZONE II - Los Alamos County
ZONE III - Dona Ana, Otero, Luna, Hidalgo Counties
Zone 3-A - Within 10 miles radius from the Post Office in Las Cruces and within a 5 m. radius from the Post Office in Alamorgordo
Zone 3-B - Dona Ana, Otero, Luna, and Hidalgo Counties (except that area specified in Zone 3-A)
ZONE IV
Eddy & Lea Cos. the following zones shall be designated from the main post office in Artesia, Carlsbad, Hobbs & Lovington
Zone 4-A - 0 to 12 miles
Zone 4-B - 12 to 22 miles
Zone 4-C - 22 to 40 miles
Zone 4-D - Over 40 miles

ELEVATOR CONSTRUCTORS:
AREA I
Bernalillo, Catron, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Socorro, Taos, Torrance, Union, Cibola and Valencia Counties.
AREA II
Chaves, Hidalgo, Dona Ana, Grant, Luna, Otero and Sierra Cos.

IRONWORKERS:
ZONE I
Bernalillo, Catron, Colfax, DeBaca, Guadalupe, Lincoln, Los Alamos, Taos, McKinley, Mora, Rio Arriba, San Juan, San Miguel, Sandoval, Santa Fe, Socorro, Torrance, Cibola & Valencia Counties
ZONE II
Dona Ana County with the exception of that portion of county that lies within the White Sands Missile Range; Chaves County, Eddy Co., except that Potash Basin & defined as the area 10 rd. miles on Highway 62 & Highway 180, east of Carlsbad
ZONE III
Curry, Harding, Quay, Union, Hidalgo, Grant, Lea, Luna, Otero & Sierra Cos.; also White Sands & McGregor Missile Ranges, Potash Basin

LABORERS:
GROUP 1 - Building & common laborers; chainmen; stake drivers; demolition; mortar tender; pick & shovel work; window cleaning & cleanup
GROUP 2 - Carpenter tender; concrete workers; concrete buggy operators
GROUP 3 - Air & power tool operator; asphalt raker; chain saw operators; cutting torch operators; gunite reboundmen; fog machine operators; power buggy operators; sandblasters (potmen); window washers; wagon, core & diamond driller tenders (outside); pumps under 6"; asbestos removal; concrete burner; cement mason tenders; hod carriers; mortar mixers; plaster spreader operators; plaster tenders; gunite nozzlemen; pipelayer; pumcrete nozzlemen; powderman; blaster

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

LEADBURNERS BASING POINTS AND AREA DEFINITIONS:

Albuquerque, Alamogordo, Anthony, Belen, Bernalillo, Clovis, Deming, Espanola, Farmington, Gallup, Grants, Las Cruces, Las Vegas, Lordsburg, Los Lunas, Portales, Raton, Rio Rancho, Roswell, Ruidoso, Sante Fe, Silver City, Santa Rosa, Socorro, Taos, Tucumcari, Truth or Consequence, Artesia, Carlsbad, Hobbs, and Lovington.
Area I: Includes a distance of 11 road miles inclusive beyond the city or town limits.
Area II: A 9 mile perimeter around Silver City.
Area III: A distance of more than 11 road miles beyond the city or town limits; beyond 9 miles from Silver City.
Specific Area: Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range and/or Provino Grounds.

COMMERCIAL LINE WORK
AREA A
Bernalillo, Colfax, Catron, Chaves, Curry, DeBaca, Grant, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, Valencia & White Sands Missile Range & that portion of Fort Bliss in New Mexico
AREA A
ZONE I
Cities & Towns Basing Points - Miles from Main Post Offices

Albuquerque - 15 miles	Aztec - 6 miles
Santa Fe - 10 miles	Roswell - 12 miles
Las Vegas - 8 miles	Ruidoso - 12 miles
Farmington - 6 miles	Clovis - 12 miles
Raton - 6 miles	Gallup - 12 miles
Tucumari - 6 miles	

*All areas adjacent to Pojoaque that are over two miles distant from the main post office in that town will be zoned out of Santa Fe
ZONE II
Extending up to 30 miles beyond Zone I
ZONE III
Extending up to 30 miles beyond Zone I
ZONE IV - Anything beyond 30 miles from Zone I
Las Alamos County - Use ZONE III RATES
AREA B
Applies to switching stations and sub-stations adjacent to power plants in Zone I & Zone II in Luna, Dona Ana, Otero & Hidalgo Cos., exclusive of White Sands Missile Range & that portion of Fort Bliss in New Mexico
ZONE I
That area within 25 miles radius from the downtown Post Office of El Paso, Texas, Fort Bliss & Biggs Fields; the area within a five mile radius of any city, town or municipality within which an employer established or maintains his place of business; the area within ten mile radius from the PO in Las Cruces & within a 5 mile radius from the PO in Alamogordo
ZONE II
All other areas of the jurisdiction except those specified in Zone I
AREA C
Applies to switching stations adjacent to power plants in Eddy & Lea Cos.; the following zones listed shall be designated from post office of Artesia, Carlsbad, Hobbs & Lovington:
ZONE I - 0 to 12 miles
ZONE II - 12 to 22 miles
ZONE III - 22 to 40 miles
ZONE IV - 40 miles and beyond

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

MILLWRIGHTS
BASING POINT - FROM ALBUQUERQUE CITY LIMITS:
ZONE 1 - 0 to 15 road miles from basing point
ZONE 2 - 15 to 35 road miles from basing point
ZONE 3 - Over 35 road miles from basing point

PAINTERS
ZONE I
San Juan, McKinley, Bernalillo, Torrance, Guadalupe, Quay, Catron, Eddy, Socorro, Lincoln, DeBaca, Roosevelt, Chaves, Valencia, Sierra, Grant, Lea, Hidalgo, Curry, Sandoval.Colfax, Harding, Los Alamos, Mora, San Miguel, Rio Arriba, Taos, Union & Santa Fe Counties
ZONE II
Luna, Otero & Dona Ana Counties

PLASTERERS
AREA I
Bernalillo, Catron, Chaves, Cibola, Curry, DeBaca, Dona Ana, Eddy Grant, Guadalupe, Hidalgo, Lea, Lincoln, Luna, McKinley, Otero, Quay, Roosevelt, Sandoval, Sierra, Socorro, Torrance, Union & Valencia Counties
AREA II
Colfax, Harding, Los Alamos, Mora, Rio Arriba, San Juan, San Miguel, Santa Fe & Taos Counties

PLUMBERS & PIPEFITTERS AREA DEFINITIONS:

Albuquerque, Alamogordo, Anthony, Belen, Bernalillo, Clovis, Deming, Espanola, Farmington, Gallup, Grants, Las Cruces, Las Vegas, Lordsburg, Los Lunas, Portales, Raton, Rio Rancho, Roswell, Ruidoso, Sante Fe, Silver City, Santa Rosa, Socorro, Taos, Tucumcari, Truth or Consequence, Artesia, Carlsbad, Hobbs, and Lovington.

Area I: Incudes a distance of 11 road miles inclusive beyond the city or town limits.

Area II: A 9 mile perimeter around Silver City.

Area IIb: A distance of more than 11 road miles beyond the city or town limits: beyond 9 miles from Silver City.

Specific Area IV: Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range and/or Proving Grounds.

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

POWER EQUIPMENT OPERATORS - BUILDING & HEAVY CONSTRUCTION
GROUP I
Fireman, oiler, screedman, scale op. such as bin-a-batch, rubber tired farm type tractor, tractors under 50 HP w/o attachments, breakman, concrete paving curing machine (bridgetype), helper (mechanic, welder, grease truck)
GROUP II
Rollers, sheepsfoot or pneumatic self-propelled w/o dozer, concrete conveyors, service truck op. (head oiler), air compressor (300 DPM & over), pumps (6" & over), screening plants, concrete mixers (under 1 CY), concrete saw or grinder-span type, 1 drum hoist, air tugger, elevating belt type loaders, forklift, lumber stacker, tractor farm type (under 50 HP w/attachments), motorman and industrial locomotive op., winch truck, front end loaders (under 2 CY), power plants which generate over 15 KW., welding machines
GROUP III
Bituminous distributors, boilers, retort & hot oil heaters, concrete mixers (1 CY & over), conc. paver-single drum, drilling equip.; (refrigeration, slusher, jumbo forms), trenching machines (all types), pumpcrete & gunite machines, slipform paver, mechanical bullfloats, concrete slab spreading machine, conc. slab finishing machine, asphalt plants, bituminous finishing machines, crushing plants
GROUP IV
Front end loaders (2 thru 10 CY), rollers steel wheeled-all types, bulldozers, scrapers (motor or towed), elevating graders, concrete batching plants, self-propelled rollers -- equipped w/dozer, twin-bowl scrapers and quad 8 or 9 pushers (35¢ over basic rate, three bowl scraper (60¢ over basic rate).
GROUP V
Hydraulic cranes-with less than 50 feet of boom (20 tons and under), concrete paver-double drum, cat cranes, hysters, side and swingboom cats, 2 drum hoist, auto fine grader
GROUP VI
Mucking machines-all types, motor grader (finish) mechanic welder
GROUP VII
Steam engineers, loader (front end over 10 CY), concrete pump (snorkel type)
GROUP VIII
All shovel type equipment: cranes, draglines, backhoes, derricks, guy & stiff leg, pipemobile (No. 2 operator), piledriver, hydraulic cranes (20 tons & over), mine hoist, belt loader ("C.M.I." Type), boom and jibs 150 ft. through 199 ft. - 25¢ per hour above base pay 200 ft. and over-50¢ per hour above base pay. Shovel (wheel type), boring machine (tunnel or shaft mole), pipe mobile

SHEET METAL WORKERS ZONE & CLASSIFICATION DEFINITIONS
ZONE I
Bernalillo, Catron, Chaves, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arribo, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Socorro, Taos, Torrance, Union, Cibola and Valencia Counties.

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

SHEET METAL WORKERS (CONT'D)
ZONE IA - An area including 10 miles each direction east & west of Interstate 25 & extending north & south terminating with but including Santa Fe & Socorro. An area including 10 miles each direction north & south Interstate 40 & extending west from Albuquerque, terminating with but including Grants, New Mexico. Tucumcari, Gallup, Clovis, Portales, Las Vegas & Espanola;an area identified by cornerreference points beginning at and including Pojoaque, to Chimayo, to Velarde, to Abiquiu and back to Pojoaque; an area identified by corner reference points beginning at and including Farmington to Aztec, to Bloomfield and back to Farmington
ZONE IB - Los Alamos County
ZONE IC - San Juan (except that area in Zone IA)
ZONE ID - All areas not in Zones IA, IA or IC
ZONE II
Dona Ana, Grant, Hidalgo, Luna, Sierra, Otero, Eddy & Lea Counties
ZONE IIA - Any area within a 5 mile radius of the city limits of Carlsbad, Las Cruces, Artesia, Alamogordo, Hobbs & Sunland Park
ZONE IIB - White Sands, including Holloman, McGregor & Lyndon B. Johnson
ZONE IIC - All areas not in Zones IIA or IIB

SOUND INSTALLERS
ZONE I
Thirty mile radius of main post office in Albuquerque
ZONE II
Remainder of Valencia, Sandoval, Santa Fe, Torrance, Cibola & Socorro Cos., the hourly rates of pay shall be increased for twelve & one-half (12.5) percent of journeymen rate of pay for Zone I
ZONE III
Chaves, Curry, Roosevelt, Lincoln, Guadalupe, DeBaca, Quay, San Miguel, Mora, Harding, Union, Colfax, Taos, Rio Arriba, Catron, Sierra, Grant, Los Alamos, San Juan, McKinley Cos. the hourly rates of pay shall be increased by thirty-seven and one-half (37.5) percent of the journeymen rate of pay for Zone I

TRUCK DRIVERS ZONE PAY BASING POINTS AND DEFINITIONS LISTED BELOW FOR BUILDING AND HEAVY CONSTRUCTION - BASING POINTS ARE AS FOLLOWS:
Alamogordo, Albuquerque, Artesia, Bayard, Belen, Carlsbad, Clovis, Deming, Espanola, Eunice, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Santa Rose, Silver City, Socorro, Taos, Tucumcari
ZONE I
Shall be jobs or projects within 15 road miles from the starting points listed above
ZONE II
Shall be those jobs or projects which are more than 15 road miles, but less than 35 road miles from base points, also, includes all of Los Alamos County
ZONE III
Shall be those jobs or projects which are 35 road miles or more from the base points

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

TRUCK DRIVERS (BUILDING & HEAVY CONSTRUCTION)
GROUP I
Pickup 3/4 ton and under, lubrication, light tire repair and washer, swamper, 2 or 4 and up.
GROUP II
Dump or batch truck under 8 C.Y.W.L.C.; flat bed (bobtail) 2 ton and under; warehouseman including material checker, fork lift under 5 tons MRC.
GROUP III
Dump trucks (including all highway and off highway) 8 up to 16 C.Y.W.L.C.; water, fuel or oil trucks less than 3,000 gal., flat bed (bobtail) over 2 tons.
GROUP IV
Distributor driver, heavy tire repair, lumber carrier driver, young buggy or similar equipment, transit mix or agitator 2 or 3 axle bobtail equipment, scissor truck, bulk cement bobtail 2 or 3 axles, semi-trailer flatbed or van single axle, forklift 5 ton and over M.R.C.
GROUP V
Dumpsters and dumpcrete driver; water, fuel or oil truck 3,000 to 6,000 gallons; lowboys and light equipment driver; euclid type tank wagon under 6,000 gallons
GROUP VI
Vacuum truck; dump trucks (including all highway and off-highway 16 up to 22 C.Y.W.L.C.
GROUP VII
Transit mix or agitator semi or 4 axle equipment driver; flaherty truck type spreader box driver; slurry truck driver; bulk cement driver; semi-doubles; 4 axle bobtail; winch truck and "A" frame; dump truck (including all highway and off-highway) 22 CY up to 35 C.Y.W.L.C.
GROUP VIII
Euclid diesel power turnarocker; terra coba-DW20-Le-Tourneau Pulls and similar diesel powered equipment when used to haul materials and assigned to a teamster-lowboy heavy equipment driver; water, fuel or oil trucks 6,000 gallons and over including tank wagon drivers, semi-trailer driver (flat-bed or van tandems); light equipment mechanic; dump trucks (including all highway and off-highway) 35 C.Y.W.L.C. and over; truck and trailer or semi-trailer (flatbed); eject all
GROUP IX
Lowboy (heavy equipment double gooseneck); heavy equipment mechanic; welder (body and fender men)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving.

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: Texas
COUNTIES: Collin,Dallas,Denton,Ellis,Grayson,Hood,Hunt,Johnson,Kaufman, Palo Pinto,Rockwall,Tarrant, & Wise
DECISION NO: TX85-4018 DATE: Date of Publication
Supersedes Decision No. TX84-4112, dated December 28, 1984, in 49 FR 50557.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving Incidental to Building Const. in Tarrant Co. & for Paving & Utilities Incidental to Building Const. in remaining Cos.).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.71	$ 2.94
BOILERMAKERS	16.125	2.95
BRICKLAYERS & STONEMASONS:		
ZONE 1- Collin,Dallas, Ellis,Hunt,Kaufman, & Rockwall Cos.	14.00	2.50
ZONE 2- Denton,Hood,Johnson,Palo Pinto,Tarrant, and Wise Cos.	14.00	2.50
ZONE 3- Grayson Co.	12.77	2.50
CARPENTERS:		
ZONE 1- Grayson Co.:		
Carpenters	14.61	1.655
Millwrights	15.01	1.655
Piledrivermen	15.11	1.655
ZONE 2- Collin,Dallas, Denton,Ellis,Hood,Hunt, Johnson,Kaufman,Palo Pinto,Rockwall,Tarrant, & Wise Cos.:		
Carpenters & Piledrivermen	14.00	2.22
Acoustical,Drywall, Insulation & Metal Door Frames	11.78	2.22
Millwrights	16.08	3.73
CEMENT MASONS:		
ZONE 1- Denton,Hood,Johnson,Palo Pinto,Tarrant, & Wise Cos.	13.65	2.07
ZONE 2- Collin,Dallas, Ellis,Hunt,Kaufman, & Rockwall Cos.	13.63	2.09
ELECTRICIANS:		
ZONE 1- Denton,Hood,Johnson,Palo Pinto,Tarrant, & Wise Cos.:		
Electricians	15.90	1.00 + 8%
Cable Splicers	16.15	1.00 + 8%
ZONE 2- Collin,Dallas, Ellis,Grayson,Hunt, Kaufman & Rockwall Cos.:		
Electricians	17.10	1.00+9%
Cable Splicers	18.81	1.00+9%
ELEVATOR CONSTRUCTORS:		
Mechanics	16.175	3.00+a
Helpers	70%JR	3.00+a
Helpers (Prob.)	50%JR	
GLAZIERS (excluding Grayson Co.)	15.60	1.55
IRONWORKERS:		
ZONE 1- Collin,Dallas, Denton,Ellis,Grayson, Hood,Hunt,Johnson,Kaufman,Palo Pinto(excluding northwest corner),Rockwall,Tarrant & Wise (excluding northwest ½)	12.88	2.92
ZONE 2- Palo Pinto(northwest corner) & Wise (northwest ½)	12.625	2.95
LABORERS:		
ZONE 1- Grayson Co.:		
GROUP 1- Unskilled	9.675	.775
GROUP 2- Air tool oper. (jackhammer,vibrator), mason tenders & mortar mixers,pipelayers	9.925	.775
ZONE 2- Collin,Dallas, Denton,Ellis,Hood,Hunt, Johnson,Kaufman,Palo Pinto,Rockwall,Tarrant, & Wise Cos.	8.95	1.30
LATHERS	16.38	1.04
LINE CONSTRUCTION:		
ZONE 1- Collin,Dallas, Ellis,Grayson,Hunt, Kaufman & Rockwall Cos.:		
Lineman	17.10	1.00+8½%
Cable Splicers	18.81	"
Operators	17.10	"
Groundman	11.97	"

DECISION NO.: TX85-4018 Page 2

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION:(cont'd)		
ZONE 2- Denton,Hood,Johnson,Palo Pinto,Tarrant, & Wise Cos.:		
Lineman	$14.64	$1.00+8½%
Cable Splicer	16.10	"
Operators	14.64	"
Groundman	10.25	"
MARBLE, TILE, & TERRAZZO WORKERS (excluding Ellis County)	14.94	1.87
PAINTERS:		
ZONE 1- Collin,Dallas, Denton,Ellis,Grayson, Hunt,Kaufman & Rockwall:		
GROUP 1- Brush	13.46	1.80
GROUP 2- All wall covering work: paper, fabric,sheeting,flexwood,etc.	13.71	1.80
GROUP 3- Ames tool oper.	13.58	1.80
GROUP 4- Structural steel,stage work, bosun chair,spray gun, sandblasting & window jack & fire escapes	13.84	1.80
GROUP 5- Steeple jack work consisting of watertowers,smoke stacks & breeching; chimneys,flag poles, radio & TV towers, cable work 16' & over above ground where cables are strung to scaffolds & running boards	14.21	1.80
ZONE 2- Hood,Johnson,Palo Pinto,Tarrant & Wise:		
GROUP 1- Brush	16.31	1.47
GROUP 2- Wallcovering: (except commercial vinyl); sandblasting, steel storage tanks, mechanical drywall finishing tools	16.56	1.47
GROUP 3- Steeple jack (radio & TV towers, smoke stacks,chimneys & water towers & similar facilities & flagpole stop bldgs. located closer to the edge of bldg. that the height of the pole); toxic material (creosote,coal tar products or similar materials injuriaous to the skin	17.56	1.47
GROUP 4- Spray	16.685	1.47
PLASTERERS:		
ZONE 1- Collin,Dallas, Ellis,Hunt,Kaufman, & Rockwall Cos.	15.41	3.59
ZONE 2- Denton,Hood, Johnson,Palo Pinto, Tarrant, & Wise Cos.	16.33	1.09
PLUMBERS & PIPEFITTERS:		
ZONE 1- Collin,Dallas, Ellis,Grayson,Hood, Hunt,Kaufman, & Rockwall Cos.	15.00	2.19
ZONE 2- Denton,Johnson, Palo Pinto,Tarrant, & Wise Cos.	14.23	2.03
ROOFERS:		
GROUP 1- Slate & tile	12.96	.035
GROUP 2- Composition & built-up, dampproofing & bituminous waterproofing	12.81	.035
SHEET METAL WORKERS:		
ZONE 1- Collin,Dallas, Denton,Ellis,Grayson, Hood,Hunt,Johnson, Kaufman,Rockwall, Tarrant & Wise Cos.	16.905	2.08
ZONE 2- Palo Pinto Co.	14.38	.89
SOFT FLOOR LAYERS	14.25	1.25

	Basic Hourly Rates	Fringe Benefits
SOUND INSTALLERS - repair, service & install intercommunication telephones, interconnect sound & public address equipment, electronic systems, music & TV distributing systems for commercial bldgs. & shall include the pulling of all wires in conduit or raceways or surface wiring, the running of open wiring, the running of conduit & raceways not to exceed 10 ft. in length & the wiring of all electrical communication devices of 100 volts or less controlling the equipment described above	$11.36	.54+3%+b
SPRINKLER FITTERS	16.17	3.23
POWER EQUIPMENT OPERATORS:		
ZONE 1 - Dallas Co.:		
GROUP 1	15.65	2.35
GROUP 2	14.65	2.35
GROUP 3	13.45	2.35
GROUP 4	12.25	2.35
GROUP 5	11.25	2.35
ZONE 2 - Remaining Cos.:		
GROUP 1	15.20	2.80
GROUP 2	13.00	2.80
GROUP 3	10.80	2.80
GROUP 4	9.88	2.80

	Basic Hourly Rates	Fringe Benefits

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

PAID HOLIDAYS
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate. Also 7 Paid Holidays A thru G
b - Sick or Injury Pay:
1st day out - no pay
2nd day out - 1/2 pay
3rd day out & thereafter - full pay for a maximum of 10 days pay per year
Employees who receive pay for less than 5 sick days per year shall receive on 8/31 of each year incentive pay equal in amount to a day's pay for each day that such days were less than 5

Employees who are members of a reserve component of the Armed Services & are ordered to annual active duty for training as a normal part of their reserve obligation shall be eligible for & shall receive differential pay equal to the difference between their computed daily base rate (excluding overtime compensation) & their daily military base pay (excluding quarters & subsistence allowances) for each day of military leave where the employee would normally have performed work up to a maximum of 10 work days per year

Employees absent from work while serving as jurors shall be paid at their hourly rate excluding overtime for the hours actually lost from work less any amount received by the employee as juror's fee

Up to 3 days leave for death of immediate family member (spouse,child,parent, brother,sister,mother-in-law,father-in-law,grandparents & grandchildren)

Paid Vacation:
after 1 year service - 1 week vacation
after 2 years service - 2 weeks vacation
after 5 years service - 2 weeks & 1 day vacation
after 6 years service - 2 weeks & 2 days vacation
after 7 years service - 2 weeks & 3 days vacation
after 8 years service - 2 weeks & 4 days vacation
after 9 years service - 3 weeks vacation

Paid Holidays - A thru G plus the last working day preceding Christmas Day & another day designated by the Company

POWER EQUIPMENT OPERATORS (ZONE 1) CLASSIFICATION DEFINITIONS

Group 1 - Tower Cranes; all conventional cranes, derricks, power operated; hoist, motor driven 2 drums or more; piledrivers; hydraulic cranes over 50 tons.

Group 2 - All backhoes; hydraulic cranes - 35 tons and over

Group 3 - Wagon drills; hydraulic cranes, under 35 tons; concrete pump; loaders over 1 yd.; foundation drilling machines

Group 4 - Material hoists; boom truck; placing boom; loaders 1 cu. yd. and under; gradall

Group 5 - Box blade; pneumatic roller, self-propelled; forklifts; 1 drum hoists; winch trucks; dozers and similar type equipment

POWER EQUIPMENT OPERATORS (ZONE 2) CLASSIFICATION DEFINITIONS

GROUP 1 - Hoist, two drum or more; Cableways; Cranes - Power operated; Derricks, power operated (all types); Pile Drivers; Hydraulic Cranes over 50 tons; Tower Cranes

GROUP 2 - Wagon Drill; Crushing Plants; Concrete Pumps (all types); Ford Tractor or like with any attachment (except blade and mower on rear); Drilling Machines (all types); Forklifts (40 feet and over); Six Wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cu. ft. or over; Blade Graders, self-propelled; Gradall; Hy-Ho; Hop-To; Paving Mixers (all types); Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractovators; Scrapers and Pulls; Trenching Machines; Heavy Duty Mechanic; Hydraulic Cranes 50 tons and under; 2 Air Tuggers

GROUP 3 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants, Conveyor, Elevators Building, Form Graders, Hoist (single drum), Ford Tractor including blade and mower on rear, Mixers less than 14 cubic feet, Screening Plants Forklifts (short, under 40 feet), Bobcat type equipment, Inside Automatic Building Elevator (50% of Heavy Equipment Rate), Welders, Scoopmobile, Winch Truck, Roller, ten tons or over, Air Compressor & Air Tugger, Boilers, two or more fired by one man.

GROUP 4 - Oiler

STATE: Texas COUNTIES: Jefferson & Orange
DECISION NO.: TX85-4019 DATE: Date of Publication
Supersedes Decision No. TX84-4036, dated May 25, 1984, in 49 FR 22189.
DESCRIPTION OF WORK: Building (including Residential) Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
Jefferson County	$13.23	3.23
Orange County	19.145	2.335
BOILERMAKERS	16.125	2.95
BRICKLAYERS & STONEMASONS:		
All refractory & acid proofing work	18.92	2.50
All other work	17.28	2.50
CARPENTERS:		
Carpenters - Commercial	16.52	3.065
Carpenters - Residential const. of not more than 2 units & condominium townhouses of not more than 10 units excluding all apt. const. & multiple bldgs. for rental purposes	16.09	3.065
Millwrights	16.875	2.95
Piledrivermen	16.76	2.90
CEMENT MASONS	18.02	
ELECTRICIANS	19.43	1.535+ 3%
ELEVATOR CONSTRUCTORS:		
Mechanics	15.195	3.29+a
Helpers	70%JR	3.29+a
Helpers (Prob.)	50%JR	
GLAZIERS:		
Northern 1/2 Jefferson Co	15.03	1.79
Southern 1/2 Jefferson Co & all of Orange Co.	14.53	2.29
IRONWORKERS	16.95	2.95
LABORERS:		
GROUP 1	10.66	1.50
GROUP 2	10.86	1.50
GROUP 3	10.96	1.50
GROUP 4	11.11	1.50
LATHERS	16.52	3.065
LINE CONSTRUCTION:		
Linemen & cable splicers	20.77	1.00+ 3.5%
Groundmen	15.16	1.00+ 3.5%

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
Southern 1/2 of Jefferson Co. & all of Orange Co.:		
Brush, roller, drywall finisher	$14.53	2.29
Spray, sandblasting & paperhanging	15.03	2.29
All work from stage, chair, window jack or ledge	14.78	2.29
Ames tools for drywall finishing	15.03	2.29
Northern 1/2 Jefferson Co:		
Brush, drywall hand cleaning operation	15.03	1.69
Paper & vinyl	15.28	1.69
Spray, sign, power tool operations	15.45	1.69
$.25 per hour above the prevailing wage rate when working on window sills or ledge, swing stage, bosun chair, cat walks, spider & skates in all classifications		
PIPEFITTERS	17.84	2.50
PLASTERERS	16.55	1.94
PLUMBERS	18.71	1.09
POWER EQUIPMENT OPERATORS:		
GROUP 1	17.985	1.65
GROUP 2	15.21	1.65
GROUP 3	13.99	1.65
GROUP 4	13.74	1.65
ROOFERS:		
Roofers	12.00	2.08
Kettlemen	10.50	2.08

	Basic Hourly Rates	Fringe Benefits
SHEET METAL WORKERS:		
Commercial	$17.43	3.11+3%
Work on a single family dwelling or multiple family housing units less than 3 stories in height where each individual family apt. is individually conditioned by a separate & independent unit or system	12.20	3.11+3%
SPRINKLER FITTERS	16.17	3.23
TILE SETTERS	$17.57	2.20
TRUCK DRIVERS:		
GROUP 1 - Under 1-1/2 ton	13.99	1.25
GROUP 2 - 1-1/2 tons thru 2-1/2 tons	14.78	1.25
GROUP 3 - Dump truck less than 7 yds.	15.07	1.25
GROUP 4 - Over 2-1/2 tons; euclids (not self-loading)	15.25	1.25

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A - New Years' Day; B - Memorial Day; C - Independence Day; D - Labor Day; E - Thanksgiving Day; F - the Friday after Thanksgiving Day; G - Christmas Day

FOOTNOTE FOR ELEVATOR CONSTRUCTORS
A - 1st 6 mos. - none; 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate; Also seven paid holidays A thru G

LABORERS CLASSIFICATION DEFINITIONS
GROUP 1 - All hand digging & dirt work; backfilling; loading & unloading of material to & from hoist or cages; loading & unloading of tools & equip.; handling of lumber, steel, cement;distribution of materials;wrecking & razing of bldgs. & structures; storing materials & tools in & out of receiving lots & sheds; dumper; spotter; carpenter tender & all construction work not hereinafter classified
GROUP 2 - Air power tool op.; cutting torch op.; gunnite rebound man; machine ops.; power buggy; sandblaster (potmen); drill tenders; concrete grademen; wagon drill op.; metal pan & steel form men
GROUP 3 - Conc. burner; cement mason tender; hod carries, mortar mixers, plaster tenders & brick mason tenders; pipelayer, pumpcrete nozzlemen; scaffold builder; water pump op.; tank cleaning; all pipe cleaning & wrapping; mortar & plaster mixing machines; grout machines; pumpcrete machines; gunnite mixing machines, incl. placing & cleaning of all pipe & conduits used in placing of concrete
GROUP 4 - Powdermen & blasters; sandblaster; gunnite workers; terrazzo grinders

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
GROUP 1 - Heavy duty mechanic; Blade grade, self-propelled; Bullclam; Backfiller; Derrick, power operated all types; Draglines; Push cat; Bulldozer & all types of cat tractors; Cableway; Backhoe; Shovel; Cranes, power operated, all types; Elevating grader, self-propelled; Hoist-motor driven, two drum or more; Mixmobile; Winch truck; Locomotive crane; Mixer, 14 cu. ft. or more; Paving mixer, all sizes; Piledrivers; Scrapers-heavy type, over 3 cu. yds.; Trench machine, all sizes; Gradeall; High-lift; Foundation boring machines; Gasoline or diesel driven welding machines - 7 to 12 machines; Pumpcrete machine; Drill op. - water well; DW-10 euclid; Tournapulls; Asphalt plants; Crushing machine & batch plants; Scoopmobiles; Fingerlift op.; Elevator when used to haul men or material on const. work; Well point system & operation of similar dewatering devices
GROUP 2 - Air compressor; Blade grade - towed; Flex plane; Form grader; Mixer, less than 14 cu. ft.; Pump, Pulsometer; Truck crane driver; Gasoline or diesel welding mach., 3 to 6 machines; Hoist, single drum; Scraper, 3 cu. yds. or less; Conveyors, power operated
GROUP 3 - Fireman
GROUP 4 - Oiler

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

[FR Doc. 85-14205 Filed 6-13-85; 8:45 am]

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Friday
June 14, 1985

Part III

Department of Housing and Urban Development

Solar Energy and Energy Conservation Bank

24 CFR Part 1800

Allocation of Funds and Miscellaneous Changes for the Solar Energy and Energy Conservation Bank; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Solar Energy and Energy Conservation Bank

24 CFR Part 1800

[Docket No. R-85-1221; FR-2051]

Allocation of Funds and Miscellaneous Changes for the Solar Energy and Energy Conservation Bank

AGENCY: Solar Energy and Energy Conservation Bank, HUD.

ACTION: Final rule.

SUMMARY: Section 104(d)(2) of the Housing and Community Development Technical Amendments Act of 1984 amended section 520(b)(5) of the Solar Energy and Energy Conservation Bank Act to require revision of the regulations of the Solar Energy and Energy Conservation Bank. This statutory amendment requires that the regulations establish explicit criteria, and their relative weights, for allocation of financial assistance and provide that all amounts available for financial assistance shall be allocated at the same time. This final rule changes 24 CFR 1800.95 to conform to this statutory amendment and makes other necessary revisions to 24 CFR Part 1800.

EFFECTIVE DATE: July 23, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Francis, Manager, Solar Energy and Energy Conservation Bank, Room 7110, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone: 202-755-7166. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On March 6, 1985, the Solar Energy and Energy Conservation Bank (Bank) published a proposed rule (50 FR 9040) to implement section 104(d)(2) of the Technical Amendments Act of 1984 and to propose certain other necessary revisions to 24 CFR Part 1800.

The new legislation requires two basic changes to 24 CFR 1800.95 governing procedures for allocating funds among program participants. The relative weights among all of the allocation criteria must be stated in the regulation, previously there was no fixed relationship in the regulation between the weights given to the two sets of criteria and no weights were stated in the regulation for the "reserve fund" criteria (allocation and "reserve fund" criteria were explained in detail at 50 FR 9040-9042, March 6, 1985). Also, a single allocation round applying all of the criteria is now required each year instead of the distinct "formula" and "reserve fund" allocation rounds which occur at separate times of the year under the former regulation.

Eighteen commenters (primarily State participants) commented on the Bank's proposed rule. These comments are mentioned in the discussion of the affected sections. Several comments were supportive of specific changes in the proposed rule.

Section 1800.95

The Bank received seven comments on this section regarding how available funds are allocated to States. One commenter recommended using BTU savings over the useful life of the building rather than annual savings. The Bank believes no change is advisable because annual savings provides a more uniform basis than does building life. Several commenters suggested reducing the weight of the population-related factors, increasing the weight of the energy savings factor and justifying the weights of each of the factors. The Bank believes that a significant change of the weight of the population-related factors and the energy saving factor would distort allocations among States having comparable performance. The Bank believes the weights of the factors as discussed below are justified because of analysis performed with various weights to obtain funding levels with reasonable correlation with population and energy use where average performance is assumed. One commenter recommended adding administrative costs to the allocation formula. The Bank has not considered administrative costs in its allocation formula because these costs are not an indication of performance in terms of assistance provided or energy saved.

Three commenters suggested more flexibility in the timing of allocation and reallocation. The Bank believes that allocation timing is as flexible as administratively feasible in accordance with the requirements prescribed by the new legislation. Allocation timing is conditioned on the semi-annual reports due each January 31 and July 31 and consequently the allocations can be made no sooner than February or August each year depending upon which reporting period is used as the basis for performance determination. Reallocations are dependent on States' expenditures and the Bank believes this final rule provides the needed flexibility. To impose special reporting requirements for allocations at any other time is considered excessively burdensome. One commenter recommended using funds committed rather than funds expended as the criterion for performance. The Bank disagrees because expended funds represent past through current performance while committed funds are more an indication of future performance.

One commenter suggested amending the rule to reflect the March 20, 1985 court order in *Dabney* v. *Reagan*, Civ. No. 82-2231 CSH (S.D.N.Y.), which enjoined the Bank from returning to the United States Treasury any FY 1982 or FY 1983 appropriated funds recaptured by the Bank on or after March 1, that were obligated to the States but not liquidated on or before March 1, 1985 and directed the funds to be distributed "in accordance with law." The court found that these funds were available for use by the Bank. Three commenters expressed support for this decision and one suggested that the Bank state that these funds as well as Fiscal Year 1984 funds are covered by the proposed rule. The proposed rule provided for allocation of all legally available funds. Therefore, no change is necessary to bring it in conformity with the order of the court.

One commenter requested that the Bank reserve from allocation an amount for plaintiffs' attorney's fees in that litigation. That issue will be resolved in the litigation. Minor changes were necessary in § 1800.95 to address the possibility of allocations in the future in which there may be a small amount of recaptured funds.

The following discussion describes the changes from the former rule. Unless otherwise noted, the final rule adopts the proposed rule. Section 1800.95(a) preserves much of the former § 1800.95 (a) and (c) while making the changes required by legislation and certain other improvements. The score for each State is the product of two basic factors. The criteria for Factor "A" are the same as the objective criteria stated for the "formula" allocation in § 1800.95(a) of the former rule and used to calculate the tentative allocations announced on March 16, 1984 (49 FR 9962) except that the criterion in former § 1800.95(a)(2) regarding median income is excluded and the number of households and energy consumption criteria are multiplied rather than added together.

Factor "B" is comprised of four subjective criteria which (except for one change) were derived from the "funds drawdown history" item of former § 1800.95(c)(2); these and other criteria were used in calculating the former "reserve fund" allocation.

The first criterion of Factor B measures the extent of a State's energy

savings per Bank subsidy dollar expended, the second criterion measures total dollar investment in subsidized measures in a State per Bank subsidy dollar extended, the third criterion measures the proportion of funds awarded to a State which are actually expended and the fourth criterion measures a State's use of subsidy dollars in relation to the subsidy dollars used by all States. The third and fourth criteria use "expended" funds rather than "committed" funds as was done under the "reserve fund" allocation in September 1984, since the program is no longer at the start-up phase in which funds committed but not expended represented a significant amount of total activity.

For each of the four criteria the highest State value will be set equal to 5 with the values for the remaining States proportionately less. The Factor "B" is equal to one plus the sum of each element normalized to be in the range of 0-5 which represents a performance multiplier value. Each element is weighted such that Factor B has a possible range in value for any State of 1-6, meaning a State could receive a funding allocation of up to 6 times the amount it would receive with no program activity, *i.e.*, on the basis of Factor A only. Increasing the maximum value of the multiplier, to 10 for example, would increase the amount of funds distributed to participants with superior performance while decreasing the amount to low performers. The Bank feels the 1–6 range will provide adequate incentive for good performance without distorting award results with relatively small differences in performance as would occur with a large maximum value for Factor B. Weights given to the four criteria will be 0.1, 0.1, 0.5 and 0.3, respectively. The Bank recognizes that some alternative weighting may be feasible. Analysis has shown the assigned weights provide funding levels having a reasonable correlation with population and energy use assuming comparable performance, as the Bank believes should occur.

Similar to that done with the 1984 "reserve fund" allocation, a State's allocation may be reduced if the State program uses Bank loan subsidies to subsidize measures which benefit from another Federal subsidy as well. This reduction is a minimum 5 percent of Factor "B" and potentially 50 percent in case of a complete overlap of subsidies. The subsidy levels permitted in the Bank rule themselves provide sufficient Federal subsidy for efficient measures. The Bank views the potential for substantial downward adjustment of a State's funds as a flexible and effective way of discouraging Federal oversubsidization and leveraging more State and local government and private funds into the energy area. In response to one comment that this penalty factor be deleted, no change was made since the Bank believes that section 506(f) of the Solar Energy and Energy Conservation Bank Act restricting the use of Federal tax credits in conjunction with Bank subsidies represents the Congressional intent concerning the undesirability of overlapping various forms of Federal subsidization to achieve the policy objectives of the Bank's program. Given this rationale the Bank reaffirms the proposed rule and has deleted provisions barring the combination of Bank funds with certain specified Federal assistance programs and will rely instead exclusively on the funds allocation criteria to achieve these objectives.

As discussed in the preamble to the proposed rule, certain of the criteria used for the "reserve fund" allocation under former § 1800.95(c)(2) are not continued in § 1800.95. The final rule follows the proposed rule and drops "program scope" and does not use funds allocation as a means of encouraging broad-based State programs. "History of compliance with applicable rule provisions" (another criterion for the "reserve fund") was implemented in a very limited way, *e.g.* failure to submit required reports, and is being dropped since compliance reviews had been conducted for only a small number of participants and the first audits were not yet due under § 1800.125. The Bank will now allocate funds on the expectation of rule compliance and will use its authority to recapture funds or suspend drawdowns to address noncompliance problems. Failure to submit timely reports will have the effect of reducing an allocation, however, since a State will receive no score for the factors which depend on current information available only through the reports. "Population characteristics" was also a distinct criterion for the "reserve fund" allocation; this is no longer needed since the old "formula" and "reserve" allocations are in effect combined under the final rule and Factor "A" is based on population characteristics.

The final rule revises § 1800.95(a) in the proposed rule by addressing the possibility of tentative allocations of only recaptured funds. The Bank will make tentative allocations in the same manner as other allocations described in § 1800.95 but only to States with Cooperative Agreements and that have expended Bank funds for subsidies based on the view that recaptured funds should be allocated to those States having demonstrated the capability to utilize them.

The final rule repeats the proposed rule's revision to § 1800.95(b). The revision clarifies that the Bank is not required to obligate any new funds to a State if the State has been notified of a violation of program requirements and it remains unresolved. The notice of violation gives the Bank the right to recapture already-obligated funds to the State in which case it may be pointless to obligate new funds to that State.

Other Changes

Other changes to Part 1800 are described below. Changes from the proposed rule are specifically noted.

1. *Section 1800.3—Definitions.* The final rule reinserts the definition for "one- to four-family residential building" which was inadvertently dropped when Part 1800 was originally published as a final rule (49 FR 9865, March 16, 1984). The definition also adds to the definition a previously-announced Bank policy that at least half of a building's floor area must be for residential use. Based upon comments received the definition now clarifies that it includes only units within the living space of the building structure or the building envelope, except for single family attached construction. The Bank has also modified §§ 1800.47 and 1800.67 to be consistent with the revised definition. For unusual circumstances, States are directed to request a written determination from the Bank. By definition, a building can be eligible for assistance as a one-to four-family residential, multifamily residential or commercial building if it has 50 percent or more of its floor space devoted to one of those uses. Where the floor space is divided exactly 50 percent (*e.g.*, 50 percent commercial and 50 percent multifamily), the choice of building assistance is open. Another new definition is "solar pool heating system" which is a system to heat swimming pool water in a non-profit commercial building for therapeutic purposes.

The final rule modifies certain other definitions. In the definition of "active solar energy system", "domestic" before "water heating" is deleted in connection with new eligibility for swimming pools. The "annual income" definition references the new 24 CFR Part 813 which contains the rule for calculating income for purposes of HUD's section 8 housing assistance payment programs, but differs from Part 813 in not imputing

income to any "net family assets" which are not actually income-producing.

Additions to the "commercial building" definition clarify what is an ineligible building "used for the general conduct of government". The definition is not an exclusive list of such buildings. The revised definition of "commercial building" also specifically excludes buildings used for religious purposes to reflect Constitutional restrictions on use of Federal financial assistance. States and/or financial institutions should rely on relevant judicial opinions when evaluating the eligibility of an applicant for subsidy under the Bank program; they may consult the Bank in doubtful cases.

The "cost-effective" definition now clarifies that an applicant who is not *required* to submit an energy audit or energy design analysis may nevertheless choose to obtain an audit or analysis and use it to demonstrate cost-effectiveness. The definition also provides that an audit or analysis can demonstrate cost-effectiveness only on the basis of either simple payback or life-cycle cost analysis (both of which are explained). This precludes use of hybrid methods which use some factors excluded from simple payback, such as fuel cost escalation, but does not include all of the factors relevant to a comprehensive life-cycle cost analysis. In conjunction with this definition several comments were received. Comments included recommendations to define life of measures, clarify methodology to be used, and allow alternate audits for multifamily buildings. The Bank believes clarifications are best made through program guidelines to retain flexibility. Alternate audits for multifamily buildings are possible. The Bank concluded that no change was necessary in these sections.

"Energy audit" is redefined in the final rule to eliminate the prior special provisions for multifamily, commercial and agricultural buildings which appear unnecessary and which did not clearly require information on costs and savings for appropriate energy conservation measures or solar energy systems. A State can now determine which measures or systems are "inappropriate" for costs and savings information.

The "financial institution" definition updates a reference to regulations of the Neighborhood Reinvestment Corporation. The definition of "improvement costs" deletes the final three sentences of the current definition of the rule, which are now restated in new §§ 1800.33(c), 1800.47(a)(7) and 1800.67(a)(4). The "Indian tribe" definition (not mentioned in the proposed rule) updates a reference to HUD's Indian Housing regulations. "Median area income" is redefined to emphasize the need to consider applicant family size when determining applicant income in terms of percentage of median area income.

The "multifamily residential building" definition adds a statement that at least half of a building's floor area must be for residential use. Based upon comments received, the Bank has defined these buildings based on physical characteristics and has modified §§ 1800.47 and 1800.67 to be consistent with the revised definition. Where the definition is inadequate for unusual building configurations, the Bank may be consulted for a written determination of building classification.

The definition of "State" drops reference to selection by the Bank since the term is sometimes used to refer both to participating and nonparticipating (*i.e.*, unselected) States, and adds a reference to the Indian Assistance Coordinator which is treated as a State for most purposes.

One commenter suggested super-insulation as part of passive solar systems, but the Bank believes super-insulation is a conservation measure distinct from solar system functions and no change is advisable.

Section 1800.3 also defines the term "RCS" which is the Residential Conservation Service program of the Department of Energy. No change has been made to the parts of this rule which involve aspects of the RCS program (§ 1800.3 definitions of RCS, cost-effective and financial institution; § 1800.35, § 1800.69(e) and § 1800.77). During 1984, the Senate and House considered amendments to Title II of the National Energy Conservation and Policy Act (42 U.S.C. 8211 *et seq.*) which authorizes the RCS, as well as amendments or repeal of Title VII of the same Act which authorizes the Commercial and Apartment Conservation Service (CACS) program, but no legislative changes were made. The Bank is not aware of any legislative changes for the RCS program initiated so far this year. The Bank has been advised by the Department of Energy that covered utilities are not legally required to continue their RCS programs indefinitely beyond January 1, 1985. However, this is not a firm date because utilities will need varying amounts of time to complete their RCS services (*i.e.*, audits). As long as RCS audits are available and until directed otherwise (by Congress or DOE), the Bank will continue to proceed under its current rules which currently provide for instances where RCS audits are not available. The Bank will notify the States of any changes in the RCS-related requirements.

2. *Section 1800.13—Forms of assistance.* Previously, the Bank prohibited both interest and principal reduction for a single loan. The Bank has learned that combination of both subsidy types may be desired in certain cases and now permits it at the discretion of the financial institution. The combined subsidies are subject to the maximum levels stated in §§ 1800.47 and .67. The Bank continues to oppose the combination of grants with loan subsidies and prohibits this more explicitly.

3. *Section 1800.15—Reduction of principal.* The Bank revised this section to permit Bank subsidies based on a *bona fide* loan commitment for the unsubsidized loan amount and allow the repayment schedule to be calculated on the reduced principal amount. This section previously required an initial loan repayment schedule based on the unsubsidized loan and resulted in the need for recalculation of the repayment schedule. The Bank received two comments opposing the change and one comment in favor of the change. The section now allows either approach to be used. (See also § 1800.109.)

4. *Section 1800.17—Prepayment of interest.* This section now explains how to combine prepayment of interest with principal reduction pursuant to the change to § 1800.13. One commenter requested a longer loan term in § 1800.21, however the limit is set by statute (12 U.S.C. 3612(a)(1) and 3613(a)).

5. *Section 1800.29—Debarment.* This final rule updates a reference to the debarment regulation of the General Services Administration.

6. *Section 1800.33—Installation certificate.* Section § 1800.33 is revised to permit a financial institution representative, rather than a grant recipient, to certify as to use of Bank funds for eligible purposes when a grant payment is not actually made to the grant recipient but instead is paid to a contractor or supplier or paid to reimburse a party which has advanced funds. Two commenters recommended that "reasonable costs" in § 1800.33(c) should be clarified. The Bank believes no further clarification is advisable in the rule. For guidance, the States should contact the Bank or OMB Circular A-87, "Cost Principles for State and Local Governments" or A-122, "Cost Principles for Non-profit Organizations", as applicable.

7. *Section 1800.43—Eligible recipients (solar).* As required by statute the final

rule applies income limitations after December 31, 1985 (12 U.S.C. 3613(a)(4)). The final rule also removes paragraph (d) which barred Bank assistance for solar energy systems which are to be assisted under certain other Federal programs, in lieu of the more comprehensive approach of the allocation criteria discussed above. The final rule revises paragraph (e) to clarify that any person as defined in § 1800.3 may receive assistance on behalf of others.

8. *Section 1800.45—Eligible solar energy systems.* The final rule permits funding of heating for therapeutic swimming pools in non-profit commercial buildings and explains eligibility in case of mixed use buildings.

9. *Section 1800.47—Levels of assistance (solar).* The final rule adds an appropriate maximum assistance level for eligible solar pool heating systems and adds material moved from the definition of "improvement cost" in § 1800.3 regarding shared costs by two or more eligible applicants. The final rule replaces the criteria for determining the number of dwelling units in a building with revised definitions of one- to four-family residential building and mulifamily residential building in § 1800.3.

10. *Section 1800.55—Standards.* In the preamble to the proposed rule the Bank noted that a proposed rule had been published regarding HUD's Minimum Property Standards (MPS) for one and two-family dwellings for building insulation. HUD has made no final MPS changes to date. The Bank will notify the States of any final MPS changes which are made.

11. *Section 1800.63—Eligible recipients (conservation).* The final rule reorganizes and revises § 1800.63 to completely recognize the elimination of earlier income limitations for most owners. As with § 1800.43, the paragraph listing programs which cannot be combined with Bank funds is removed and the paragraph permitting assistance on behalf of others is clarified.

12. *Section 1800.65—Eligible energy conservation measures.* The final rule corrects a reference to the definitions section and explains eligibility in cases of mixed use buildings. Based on a comment received, the Bank has allowed for modification or replacement of multifamily water heaters in the list of eligible measures. Comments were also received on the 20 percent efficiency increase for replacement burners, furnaces and boilers. One commenter suggested using the efficiency increase only for replacement furnaces while another commenter favored elimination of the requirement for all heating systems. The Bank has decided to retain the efficiency increase because it reflects the statutory requirement that these measures must substantially increase the energy efficiency of the heating system.

The Bank has also considered revisions to three other provisions. Section 1800.65(a)(9) allows financial assistance for heat pumps in one- to four-family residential buildings only if the heat pumps replace existing pumps or replace a combination of electrical resistance heating and air conditioning. This restriction, which is explained in the preamble to the former rule, 49 FR 9872 (March 16, 1984), is related to ensuring that the replacement heat pump is cost-effective regardless of the future relationship between rates for different kinds of fuels. Similar concerns are addressed in the restrictions on assistance for heat pump water heaters in § 1800.65(a)(10). In the proposed rule the Bank sought public comment on whether revision would be appropriate before making a final decision. Two comments were received; one in favor of and one opposing the change but no consensus was reached. The Bank has decided to continue the former provisions without revision.

Additionally, the Bank sought public comment on its proposed decision not to revise § 1800.65(b)(9) to allow financial assistance for cogeneration systems in multifamily residential buildings. Comments and studies received demonstrated the feasibility of cogeneration systems in multifamily residential buildings. The Bank now allows cogeneration systems in multifamily residential buildings.

13. *Section 1800.67—Levels of assistance.* The final rule adds material moved from the definition of "improvement cost" in § 1800.3 regarding shared costs by two or more eligible applicants. The final rule replaces the criteria for determining the number of dwelling units in a building with revised definitions of one- to four-family residential building and multifamily residential building in § 1800.3.

14. *Section 1800.77—Contractors and suppliers.* The final rule inserts the word "for" which was inadvertently omitted when Part 1800 was originally published as a final rule.

15. *Section 1800.93—Program participants.* The final rule makes minor changes which clarify that all States with effective cooperative agreements on the date of an allocation round are treated the same; there is no special status for the original 1983 State participants. A reference to the reserve fund under § 1800.95 is deleted. The discussion of the Indian Assistance Coordinator (IAC) is revised to recognize that an initial IAC has been designated and to clarify that application of future IAC allocations of funds will be at the discretion of the Bank.

16. *Section 1800.97—Recapture of funds.* Since § 1800.97 no longer concerns reallocation of funds, the words "and reallocation" are deleted from the section heading.

17. *Section 1890.98—Reallocation of funds.* The final rule provides as a general rule that any funds which are legally available for reallocation will be allocated under § 1800.95(a) provisions. A special allocation is possible for funds which would expire before the next regular annual allocation.

18. *Section 1800.99—Authorized expenditures.* The final rule revises paragraph (d) to permit use of OMB Circular A–122, "Cost Principles for Non-profit Organizations", as applicable.

19. *Section 1800.103—State discretion.* An additional sentence to § 1800.103 is added to recognize current practice under which States (or their agents or designated local participants) perform many adminstrative tasks for financial institutions to "streamline" procedures.

20. *Section 1800.107—Reporting and recordkeeping requirements.* The final rule adds the need to report use of other Federal subsidies in connection with Bank subsidies in a State program.

21. *Section 1800.109—Manner of payment.* In connection with the revision of § 1800.15, the final rule permits a State to draw funds on the basis of *bona fide* loan commitments. The former rule restricted draws to loan closings or completed grant projects. This change eliminates any need for a financial institution to advance its own or other funds in the amount of the Bank subsidy while waiting for subsidy funds to be drawn and disbursed by a State. The financial institutions' funds will be needed only for the unsubsidized portion of the loan commitment.

22. *Section 1800.120—Conflict of interest.* A provision has been added to prevent any financial institution and any person involved in the assistance process from benefiting from the assistance, with exceptions for publicly-owned buildings and a person's principal residence.

23. *Section 1800.125—State audits.* Attachment P, "Audit Requirements", of OMB Circular A–102 has been superseded by OMB Circular A–128 "Audits of State and Local Governments" (50 FR 19114, May 6,

1985). Pursuant to the Single Audit Act of 1984 (Pub. L. 98–502) and Circular A–128, the final rule applies Circular A–128 and 24 CFR Part 44 (which implements A–128) to fiscal years of States that begin after December 31, 1984. Previous fiscal years may be covered by Attachment P to Circular A–102 or Circular A–128. Under Circular A–128, audits shall be conducted annually unless the State has, by January 1, 1987, a constitutional or statutory requirement for less frequent audits. In the latter situation, generally, biennial audits shall be required. The final rule also makes corresponding changes in §§ 1800.135(b) and 1800.137(g).

24. *Section 1800.127—Prohibition against tax credits.* The final rule corrects several incorrect references to the Secretary of the Treasury and conforms the reference to the residential energy tax credit to the section renumbering of the Internal Revenue Code made by section 471 of the Deficit Reduction Act of 1984. It also eliminates a certification requirement for an applicant for assistance for a building outside the 50 States and the District of Columbia.

The certification in this section requires an applicant to certify that certain tax credits will not be claimed "except as permitted by regulations or other legal interpretations of the Internal Revenue Service." The Bank has requested a clarifying interpretation from the IRS. Such interpretation has not been received. The Bank will advise the States of any changes reflected by any future legal interpretation.

25. *Section 1800.137—Other Federal requirements.* The final rule recognizes the Bank's Memorandum of Agreement with the Advisory Council on Historic Preservation, the new HUD rental rehabilitation and housing development grant programs and the possibility of HUD regulations to implement Executive Orders 11988 (wetlands) and 11990 (floodplains). The final rule does not restrict improvements to existing buildings in wetlands which are not also floodplains. Pursuant to a comment and other inquires the Bank has also reviewed the legality of relying on States for compliance with those Executive Orders and has determined that this would not be permissible under these Executive Orders. In response to another comment regarding the negative wording of § 1800.137(c) the Bank has also determined no further change is necessary because it follows the format of other requirements and restrictions in § 1800.137.

26. *Appendices II and III.* Additional material added for Appendices II and III would explain calculation of combined interest and principal loan subsidies pursuant to the changes to §§ 1800.13 and 1800.17

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The Bank finds that there are no anticompetitive discriminatory aspects of the rule with regard to small entities nor are there any unusual procedures that would need to be complied with by small entities.

Environmental Impacts

A Finding of No Significant Impact with respect to the environment has been made in accordance with Part 50 of this title which implements section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, D.C. 20410.

OMB Control Number

The reporting provisions of this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–111), and have been assigned OMB control number 2504–0001. This control number has an expiration date of January 31, 1988.

Regulatory Impact Analysis

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs for prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Semiannual Agenda of Regulations

This rule was not listed in the Department's Semiannual Agenda of Regulations published on April 29, 1985 (50 FR 17286) under Executive Order 12291 and the Regulatory Flexibility Act.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program number is 14.550.

Lists of Subjects in 24 CFR Part 1800

Grant program, Energy conservation, Loan program, Solar energy, Reporting and recordkeeping requirements.

Accordingly, 24 CFR Chapter XI, Part 1800 is amended as follows:

PART 1800—FINANCIAL ASSISTANCE PROGRAM OF THE SOLAR ENERGY AND ENERGY CONSERVATION BANK

1. The citation of authority for Part 1800 is revised to read as follows:

Authority: Solar Energy and Energy Conservation Bank Act (12 U.S.C. 3602–3619).

2. Section 1800.3 is amended by adding definitions for "one- to four-family residential building" and "solar pool heating system" in alphabetical order and by revising the definitions of "active solar energy system", "annual income", "commercial building", "cost-effective", "energy audit", paragraph (g) of "financial institution", paragraph (d) of "improvement cost", "Indian tribe", "median area income", "multifamily residential building" and "State", to read as follows:

§ 1800.3 Definitions.

* * * * *

"Active solar energy system" means equipment which is designed to absorb solar energy and provide auxiliary water heating and/or space heating by use of mechanically forced thermal energy transfer devices such as fans or pumps.

* * * * *

"Annual income" means the total annual income of a family from all sources for the 12-month period following the date of determination of income, computed in accordance with Part 813 of this title which prescribes the method of computation for the section 8 housing assistance payment programs of HUD, except that for purposes of this part only actual income from "Net Family Assets" rather than imputed income shall be included.

* * * * *

"Commercial building" means any building other than a one- to four-family residential or multifamily residential building which is used primarily to carry on a business (including any nonprofit business) and is not used primarily for the manufacture or production of raw material, products, or agricultural commodities. A building is used primarily to carry on a business if it has 50 percent or more of its floor space

devoted to the business. A building owned by a public body may be a commercial building unless it is a building used for general conduct of government such as a public school, city hall, county administrative building, State capitol or office building or other facility in which the legislative, judicial or other general administrative affairs of government are conducted. Buildings used for religious purposes are not commercial buildings.

* * * * *

"Cost-effective" means, generally, that the solar energy system or energy conservation measure is expected to result in a dollar savings over the life of such system or measure that exceeds its costs over its useful life, as determined by an energy audit or energy design analysis without consideration of the financial assistance of the Bank. Such determination shall be made either on the basis of simple payback or life-cycle cost analysis. "Simple payback" means the determination of the time in years for recovery of the cost of an energy system based on estimated annual energy savings in dollars at current energy prices. The cost of a measure or system is divided by the annual savings to yield the simple payback period. "Life-cycle cost analysis" means an evaluation of investment alternatives to an energy conservation measure or a solar energy system which considers all costs and economic benefit parameters over the useful life of the measure or system as the common time element for the evaluation. All present value costs are aggregated and compared to the present value of all benefits and a measure or system is deemed to be cost-effective when the benefits exceed the costs. As a minimum, the evaluation shall compare the costs and benefits of a measure or system to a non-energy improvement investment alternative such as U.S. Treasury bonds. The general methodology to be followed in the evaluation shall be as defined by a State and approved by the Bank. A solar energy system or energy conservation measure will also be considered cost-effective, in the case of applicants for financial assistance who are excepted from the requirement to submit an energy audit or energy design analysis stated in § 1800.35, if such system or measure is a "program measure" for the area under the regulations governing the RCS program (10 CFR Part 456) or (in States for which there is no listing of "program measures" in the RCS regulations) if such system or measure is listed in §§ 1800.45(a), 1800.65(a), or 1800.65(b).

* * * * *

"Energy audit" means:

(a) An energy audit of a building or dwelling unit performed for purposes of Title II or Title VII of the National Energy Conservation Policy Act, 42 U.S.C. 8211 *et seq.* and 8281 *et seq.*, respectively, or

(b) An on-site inspection of the building or dwelling unit using procedures approved by a State or Federal government entity (or performed by an energy auditor who is determined to be qualified by a State or local government entity) which includes a determination of and provides information on:

(1) The type, quantity, and rate of energy consumption of such building or dwelling unit;

(2) Energy conserving maintenance and operating procedures which can be employed to significantly reduce the energy consumption of such building or dwelling unit; and

(3) The cost of purchasing and installing appropriate energy conservation measures, a solar energy system, or both (excluding measures or systems considered inappropriate for this purpose by a State), and the savings in energy costs which are likely to result from the installation of such measures or system.

* * * * *

"Financial institution" means:

* * * * *

(g) Any Neighborhood Housing Services corporation which is administering a local program as described in § 4100.1 of this title and which meets all requirements of the Neighborhood Reinvestment Corporation.

* * * * *

"Improvement cost" means:

* * * * *

(d) The actual cost to the recipient of the labor involved in the installation by a contractor.

* * * * *

"Indian tribe" means any entity which is eligible to receive a grant under Part 571 of this title or under 10 CFR 440.11 or which is a "tribe" under § 905.102 of this title.

* * * * *

"Median area income" means the median annual income for an area as determined by HUD for the section 8 housing assistance payment programs of HUD which adjust median area income for family size and region. When the annual income of an applicant must be determined in terms of percentage of median area income, the median area income for the appropriate family size must be used.

* * * * *

"Multifamily residential building" means any building which has 50 percent or more of its floor space used for residential purposes, physically contains five or more dwelling units within the living space of the building structure or building envelope and has at least one system for heating or cooling or both.

* * * * *

Where building class cannot be readily defined due to unusual circumstances, the Bank will provide a written determination upon request.

* * * * *

"One- to four-family residential building" means any building which has 50 percent or more of its floor space used for residential purposes, physically contains at least one and not more than four dwelling units within the living space of the building structure or the building envelope, except for single family attached construction (*e.g.*, townhouses, rowhouses), and has at least one system for heating or cooling or both. Where a building class cannot be readily defined due to unusual circumstances, the Bank will provide a written determination upon request.

* * * * *

"Solar pool heating system" means an active or passive solar energy system for heating water in a swimming pool which is part of a commercial building and which is used predominantly for therapeutic or similar non-recreational purposes.

* * * * *

"State" means any State (which includes the District of Columbia, Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa and the Trust Territory of the Pacific Islands). As described in § 1800.93(d)(2) of this part, an Indian Assistance Coordinator designated by the Bank shall also be treated as a State for most purposes.

* * * * *

3. Section 1800.13 is amended by revising paragraph (b)(1) and adding new paragraph (b)(3), to read as follows:

§ 1800.13 Types of assistance.

* * * * *

(b) *Forms of financial assistance for loans.*

(1) Except as specified in paragraph (b)(2) of this section, financial assistance used in connection with loans may be in the form of a reduction in principal, prepayment of interest, or a combination of reduction in principal

and prepayment of interest, at the discretion of the financial institution.

* * * * *

(3) Financial assistance in the form of grants shall not be combined with assistance in the form of a loan subsidy.

4. Section 1800.15 is revised to read as follows:

§ 1800.15 Reduction of principal.

When financial assistance is in the form of reduction of principal, a financial institution must have made a loan or at least a *bona fide* loan commitment in the full unreduced principal amount to an eligible recipient for use for eligible purposes under this part. Prior to receiving payment from a State a financial institution may choose to disburse loan proceeds for the unreduced principal amount or in an amount equal to the difference between the loan commitment and the subsidy amount as long as an amount equal to the rest of the loan commitment is disbursed to the recipient whenever the financial institution receives payment from the State. The loan repayment schedule may be set based on the principal amount which will remain owing after reduction of principal by the financial institution to avoid recalculation of the repayment schedule. The loan must have an interest rate not exceeding the rate for comparable unassisted loans.

5. Section 1800.17 is amended by revising paragraphs (a), (b) (3) and (4) to read as follows:

§ 1800.17 Prepayment of interest.

(a) *Form.* Prepayment of interest on a loan shall take the form of reduction of the interest rate which would otherwise have been charged. The available subsidy may be used entirely toward prepayment of interest or a portion of it may be used as a reduction of principal with the balance of the subsidy used toward prepayment of interest. Where the two forms of loan subsidy are applied to a single loan, the reduction of principal shall be applied first following § 1800.15 of this part and the prepayment of interest portion shall be calculated following paragraph (b) of this section using the reduced principal amount of the loan.

(b) * * *

(3) Appendix II to this part explains the calculation procedure for assistance in the form of prepayment of interest or combined reduction of principal and repayment of interest. Appendix III to this part presents examples of calculations for assistance in the form of prepayment of interest or combined reduction of principal and prepayment of interest. States may adopt alternative procedures provided the subsidy amount determined from any alternative procedure does not exceed the subsidy determined by Appendix II.

(4) In the case of a loan for which only a portion qualifies for financial assistance, *e.g.*, a home improvement loan of $2,000 which includes $1,000 for eligible conservation measures, the subsidy may be applied to the entire loan when calculated in accordance with procedures contained in Appendix II.

6. In § 1800.29, paragraph (a)(1) is revised to read as follows:

§ 1800.29 Debarred contractors, suppliers and financial institutions.

(a) * * *

(1) The Consolidated List of debarred, suspended and ineligible contractors prepared by the General Services Administration pursuant to 48 CFR Chapter 1, Subchapter B, Subpart 9.4;

* * * * *

7. Section 1800.33 is revised to read as follows:

§ 1800.33 Installation certificate.

(a) *Requirement for receiving Bank funds.* No financial institution may request any Bank funds in connection with a particular applicant's solar energy system or energy conservation measure unless:

(1) The financial institution has received an installation certificate from the applicant, or

(2) The applicant has agreed to provide an installation certificate to the financial institution immediately upon completion of installation of such solar energy system or energy conservation measure (not applicable to grants), or

(3) A representative of the financial institution has executed an installation certificate (applicable only when a grant will not be paid directly to the recipient).

(b) *Content of certificate.*

(1) An installation certificate from an applicant must include the following:

(i) The applicant's signature, and

(ii) A statement that the grant or loan proceeds will be used immediately toward payment for eligible purposes under this part, or toward reimbursement for payments for eligible purposes under this part.

(2) An installation certificate from a financial institution representative must include the following:

(i) The signature of the representative, and

(ii) A statement that the grant will not be paid directly to the recipient but will be used immediately by the financial institution for payment of eligible purposes under this part, or toward reimbursement for payments for eligible purposes under this part.

(3) In all cases except solar space heating or cooling systems, installation certificates must also include:

(i) The improvement cost, or

(ii) A statement that the improvement cost equals or exceeds the cost estimate (which shall be stated) which was used to determine the amount of financial assistance, or

(iii) A statement that the improvement cost equals or exceeds the loan amount (which shall be stated) used to determine the amount of financial assistance.

(c) *Reasonable costs.* Costs in excess of reasonable costs are not eligible for financial assistance and must be disregarded in an installation certificate.

8. Section 1800.35 is amended by adding the OMB control number at the end to read as follows:

§ 1800.35 Energy audit or energy design analysis required.

* * * * *

(Approved by the Office of Management and Budget under OMB control number 2504–0001)

9. Section 1800.43 is amended by removing current paragraph (d), redesignating current paragraphs (e), (f) and (g) as paragraphs (d), (e) and (f), respectively, and revising paragraph (c), and newly designated paragraphs (e) and (f) to read as follows:

§ 1800.43 Eligible recipients.

* * * * *

(c) *Joint applications.* A joint owner of a dwelling unit or of a building may apply for assistance individually, simultaneously with other joint owners in a single application, or simultaneously with other joint owners by a separate application. If simultaneous separate applications are made by two or more joint owners with respect to the same building or dwelling unit, such applicants collectively may not receive assistance exceeding the maximum level of assistance established for such building or dwelling unit under § 1800.47. Spouses are not considered joint owners. Each applicant in a joint application must be eligible under this section. The average annual income of joint applicants shall be used to determine compliance with paragraph (f) of this section after December 31, 1985.

* * * * *

(e) *Assistance on behalf of others.* Any person may receive financial assistance on behalf of any owner or tenant who would be eligible to receive financial assistance, if such owner or

tenant consents to the arrangement in writing. Such owner or tenant must comply with § 1800.127(b), and must be reported to the Internal Revenue Service pursuant to § 1800.127(a). Such person shall be responsible for compliance with all requirements of this part which would apply to the owner or tenant if he or she had received the financial assistance. Such person may receive the financial assistance in connection with a single loan in an amount equal to the sum of the amounts of financial assistance which each owner or tenant could have received.

(f) *Income limitation.* Financial assistance may not be provided in connection with a loan made to an owner of an existing one- to four-family residential building after December 31, 1985 if such owner is not an individual or is an individual whose family has an annual income in excess of 250 percent of the median area income.

10. Section 1800.45 is amended by revising paragraph (a) and adding new paragraphs (c) and (d), to read as follows:

§ 1800.45 Eligible solar energy systems.

(a) *Eligible systems.* The following are eligible solar energy systems, subject to paragraphs (b), (c) and (d) of this section:

(1) passive solar energy systems, and

(2) active solar energy systems.

* * * * *

(c) *Water heating.* The only eligible solar energy systems for water heating are solar domestic hot water systems and solar pool heating systems.

(d) *Mixed use buildings.* In a building in which floor space is used for both residential and other purposes, no special rules apply if the building is a commercial or agricultural building or is a one- to four-family or multifamily residential building in which at least 80 percent of the floor space is used for residential purposes. Otherwise, solar energy systems are eligible if they benefit the residential portion of the building only or if the applicant is a non-profit owner and the non-residential portion of the building is used for purposes which, if extended throughout the building, would qualify the building as a commercial or agricultural building.

11. Section 1800.47 is amended by redesignating current paragraphs (a)(3), (a)(4) and (a)(5) as paragraphs (a)(4), (a)(5) and (a)(6), respectively, revising newly designated (a)(5), and by adding new paragraphs (a)(3) and (a)(7) to read as follows:

§ 1800.47 Levels of assistance.

* * * * *

(a) * * *

(3) The maximum amount of assistance for solar pool heating systems shall be $12,500 or 40 percent of the improvement costs, whichever is less, for commercial buildings.

* * * * *

(5) In the case of solar energy systems (except for solar domestic hot water systems and passive solar space cooling systems) which do not benefit all dwelling units within a building, the maximum dollar amounts listed above shall be reduced by the percentage of dwelling units in the building which do not benefit from the solar energy system. The number of dwelling units in a building is determined using the definitions contained in § 1800.3.

* * * * *

(7) If more than one person is responsible for the cost of a solar energy system, then the amount of financial assistance for a person shall be based on the person's share of the total improvement cost.

* * * * *

12. Section 1800.63 is amended by revising paragraphs (c)(3), (f) and (g), adding paragraph (c)(4), removing current paragraph (i), and redesignating current paragraphs (j) and (k) as paragraphs (i) and (j), respectively, to read as follows:

§ 1800.63 Eligible recipients.

* * * * *

(c) * * *

(3) Except as provided in paragraphs (c)(1) and (c)(2) of this section, an owner of a building shall not be subject to any income requirement.

(4) An owner which is not an individual shall be treated as having a family with an annual income in excess of 150 percent of the median area income.

* * * * *

(f) *Joint applications.* (1) A joint owner of a dwelling unit or of a building may apply for assistance individually, simultaneoulsy with other joint owners in a single application, or simultaneously with joint owners simultaneously by separate application. A tenant jointly renting a dwelling unit or a building with other tenants may apply for assistance individually, simultaneously with other tenants in a joint application, or simultaneously with other tenants by separate application.

(2) Spouses are not considered joint owners or tenants.

(3) If simultaneous separate applications are made by two or more joint owners or by two or more joint tenants with respect to the same building or dwelling unit, such applicants collectively may not receive assistance which would exceed the maximum amount of assistance for which the applicant with the lowest annual income would be eligible if such applicant applied individually and did not share costs with anyone else.

(4) Each applicant in a joint application must be eligible under this section. If a joint application is made, the average annual income of all joint applicants shall be used for purposes of § 1800.67(a). When different family sizes are involved, the average size rounded up to the nearest whole number should be used. The average annual income of joint applicants when one or more is not an individual shall be considered in excess of 150% of median area income.

(g) *Assistance on behalf of others.* (1) Any person may receive financial assistance on behalf of an owner or tenant who would be eligible to receive financial assistance, if such owner or tenant consents to the arrangement in writing. Such owner or tenant must comply with § 1800.127(b), and must be reported to the Internal Revenue Service pursuant to § 1800.127(a). Such person shall be responsible for compliance with all requirements of this part which would apply to the owner or tenant if he or she had received the financial assistance.

(2) Such person may receive the financial assistance in the form of a single grant in an amount equal to the sum of the grants which each owner or tenant could have received. If the financial assistance is in the form of reduction of principal or prepayment of interest, such person may receive the financial assistance in connection with a single loan in an amount equal to the sum of the amounts of financial assistance which each owner or tenant could have received.

* * * * *

13. Section 1800.65 is amended by revising paragraphs (b) (9) and (13) and adding a new paragraph (d) to read as follows:

§ 1800.65 Eligible energy conservation measures.

* * * * *

(b) * * *

(9) Cogeneration systems and replacement or modification of multifamily residential building water heaters,

* * * * *

(13) Energy audits (as included in the definition of "improvement cost" in § 1800.3).

* * * * *

(d) *Mixed use buildings.* In a building in which floor space is used for both

residential and other purposes, no special rules apply if the building is a commercial or agricultural building or is a one- to four-family or multifamily residential building in which at least 80 percent of the floor space is used for residential purposes. Otherwise, energy conservation measures are eligible if they benefit the residential portion of the building only or if the applicant is a non-profit owner or tenant and the non-residential portion of the building is used for purposes which, if extended throughout the building, would qualify the building as a commercial or agricultural building.

* * * * *

14. Section 1800.67 is amended by revising paragraph (a)(2) and adding new paragraph (a)(4) to read as follows:

§ 1800.67 Levels of assistance.

* * * * *

(a) * * *

(2) In the case of energy conservation measures which do not benefit all dwelling units within a buiding, any dwelling units in the building which do not benefit from the energy conservation measures shall be counted in determining the building type but shall not be counted in determining maximum assistance. The number of dwelling units in a building is determined using the definitions contained in § 1800.3 of this part.

* * * *

(4) If more than one person is responsible for the cost of a measure then the amount of financial assistance for a person shall be based on the person's share of the total improvement cost.

* * * * *

15. Section 1800.77 is revised to read as follows:

§ 1800.77 Contractors and suppliers.

All contractors and suppliers who install or supply energy conservation measures for which assistance is provided in the form of a grant must appear on a list of approved contractors and suppliers which meets the requirements of section 213(a) of the National Energy Conservation Policy Act, 42 U.S.C. 8214. This requirement shall not apply in areas of a State which are not served by a public utility described in section 211(a) of the National Energy Conservation Policy Act, 42 U.S.C. 8212, or areas where such list has not been made public by a public utility under section 215(a)(3) of the National Energy Conservation Policy Act, 42 U.S.C. 8216, or by the Secretary of Energy.

§ 1800.93 [Amended]

16. In § 1800.93, paragraphs (a), (b) and (d)(2) are revised, to read as follows:

(a) *Current State participants.* Any State with a current cooperative agreement (one which is legally effective on the date of any tentative allocations under § 1800.95 may elect to receive any additional funds allocated under § 1800.95 on the basis of programs approved in its cooperative agreement. To receive any new allocation of funds, a State must complete and return to the Bank a Bank-prepared cooperative agreement amendment obligating such additional funds to the State within a 30-day period from the time such amendment is provided by the Bank.

(b) *States without cooperative agreements.* A State without a current cooperative agreement with the Bank may become a new participant in the Bank program for any allocation of funds under § 1800.95 by submitting a written program proposal which is accepted by the Bank. The Bank publishes, from time to time in the **Federal Register**, a Notice of Funding Availability which should be referred to for guidance as to the eligibility of a State and the contents of the program proposal.

* * * * *

(d) * * *

(2) An IAC was initially designated on the basis of a written program proposal and statement of qualifications submitted to the Bank in response to a competitive solicitation announced in the **Federal Register**. Whenever an IAC designation expires, the IAC may be redesignated without competitive solicitation or a new competitive solicitation may be announced in the **Federal Register**. Tentative allocations of funds for an IAC shall be determined in the same manner as for States under § 1800.95(a) except that Factor "A" shall be determined by the Indian population of the United States divided by United States household size and then multiplied by energy consumption per United States household. Values shall be given to Factor "B" on the basis of a particular IAC's program performance only if the resulting tentative allocation is expected to be obligated to the same IAC without an intervening competitive solicitation. At the discretion of the Bank, such allocation may be obligated to the then-designated IAC by amendment of its cooperative agreement, obligated by a cooperative agreement with a new IAC designated after competitive solicitation, or reallocated pursuant to § 1800.98. Except for designation and allocation of funds, the IAC shall be treated as a State for purposes of this part.

* * * * *

17. Section 1800.95 is revised to read as follows:

§ 1800.95 Allocation of funds.

(a) *Tentative allocation.* (1) Each Fiscal Year in which funds are legally available to the Bank for obligation, a tentative allocation shall be made to each State with a cooperative agreement and all other States which have submitted acceptable program proposals pursuant to § 1800.93. The tentative allocation shall be made during February or August at the Bank's option, but not both, depending on availability of funds and the need for additional funds by States to sustain program activities. In a Fiscal Year in which available funds are derived only from recapture pursuant to § 1800.97, the tentative allocation shall be made in the same manner as described in this section but only to States with Cooperative Agreements that have expended Bank funds for subsidies.

(2) The amount of funds allocated to each State is based on a score which is the product of two factors, provided that the tentative allocation of funds for each new State participant, if made, shall be not less than $120,000. The tentative allocation for each current State participant shall be not less than $20,000 unless there are insufficient funds available in which case only those States receiving a tentative allocation of at least $20,000 on the basis of Factor A and Factor B scores will be eligible to receive funds. Where total funds available for allocation are less than $40,000, the eligible State receiving the highest score shall be awarded the available funds and if not accepted, the funds shall be awarded in turn to the next highest scoring eligible State which agrees to accept the funds. The score for each State is divided by the sum of the scores of all States and the resulting ratio is multiplied by the available funds to provide a tentative allocation.

(i) Factor "A" is determined by the product of:

(A) The sum of 50 percent of the number of households in the State with income at 80 percent or less of the median household income for the State, 30 percent of the number of households with incomes greater than 80 percent of the median up to 150 percent of the median and 20 percent of the number of households with income greater than 150 percent of the median, normalized so that the largest value is equal to 100 with all other ratios proportionately less with a weight of 0.5; and

(B) The average amount of energy consumed per household for the State, normalized so that the largest resultant value is equal to 100 with a weight of 0.5.

(ii) Factor "B" is equal to one for a new participant pursuant to § 1800.93(b) and otherwise is determined by the sum of one plus:

(A) The annual Btu savings for subsidized energy conservation measures and solar energy systems per dollar of Bank subsidy expended normalized so that the highest value equals 5 with a weight of 0.1;

(B) The calculation of the total dollar investment made in subsidized measures and systems per dollar of Bank subsidy expended normalized so that the highest value equals 5 with a weight of 0.1;

(C) The calculation of the ratio of dollars of Bank subsidy expended to the total funds obligated to a State by the cooperative agreement normalized so that the highest value equals 5 with a weight of 0.5; and

(D) The calculation of the ratio of dollars of Bank subsidy expended to the total funds expended by all program participants normalized so that the highest value equals 5 with a weight of 0.3.

(iii) "Investment" as used in paragraph (a)(2)(ii)(B) of this section means the improvement cost for a measure or system when used as the basis for calculating a subsidy; otherwise it means the estimated system cost in the case of solar space heating or cooling systems.

(iv) The value for Factor "B" shall be reduced only if Bank subsidies and other Federal subsidies are provided for the purchase and installation of the same energy conservation measures or solar energy systems, with a minimum reduction of 5 percent and reductions at the rate of 5 percent for each 10 percent of total dollars of Bank subsidy which are expended for measures or systems which also are subsidized by other Federal subsidies to a maximum reduction of 50 percent.

(v) Factor "B" shall represent cumulative performance based on the entire period of State participation in the Bank program or the preceding 24 months, whichever period is less. The information needed to calculate the value for Factor "B" shall be taken from the State semi-annual reports due pursuant to § 1800.107. If any such report has not been received by the Bank from a State, no value will be given for paragraphs (a)(2)(ii) (A) and (B) of this section; in such case paragraphs (a)(2)(ii) (C) and (D) of this section shall be based on information available to the Bank through its fund transfer system with a 50 percent reduction applied to Factor B thus calculated for any State not reporting.

(b) *Obligation.* The Bank shall inform each State of its tentative allocation. Unless a State elects not to receive its tentative allocation, the full amount of the State's tentative allocation shall be obligated to a State by the cooperative agreement or an amendment to it, provided that if the Bank has issued to a State a notice of intent to recapture funds under § 1800.97(b) the Bank shall have no duty to obligate any additional funds to the State unless the violation is resolved to the satisfaction of the Bank.

18. The heading of § 1800.97 is revised to read as follows:

§ 1800.97 Recapture of funds.

19. A new § 1800.98 is added to read as follows:

§ 1800.98 Reallocation of funds.

Any funds which become available for reallocation after a tentative allocation and while they remain legally available for obligation shall be included in the next tentative allocation. A special reallocation may be made for any such funds which would cease to be legally available for obligation prior to the next anticipated tentative allocation and any special reallocation shall be in a manner as described in § 1800.95 using the most recent information available to the Bank. Funds available for reallocation include funds tentatively allocated under § 1800.95 to a State that does not elect to receive such funds or for an IAC when the Bank determines not to obligate such funds and funds recaptured under § 1800.97.

20. In § 1800.99, paragraph (d) is revised to read as follows:

§ 1800.99 Authorized expenditures.

* * * * *

(d) *Principles for determining allowable expenses.* Administrative and promotional expenses must be allowable under the principles and standards established in OMB Circular A–87, "Cost Principles for State and Local Governments", or A–122, "Cost Principles for Non-profit Organizations", as applicable.

21. Section 1800.103 is revised to read as follows:

§ 1800.103 Selection of financial institutions.

A State will select the financial institutions which will provide financial assistance within the State. A State may serve as a financial institution itself as long as it qualifies under the definition set forth in § 1800.3. A State not serving as a financial institution itself may nevertheless perform any functions prescribed for a financial institution by this part or a cooperative agreement to the extent agreed by the financial institution, except for the actual making of a grant or subsidized loan.

22. Section 1800.107 is amended by revising paragraph (a)(7) to read as follows:

§ 1800.107 Reporting and recordkeeping requirements.

(a) * * *

(7) The cost-effectiveness of the program in terms of the percent of Bank funds for subsidies expended in connection with some other form of Federal subsidy, administrative costs, promotional costs, leveraging of funds, energy savings in terms of dollars per barrel of oil equivalent and other measures as may be appropriate; and

* * * * *

23. Section 1800.109 is revised to read as follows:

§ 1800.109 Manner of payment.

Payments to States will be made by electronic funds transfer whenever possible, letter of credit, or other means, pursuant to the cooperative agreements in compliance with the Intergovernmental Cooperation Act (42 U.S.C. 4201 *et seq.*) and Treasury Circular No. 1075 (31 CFR Part 205). States may receive payments for administrative and promotional expenses only after they have been incurred. States may receive other payments only in amounts necessary to pay financial institutions for financial assistance in connection either with energy conservation measures or solar energy systems which have been purchased, or with loans which have been closed or for which a *bona fide* loan commitment has been made if energy conservation measures or solar energy systems will be installed within 60 days of loan closing or 90 days of the loan commitment. States shall utilize appropriate procedures to minimize the time elapsing between the transfer of funds by the Treasury to the State and the disbursement of funds by the State.

24. A new § 1800.120 is added to Subpart F to read as follows:

§ 1800.120 Conflict of interest.

No financial institution and no person who is an employee, agent, consultant, officer, or elected or appointed official of a State, local participant, financial institution, or public or private entity acting as agent of any of the foregoing, and who is in a position to participate in a decisionmaking process or gain inside information with respect to expenditures

for administrative or promotional expenses or assistance for eligible activities under this part, may obtain a personal or financial interest in or benefit from such expenditures or assistance, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure. This paragraph does not restrict financial assistance to a publicly-owned building or to a person with respect to a single dwelling unit which is the person's principal residence.

25. Section 1800.125 is amended by revising paragraph (b) to read as follows:

§ 1800.125 Audit.

* * * * *

(b) *State audits.* HUD audit requirements in 24 CFR Part 44 and OMB Circular A-128 apply to States receiving funds under this part.

26. Section 1800.127 is revised to read as follows:

§ 1800.127 Prohibition against tax credits and financial assistance for same expenditure.

(a) *Information provided to the Secretary of the Treasury.* As required by section 506(f) of the Act, the Bank shall provide to the Secretary of the Treasury such information as the Secretary of the Treasury determines is necessary to insure that no person is allowed for the same expenditure both financial assistance under the Act and a credit against Federal income taxes under 26 U.S.C. 38 (investment credit) or 26 U.S.C. 23 (residential energy credit) except as permitted by regulations or other legal interpretations of the Internal Revenue Service. Except as otherwise directed by the Secretary of the Treasury, the Bank intends to discharge this responsibility as well as the information return requirements of 26 U.S.C. 6050D, where applicable, by requiring either a State or financial institutions within a State to submit Internal Revenue Service Form 6497 ("Information Return of Nontaxable Energy Grants or Subsidized Energy Financing") or any replacement form duly approved by the Office of Management and Budget to the appropriate office of the Internal Revenue Service.

(b) *Information required from applicant.* As a condition of financial assistance, an applicant shall be required to provide to the financial institution:

(1) All information which the Secretary of the Treasury determines is necessary under paragraph (a) of this section and which is possessed by the recipient, including the applicant's Social Security number or taxpayer identification number and other information required for Internal Revenue Service Form 6497 or any replacement form duly approved by the Office of Management and Budget, and

(2) A certification that the applicant will not claim a Federal tax credit under 26 U.S.C. 38 or 23 for amounts expended for the assisted energy conservation measures or assisted solar energy system up to the amount used as the basis for determining the financial assistance, except as permitted by regulations or other legal interpretations of the Internal Revenue Service. No certification shall be required from an applicant for financial assistance for a building in Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa or the Trust Territory of the Pacific Islands.

(Approved by the Office of Management and Budget under OMB control number, 2504-0001)

27. Section 1800.135(b) is amended by revising paragraph (b) to read as follows:

§ 1800.135 Applicability of general HUD regulations.

* * * * *

(b) *Regulations adopted.* The following provisions of this title, as they may be amended from time to time, are adopted by the Bank and shall be binding as regulations governing the internal operations of the Bank, except as they may be modified by the Board: Part 0 (Standards of Conduct), Part 1 (Nondiscrimination), Part 2 (Hearing Practice and Procedures under Part 1), Part 7 (Equal Employment Opportunity), Part 10 (Rulemaking: Policy and Procedures), Part 15 (Production or Disclosure of Material or Information), Part 16 (Privacy Act), Part 17 (Administrative Claims), Part 20 (Board of Contract Appeals), Part 44 (Non-Federal Governmental Audit Requirements), and Part 50 (Procedures for Protection and Enhancement of Environmental Quality). References to "the Secretary" in such provisions shall ordinarily be construed as including the Board. In conjunction with its adoption of Part 50 of this title, the Bank adopts a categorical exclusion from requirements for environmental clearances for approval of State programs and allocation of funds to the States, as well, as for any actions taken by States or financial institutions in accordance with approved State programs.

* * * * *

28. Section 1800.137 is amended by revising paragraphs (c), (d) and (g) to read as follows:

§ 1800.137 Other Federal requirements.

* * * * *

(c) *Historic preservation.* No financial assistance shall be provided in connection with any energy conservation measure or solar energy system with respect to any district, site, building, structure or object included in or eligible for inclusion in the National Register maintained by the Secretary of the Interior under 16 U.S.C. 470a as determined by the State or a financial institution, unless: (1) Such financial assistance is provided in compliance with the Bank's initial Memorandum of Agreement with the Advisory Council on Historic Preservation, or any subsequent such Memorandum of Agreement, or (2) such financial assistance is in connection with an assistance program of a Federal agency other than the Bank for which the other Federal agency or a recipient of assistance under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) or section 17 of the United States Housing Act of 1937 (42 U.S.C.1437o) has complied with the procedures of the Advisory Council on Historic Preservation set forth in 36 CFR Part 800 or (in the case of Urban Development Action Grants) 36 CFR Part 801.

(d) *Special flood hazard areas and wetlands.* In order to carry out the Federal policies stated in Executive Orders 11988 ("Floodplain Management") and 11990 ("Protection of Wetlands"), no financial assistance shall be provided in connection with a newly constructed building located in wetlands or in connection with any building located in an area that has been identified by the Federal Emergency Management Agency as having special flood hazards, unless such financial assistance is in connection with as assistance program of a Federal agency other than the Bank for which the Federal agency or a recipient of assistance under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) or section 17 of the United States Housing Act of 1937 (42 U.S.C. 1437o) has complied with the procedures set forth in Executive Order 11988 or 11990. The preceding sentence shall not restrict the providing of financial assistance in compliance with any HUD regulations implementing Executive Orders 11988 and 11990 if such regulations have been

adopted by the Bank pursuant to § 1800.135(c)

* * * * *

(g) *OMB Circular A–102.* A State shall comply with the requirements of Attachments G, H, J, L, N and O of OMB Circular A–102 and shall be regarded as a grantee for the purposes of such requirements. The cooperative agreement required by § 1800.91 may clarify the requirements as applied to the financial assistance program of the Bank.

* * * * *

29. Appendix II is amended by adding a new section IV after the end of current section III to read as follows:

Appendix II—Procedure for Calculating Subsidy and Reduced Interest Rate on Prepayment of Interest Loan Assistance

* * * * *

IV. Combined reduction of principal and prepayment of interest. Category 5 loan.

1. Determine subsidy amount available as per §§ 1800.47 and 1800.67 as applicable.

2. Determine amount of subsidy to be used for reduction of principal. This would normally be estimated based on the amount of interest buydown desired as for a Category 1 loan.

3. Subtract the portion of the subsidy to be used as a reduction of principal from the loan amount to obtain the amount to be repaid.

4. Using the amount to be repaid and the portion of the available subsidy to be used toward prepayment of interest, calculate the loan repayment terms and subsidy amount as per steps C.1 through C.5 for a Category 2 loan.

5. The amount of Bank assistance to be provided is the sum of the subsidy amounts determined by steps 2 and 4 above. An iterative process may be needed to maximize use of an available subsidy if desired.

30. Appendix III is amended by adding a new Example 5 after the end of current Example 4 and before the Note to Appendix III to read as follows:

Example 5, Category 5

It is desired to offer reduced interest rate loans at a level competitive with rates of return available to individuals to discourage early repayment of loans but yet make the total amount of assistance attractive to individuals to encourage installation of energy conserving measures. Accordingly, a situation as per Example 1 is desired with a $500 reduction in principal in addition to the 10% reduced interest rate loan.

1. Using Category 5 procedures, a $500 reduction in principal is applied to the loan making the amount to be repaid $1,500.

2. The difference in finance charges from 15% to 10% for $1,500 is $229.05 ($641.25 − $412.20).

3. The discounted rate growth factor is 1.3489 as per example 1.

4. The amount of prepayment of interest subsidy required to reduce the interest rate to 10% is $169.80 ($229.05 divided by 1.3489).

5. The total amount of assistance to be provided is then $669.80 ($500 + $169.80). Since this is within the allowable subsidy of $700, the $669.80 is the subsidy amount.

EXAMPLE 5 SUMMARY

	Conventional	Bank subsidized
Principal	$2,000.00	$1,500.00
Interest rate	15 percent	10 percent
Term	5 years	5 years
Monthly payment	$47.60	$31.87
Total payments	$2,856.00	$1,912.20

Dated: June 6, 1985.

Richard H. Francis,

Manager, Solar Energy and Energy Conservation Bank.

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Part IV

Department of Education

Office of Elementary and Secondary Education

34 CFR Part 222

Assistance for Local Educational Agencies in Areas Affected by Federal Activities and Arrangements for Education of Children Where Local Educational Agencies Cannot Provide Suitable Free Public Education; Proposed Rule

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

34 CFR Part 222

Assistance for Local Educational Agencies in Areas Affected by Federal Activities and Arrangements for Education of Children Where Local Educational Agencies Cannot Provide Suitable Free Public Education

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations governing the establishment of local contribution rates under the Impact Aid program. The rates are used by the Secretary to compute maintenance and operations assistance to local educational agencies (LEAs) in federally affected areas.

DATE: All comments must be received on or before July 15, 1985.

ADDRESSES: Comments should be addressed to Dr. David G. Phillips, Division of Impact Aid, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2109, Washington, D.C. 20202-6272.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Dr. David G. Phillips, Telephone (202) 245-1975.

SUPPLEMENTARY INFORMATION: Under section 3 of Pub. L. 81-874 (the Act), commonly referred to as the Impact Aid program, the Secretary provides assistance for maintenance and operations to certain LEAs. LEAs eligible to participate in the program are those providing a free public education to certain types of so-called federally connected children; that is, children who reside on Federal property; children whose parents are employed on Federal property; children residing on Federal property with parents employed on Federal property; and children whose parents are on active duty in the uniformed services.

The amendments to the regulations affect implementation of section 3 of the Act. This section contains the procedure used by the Secretary to calculate payments to eligible applicants. Except for the changes to the provisions governing local contribution rates and additional assistance under sections 3(d)(2)(B) and 3(d)(3)(B)(ii) of the Act, these proposed regulations contain no other changes to the regulations implementing Pub. L. 81-874. The majority of the provisions in this notice of proposed rulemaking (NPRM) are very similar to the interim final regulations published in the **Federal Register** on August 7, 1984, except that two new provisions, §§ 222.33(c) and 222.37, have been added in response to public comments.

The amount of a section 3 payment is determined by several factors: The number(s) and type(s) of federally connected children attending the schools of an applicant LEA, the applicant's local contribution rate, the amount of the annual appropriation, and the distribution formula contained in the appropriation legislation. Among other provisions, section 3 requires the Secretary to establish for each applicant a local contribution rate and, in the case of certain applicants, to determine which LEAs in their respective States are generally comparable to those applicants. The majority of applicants under the Impact Aid program are paid on the basis of the minimum rate guaranteed by the Act. These regulations governing local contribution rates and the identification of generally comparable LEAs and the changes being proposed in them will apply to a very small but important group of applicants.

Because of a number of inquiries regarding the methods used by the Secretary to identify generally comparable LEAs, the Secretary reviewed the current practices and regulations for the program and determined that the provisions governing those methods should include objective factors that would produce more uniform results for districts with similar characteristics.

The Secretary proposed changes including such objective factors to the regulations governing local contribution rates originally in an NPRM published in the **Federal Register** on March 30, 1984 (49 FR 12950). The public was given 45 days in which to comment on the NPRM. After reviewing the comments that were received and adopting several of the recommended changes, the Department published interim final regulations on August 7, 1984 (49 FR 31628). They became effective on September 21, 1984. Because of the interest in these regulations, the Secretary invited the public to comment during an additional 60-day period following the publication of the interim final regulations.

The Secretary has incorporated into these proposed regulations several of the recommendations received from the public during the second comment period. Because there are a number of significant changes, another NPRM is being published. Until these proposed rules are published in final form, the provisions of the interim final regulations will be used to identify generally comparable LEAs and calculate local contribution rates.

Substantive comments received on the interim final regulations and the Secretary's responses are summarized in the Appendix to these proposed regulations.

Summary of Changes From the Interim Final Regulations

A brief summary of changes in this NPRM resulting from substantive comments on the interim final regulations follows. In addition to the specific changes discussed, some editorial changes have been made.

"Hold-Harmless" Prevention. In response to public comments, the Secretary is proposing to include a "hold-harmless" provision in § 222.31(d) for fiscal year (FY) 1985 and subsequent years to continue to help a small group of applicant LEAs make the transition to the generally comparable LEA method. Under this proposal, no LEA would be required in any year to absorb more than a 10 percent reduction from its prior year's rate.

Grouping LEAs by Size. Several commenters objected to grouping LEAs by size into only two groups because this method would include LEAs of very different sizes in the same group. On the other hand, one commenter requested that the division into two groups not be changed so that States with small numbers of LEAs could continue to use the method. In order to respond to both points of view, the Secretary is proposing to change §§ 222.33(a)(2) and (a)(4) to allow division of LEAs into either thirds or halves, at the discretion of the State educational agency (SEA) in consultation with the applicant LEAs in the State.

Metropolitan Statistical Area. The Secretary also proposes to replace the term "standard metropolitan statistical area" (SMSA) in §§ 222.33(a)(3) and (a)(4) with the term "metropolitan statistical area" (MSA. This is being done to conform to U.S. Bureau of the Census revisions in the terminology and definition of metropolitan areas approved by the Office of Management and Budget.

Heavily Impacted LEAs Warranting Special Consideration. A number of commenters requested a different method of identifying generally comparable LEAs for certain heavily impacted applicant LEAs. In response to these commenters, the Secretary is proposing to identify a group of heavily

impacted applicants located in States which provide a low level of support for education whose circumstances appear to warrant special consideration. A new § 222.33(c) is being added which provides one procedure, more flexible than the four standard options, for identifying generally comparable LEAs for both the new group of applicants being identified and the group of LEAs whose boundaries are coterminous with the boundaries of Federal property. (The definition of a coterminous applicant is no longer restricted to LEAs whose boundaries are coterminous with the boundaries of a Federal military installation.) The new procedure is similar to that contained in the former § 222.33(c) in the interim final regulations, but it now includes standards to be followed in identifying generally comparable LEAs for these applicants. The new section also proposes a method of identifying generally comparable LEAs for a heavily impacted, coterminous applicant that serves a different span of grades from all other LEAs in its State.

Provision Concerning Unusual Geographical Factors. The Secretary is proposing to include a provision in the regulations which would implement section 3(d)(3)(B)(ii) of the Act. This statutory provision provides additional compensation to certain applicant LEAs affected by unusual geographical factors. The former provision regarding section 3(d)(3)(B)(ii) was found in § 222.32, but the new provision has been added as § 222.37 in this NPRM. The section provides more detailed procedures for determining eligibility for and the amount of an additional payment under section 3(d)(3)(B)(ii).

Provision Concerning LEAs in States Having Unorganized Territory. One commenter requested that LEAs in States in which "a substantial proportion of the land is in unorganized territory" not be restricted to using the local contribution rate guaranteed by the Act. The Secretary is proposing to allow LEAs in these States to recommend local contribution rates computed using the generally comparable LEA method in §§ 222.33 and 222.34.

Special Request for Comments. The Secretary is providing a 30-day period during which the Department will receive public comment on these proposed regulations. The Secretary invites the public to comment in particular on several of the new provisions in these regulations. First, the Secretary is interested in the public's views on § 222.33(c) which contains the new method of identifying generally comparable LEAs for coterminous applicants and for the new group of heavily impacted applicants. The Secretary would like specific data on the practical application of the new method and would like to know if it adequately addresses the needs of the applicants to whom it applies. If commenters do not believe that the method is adequate, the Secretary would like specific suggestions for an alternative procedure also based on objective factors. Second, the public is invited to comment on § 222.37, the provision governing eligibility for special funding under section 3(d)(3)(B)(ii) of the Act. Finally, the Secretary would like data on the results of allowing LEAs in States in which a substantial proportion of the land is in unorganized territory to use the generally comparable LEA method.

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. The small entities affected by the regulations are small LEAs. The regulations contain a "hold-harmless" provision for FY 1985 and subsequent years under which no applicant would be required to absorb more than a 10 percent reduction from its prior year's local contribution rate. This provision will minimize the economic impact of these proposed regulations on small LEAs.

These regulations will not affect a substantial number of small LEAs because only approximately 10 percent of all Impact Aid recipients are expected to take advantage of the "hold-harmless" provision. This means that the remaining 90 percent of the program's recipients are either not affected by the generally comparable LEA method, or their rates, and thus their payments, under the method are adequate.

Paperwork Reduction Act of 1980

Sections 222.33, 222.34, and 222.37 contain information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these proposed regulations to the Office of Management and Budget (OMB) for its review. The provisions of §§ 222.33 and 222.34 in this NPRM are substantially the same as the corresponding provisions in the interim final regulations. The public is invited to comment in particular on the new information collection requirements in §§ 222.33(c) and 222.37(c). Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3208, New Executive Office Building, Washington, DC 20503; Attention: Joseph F. Lackey, Jr.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments should be submitted on or before July 15, 1985 to be assured of consideration by the Secretary.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 2109, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week, except Federal holidays.

List of Subjects in 34 CFR Part 222

Education, Education of the handicapped, Elementary and secondary education, Federally affected areas, Grant programs—education, Public housing, Reports and recordkeeping requirements.

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 No. 84.041, School Assistance in Federally Affected Areas—Maintenance and Operation)

Dated: June 12, 1985.

William J. Bennett,

Secretary of Education.

PART 222—ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES AND ARRANGEMENTS FOR EDUCATION OF CHILDREN WHERE LOCAL EDUCATIONAL AGENCIES CANNOT PROVIDE SUITABLE FREE PUBLIC EDUCATION

The Secretary proposes to amend Part 222 of Title 34 of the Code of Federal Regulations as follows:

1. The table of contents for Subpart D is revised to read as follows:

Subpart D—Generally Comparable Local Educational Agencies; Local Contribution Rates

Sec.

* * * * *

Authority: Pub. L. 81-874, as amended, 64 Stat. 1100 (20 U.S.C. 236-244), unless otherwise noted.

2. Subpart D of Part 222 is revised to read as follows:

Subpart D—Generally Comparable Local Educational Agencies; Local Contribution Rates.

§222.30 Determination of local contribution rates: general

(a) Before computing the amount to be paid to an applicant local educational agency (LEA) under section 3 of the Impact Aid program, the Secretary—after consultation with the LEA and its State educational agency (SEA)—determines the LEA's local contribution rate.

(b) The provisions in §§222.31 through 222.34 describe the methods that may be recommended by LEAs to be used by the Secretary in the determination of local contribution rates.

(c) Except as specified in §§222.31(a)(2) and 222.32(b), the provisions in §§222.31 through 222.37 do not apply to applicant LEAs located in—

(1) Puerto Rico;
(2) Wake Island;
(3) Guam;
(4) American Samoa;
(5) The Northern Mariana Islands;
(6) The Virgin Islands; and
(7) Any State in which there is only one LEA.

(20 U.S.C. 238(d)(3))

§222.31 Recommendation of local contribution rate.

An LEA shall recommend to the Secretary one of the following types of local contribution rates. If the recommended local contribution rate meets the requirements of the Act and this Part 222, the Secretary accepts the recommendation and bases the LEA's payment on that rate.

(a) *Guaratneed Minimum Rate.* (1) The LEA may recommend the local contribution rate guaranteed by the Act.

(2) In the case of a jurisdiction listed or identified in §222.30(c), the Secretary establishes as the local contribution rate the rate guaranteed by the Act.

(3) The provisions governing this rate are in §222.32.

(b) *Generally Comparable LEA Rate.* (1) The LEA may recommend a local contribution rate based on appropriate data from generally comparable LEAs within its State.

(2) The provisions governing this rate are in §§222.33 through 222.35.

(c) *"Hold-Harmless" Rate for FY 1984.* (1) For fiscal year (FY) 1984 only, an LEA that was paid on a rate above the rate guaranteed by the Act in FY 1981 may recommend a rate 37.57 percent greater than its FY 1981 rate.

(2) To compute the amount of a rate under paragraph (c)(1) of this section, multiply the FY 1981 section 3 local contribution rate by 1.3757.

(3) If, during FY 1981, the LEA received additional assistance under section 3(d)(2)(B) or 3(d)(3)(B)(ii) of the Act as well as a regular payment under section 3, the LEA may apply the 37.57 percent increase only to the rate used for determining its regular payment under section 3 for FY 1981.

(d) *"Hold-harmless" Rate for FY 1985 and Subsequent Years.* (1) If the generally comparable LEA method described in § 222.33 results in a regular section 3 rate for the current fiscal year that is at least 10 percent less than an applicant's prior fiscal year regular section 3 rate, the applicant may recommend that its rate for the current fiscal year be 90 percent of its prior fiscal year rate.

(2) To compute the amount of a rate under paragraph (d)(1) of this section, multiply the prior fiscal year section 3 local contribution rate by .90.

(3) If, during the prior fiscal year, the LEA received additional assistance under sections 3(d)(2)(B) or 3(d)(3)(B)(ii) of the Act as well as a regular payment under section 3, the LEA may apply the .90 multiplier only to the rate used for determining its regular payment under section 3 for the prior fiscal year.

(20 U.S.C. 238(d)(3); 242(b))

§ 222.32 Local contribution rate guaranteed by the Act.

(a) Except as provided in paragraph (b) of this section, the local contribution rate guaranteed by the Act is the greater of—

(1) Fifty percent of the average per pupil expenditure in the LEA's State during the second fiscal year preceding the fiscal year for which the local contribution rate is being computed; or

(2) Fifty percent of the average per pupil expenditure in all of the 50 States and the District of Columbia during the second fiscal year preceding the fiscal year for which the local contribution rate is being computed.

(b) If a rate resulting from paragraph (a)(2) of this section exceeds 100 percent of the average per pupil expenditure in the LEA's State for the second fiscal year preceding the fiscal year for which the local contribution rate is being computed, the Secretary approves a local contribution rate that is equal to that State's average per pupil expenditure for the second preceding fiscal year.

(20 U.S.C. 238(d)(3)(B))

§ 222.33 Identification of generally comparable LEAs.

(a) If an LEA wishes to recommend to the Secretary a rate based on appropriate data from generally comparable LEAs within its State, the SEA for that State shall use data from the second fiscal year preceding the fiscal year for which the local contribution rate is being computed to group all of its LEAs as follows:

(1) *Grouping by Grade Span/Legal Classification Alone.* Divide all LEAs into groups that serve the same grade span and then subdivide the grade span groups by legal classification, if the Secretary considers this classification relevant and sufficiently different from grade span within the State.

(2) *Grouping by Grade Span/Legal Classification and Size.* (i) Divide all LEAs into groups by grade span and legal classification, if relevant and sufficiently different. The SEA shall include all applicant LEAs when determining each group.

(ii) List all LEAs within each group in descending order by size as measured by average daily attendance (ADA), placing the LEA with the *largest* ADA at the top of the list. A State that does not tabulate actual annual ADA shall use the same formula for establishing ADA for the purpose of ranking LEAs by size as the Department of Education has approved for the purpose of calculating section 3 payments for applicant LEAs in the State.

(iii) After consultation with the applicant LEAs in the State, divide each group into either two subgroups or three subgroups.

(iv) To determine the subgroups, divide each list at the point(s) that will result in as nearly equal numbers of LEAs in each subgroup as possible, so that no group is more than one LEA larger than any other group.

(3) *Grouping by Grade Span/Legal Classification and Location.* Divide all LEAs into groups by grade span and, if relevant and sufficiently different, legal classification; then subdivide these groups by location, as determined by placement inside or outside a metropolitan statistical area (MSA) as defined by the U.S. Bureau of the Census. The Department of Education will supply SEAs with lists of MSA classifications for their LEAs, and only the classifications on those lists will be recognized by the Department for the purposes of these regulations.

(4) *Grouping by Grade Span/Legal Classification, Size, and Location.* (i) Divide all LEAs into groups by grade span and, if relevant and sufficiently different, legal classification; then subdivide these groups by size (into two or three subgroups for each grade span, as described in paragraph (a)(2) of this section); and further subdivide these groups by location (inside or outside an MSA).

(ii) In using both the size and location factors, the SEA shall subdivide according to the size factor before the location factor.

(b) After applying the following restrictions, the SEA shall compute a local contribution rate according to the provisions of § 222.35 for each group of generally comparable LEAs identified under paragraph (a) of this section:

(1) The SEA shall not, when computing a local contribution rate, include the following heavily impacted LEAs in any group of generally comparable LEAs:

(i) Any LEA having—in the second fiscal year preceding the fiscal year for which the local contribution rate is being computed—20 percent or more of its ADA composed of children identified under section 3(a) of the Act.

(ii) Any LEA having—in the second fiscal year preceding the fiscal year for which the local contribution rate is being computed—50 percent or more of its ADA composed of children identified under section 3(b) of the Act, or under both sections 3(a) and 3(b) of the Act.

(2) The SEA shall not compute a local contribution rate for any group that contains fewer than 10 LEAs.

(c)(1)(i) In the case of an applicant LEA that satisfies the requirements contained in paragraph (c)(2) of this section, the SEA, in consultation with the LEA, may select 10 or more generally comparable LEAs from the group identified under paragraph (a)(2) of this section that includes the applicant LEA.

(ii) An LEA that otherwise meets either of the requirements of paragraph (c)(2) of this section but serves a different span of grades from all other LEAs in its State (and therefore cannot match any group of generally comparable LEAs under paragraph (a)(2) of this section) must be matched, for purposes of this paragraph (c) only, to a group using legal classification and size as measured by ADA. The group identified using legal classification and size will be the applicant's group under paragraph (a)(2) for purposes of this paragraph (c) only.

(2) In order to qualify under paragraph (c)(1) of this section, an applicant LEA must either—

(i)(A) Be composed entirely of Federal property; and

(B) Be raising either no local revenues or an amount of local revenues the Secretary determines to be minimal; or

(ii)(A) Be located in a State where State aid makes up no more than 40 percent of the State average per pupil expenditure in the second fiscal year preceding the fiscal year for which the local contribution rate is being computed;

(B) Have federally connected children identified in the current year under section 3(a) of the Act equal to at least 20 percent of its total ADA; and

(C) Have federally connected children identified in the current year under both sections 3(a) and 3(b) of the Act equal to at least 50 percent of its total ADA.

(3) In the case of an applicant LEA that meets either of the requirements contained in paragraph (c)(2) of this section, the SEA, in consultation with the LEA, may select 10 or more generally comparable LEAs that share one or more common factors of general comparability with the eligible applicant LEA, as follows:

(i)(A) The SEA shall consider one or more generally accepted, objectively defined factors that affect the applicant's cost of educating its children. Examples of such cost-related factors include sparsity of population, an unusually large geographical area, economically depressed areas, low-income families, handicapped children, neglected or delinquent children, low-achieving children, children with limited English proficiency, and minority children.

(B) The SEA shall not consider cost-related factors that can be varied at the discretion of the applicant LEA or its generally comparable LEAs or factors dependent on the wealth of the applicant LEA or its generally comparable LEAs. Examples of factors that shall not be considered include special alternative curricular programs, pupil-teacher ratio, and her pupil expenditures.

(ii) The SEA shall apply the factor(s) of general comparability recommended under paragraph (c)(3)(i) of this section in one of the following ways in order to identify 10 or more generally comparable LEAs for the eligible applicant LEA, none of which may be heavily impacted LEAs:

(A) The SEA identifies all of the LEAs in the group that the eligible applicant LEA belongs to under paragraph (a)(2) of this section that share the recommended factor(s). If the subgroup containing the eligible applicant LEA includes at least 10 other LEAs (excluding heavily impacted LEAs), it will be the eligible applicant LEA's new group of generally comparable LEAs. The local contribution rate for the eligible applicant LEA shall be computed using the data for all of the LEAs in the subgroup except the eligible applicant LEA.

Example. An eligible applicant LEA contains a designated economically depressed area, and the SEA recommends "economically depressed areas" as an additional factor of general comparability. From the group of LEAs under paragraph (a)(2) of this section that includes the eligible applicant LEA, the SEA identifies two subgroups, those LEAs that contain designated economically depressed areas and those that do not. The entire subgroup identified by the SEA that includes the eligible applicant LEA is that LEA's new group of generally comparable LEAs if it contains at least 10 LEAs.

(B) The SEA identifies all of the LEAs in the group that the eligible applicant LEA belongs to under paragraph (a)(2) of this section that share the recommended factor(s). The SEA then systematically orders all of the LEAs in the group that includes the eligible applicant LEA. The SEA may further divide the ordered LEAs into subgroups by using logical division points (e.g., the median, quartiles, or standard deviations) or a continuous interval of the ordered LEAs (e.g., a percentage or a numerical range). If the subgroup containing the eligible applicant LEA includes at least 10 other LEAs (excluding heavily impacted LEAs), it will be the eligible applicant LEA's new group of generally comparable LEAs. The local contribution rate for the eligible applicant LEA shall be

computed using the data for all of the LEAs in the subgroup except the eligible applicant LEA.

Example. An eligible applicant LEA serves an unusually high percentage of handicapped children, and the SEA recommends proportion of "handicapped children" as an additional comparability factor. From the group of LEAs under paragraph (a)(2) of this section that includes the eligible applicant LEA, the SEA lists the LEAs in descending order according to the percentage of handicapped children enrolled in each of the LEAs. The SEA divides the list of LEAs into four groups containing equal numbers of LEAs. The group containing the eligible applicant LEA is that LEA's new group of generally comparable LEAs if it contains at least 10 LEAs.

Example. An eligible applicant LEA serves an unusually high percentage of minority children, and the SEA recommends proportion of "minority children" as an additional comparability factor. From the group of LEAs under paragraph (a)(2) of this section that includes the eligible applicant LEA, the SEA lists the LEAs in descending order according to the percentage of minority children enrolled in each of the LEAs. The SEA chooses from the list of LEAs the 15 LEAs whose percentages of minority children are closest to the eligible applicant LEA's. These 15 LEAs will be the eligible applicant LEA's new group of generally comparable LEAs.

(C) The SEA may recommend and apply more than one factor of general comparability in selecting a new group of 10 or more generally comparable LEAs for the eligible applicant LEA. If the subgroup containing the eligible applicant LEA includes at least 10 other LEAs (excluding heavily impacted LEAs), it will be the eligible applicant LEA's new group of generally comparable LEAs. The local contribution rate for the eligible applicant LEA shall be computed using the data from all of the LEAs in the subgroup except the eligible applicant LEA.

Example. An eligible applicant LEA is very sparsely populated and serves an unusually high percentage of children with limited English proficiency. The SEA recommends "sparsity of population" and proportion of "children with limited English proficiency" as additional comparability factors. From the group of LEAs under paragraph (a)(2) of this section that includes the eligible applicant LEA, the SEA identifies all LEAs that are sparsely populated. The SEA further subdivides the sparsely populated LEAs into two groups, those that serve an unusually high percentage of children with limited English proficiency and those that do not. The subgroup of sparsely populated LEAs that serve a high percentage of children with limited English proficiency is the eligible applicant LEA's new group of generally comparable LEAs.

(4)(i) Using the new group of generally comparable LEAs selected under paragraph (c)(3) of this section, the SEA shall compute the local contribution rate for the eligible applicant LEA according to the provisions of § 222.35.

(ii) The SEA shall recommend the resulting local contribution rate to the Secretary and provide the Secretary a description of the additional factor(s) of general comparability and the data used to identify the new group of generally comparable LEAs.

(iii) The Secretary reviews the recommended local contribution rate and supporting data and accepts them if the Secretary determines that they meet the purposes and requirements of the Act and this Part 222.

(20 U.S.C. 238(d)(3)(A); 242(b))

§ 222.34 Local contribution rate based on generally comparable LEAs.

(a) In selecting its recommended rate, the LEA shall use the following steps:

(1) *Step 1.* The LEA shall select the factor or factors in § 222.33 the LEA wishes to use as the basis for general comparability.

(2) *Step 2.* Using State-supplied data, the LEA shall identify within the State the entire group of LEAs (containing at least 10 LEAs exclusive of heavily impacted LEAs) that matches the factor or factors selected in Step 1 and that contains the applicant LEA or would contain the applicant LEA if it were not heavily impacted.

(3) *Step 3.* The LEA shall recommend to the Secretary the local contribution rate, which the SEA has computed according to the provisions of § 222.35, based on the group identified in Step 2.

(b) A heavily impacted LEA is entitled to—

(1) Apply for assistance under the program; and

(2)(i) Recommend as its local contribution rate any type of rate described in § 222.31 for which the LEA is eligible, including a rate based on generally comparable LEAs; and

(ii) Under the generally comparable LEA method, recommend for itself the local contribution rate of any group it would be included in based on grade span/legal classification, size, and/or location, if it were not excluded as heavily impacted in paragraph (b)(1) of § 222.33.

Example. An LEA applies for assistance under section 3 of the Impact Aid Program and wishes to recommend to the Secretary a local contribution rate based on generally comparable LEAs within its State.

Characteristics of Applicant LEA

The grade span of the applicant LEA is kindergarten through grade 8 (K–8). In the applicant's State, legal classification of LEAs is based on grade span, and thus does not act to further subdivide groups of LEAs.

The ADA of the applicant LEA is above the median ADA of LEAs serving only K–8 in the State.

The applicant LEA is located outside an MSA.

Characteristics of Other LEAs Serving Same Grade Span

The SEA of the applicant's State groups all LEAs in its State according to the factors in § 222.33.

The SEA identifies the following groups:

One hundred and one LEAs serve only K–8. The SEA has identified a group of 50 LEAs having an ADA above the median ADA for the group of 101, one LEA having an ADA at the median, and a group of 50 LEAs having an ADA below the median ADA; and, according to § 222.33(a)(2)(i), the SEA considers 51 LEAs to have an ADA below the median ADA.

Of the 101 LEAs in the group, the SEA has identified a group of 64 LEAs as being inside an MSA and a group of 37 LEAs as being outside an MSA.

Among the group of 50 LEAs having an ADA above the median, the SEA has identified a group of 35 LEAs as being inside an MSA and a group of 15 LEAs as being outside an MSA.

Among the group of 51 LEAs having an ADA at or below the median, the SEA has identified a group of 29 LEAs as being inside an MSA and 22 LEAs as being outside an MSA.

One LEA has 20 percent of its ADA composed of children identified under section 3(a) of the Act and, therefore, must be excluded from any group it falls within before the SEA computes a local contribution rate for the group. This LEA has an ADA below the median ADA and is located outside an MSA.

On the basis of § 222. 35, the SEA computes the local contribution rate for each group of generally comparable LEAs that the SEA has identified.

Selection of Generally Comparable LEAs

The applicant LEA selects the group of generally comparable LEAs matching the factor or factors it wishes to use as the basis for general comparability.

Under the requirements of § 222.33, the applicant LEA must begin with the group that includes all LEAs with its grade span, and, if relevant and sufficiently different, legal classification. In this case, grade span and legal classification happen to be the same. Thus, the group would include 100 LEAs, after excluding the one heavily impacted LEA.

The applicant LEA then has several options:

Option 1. The applicant LEA may select as its group of generally comparable LEAs on which to base its recommended local contribution rate the entire group of 100 LEAs serving K–8, after excluding the one heavily impacted LEA. The applicant LEA then recommends to the Secretary as its local contribution rate the rate computed for this group by the SEA.

Option 2. Instead of selecting the group of 100, the applicant LEA may select as its generally comparable group only those LEAs

within the 101 (the heavily impacted LEA must be included initially for the purpose of determining the median ADA) that have an ADA above the median ADA, that is, the group of 50. The applicant LEA then recommends to the Secretary as its local contribution rate the rate computed for this group by the SEA.

Option 3. Instead of selecting either of the groups described in Options 1 and 2, the applicant LEA may select as its generally comparable group only those LEAs within the 100 that are outside an MSA; that is, the group of 36, after excluding the one heavily impacted LEA. The applicant LEA then recommends to the Secretary as its local contribution rate the rate computed for this group by the SEA.

Option 4. Instead of selecting any of the groups described in Options 1, 2, and 3, the applicant LEA may select as its generally comparable group only those LEAs that *both* have an ADA above the median ADA for the 101 *and* are outside an MSA; that is, the group of 15. The applicant LEA then recommends to the Secretary as its local contribution rate the rate computed for this group by the SEA.

However, as provided in § 222.33(b)(2), if the SEA were to have identified fewer than 10 LEAs under any factor or combination of factors, the SEA would not have computed a rate for such a group. Therefore, an applicant LEA included in such a group would not be able to use this factor or combination of factors in recommending its local contribution rate to the Secretary.

The heavily impacted LEA, while included for determining the median ADA, is excluded from the computation of any group's local contribution rate. However, the heavily impacted LEA may recommend for itself the local contribution rate of any group it matches in grade span/legal classification, size, and/or location (that is, in the case of the heavily impacted LEA referred to in this example, below the median ADA and outside an MSA), provided the group contains at least 10 LEAs that are not heavily impacted.

(20 U.S.C. 238(d)(3)(A); 242(b))

§ 222.35 Computation of local contribution rates.

Except as otherwise specified in the Act, the SEA, subject to the Secretary's review and approval, shall compute a local contribution rate for each group of generally comparable LEAs within its State that was identified using the factors in § 222.33, as follows:

(a)(1) The SEA shall compile the aggregate local current expenditures of the comparable LEAs in each group for the second fiscal year preceding the fiscal year for which the local contribution rate is being computed.

(2) For purposes of this section, the SEA shall consider only those aggregate current expenditures made by the generally comparable LEAs from revenues derived from local sources. No State or Federal funds may be included.

(b) The SEA shall compile the aggregate number of children in ADA to whom the generally comparable LEAs in each group provided a free public education during the second fiscal year preceding the fiscal year for which the local contribution rate is being computed.

(c) The SEA shall divide—

(1) The aggregate current expenditures determined under paragraph (a) of this section; by

(2) The aggregate number of children determined under paragraph (b) of this section.

(d) If a rate computed under this section is lower than the rate guaranteed by the Act, the Secretary bases the LEA's payment on the guaranteed rate.

(20 U.S.C. 238(d)(3)(A))

§ 222.36 Determination of additional assistance.

(a) The provisions of this section govern an LEA that applies to the Secretary for additional assistance under section 3(d)(2)(B) of the Act, as well as applying for a regular payment under section 3.

(b) If the LEA is applying for a regular payment under section 3 based on a local contribution rate guaranteed by the Act, the Secretary—

(1) In determining the applicant LEA's eligibility for, and the amount of, any additional assistance, considers the LEA comparable to all LEAs in its State; and

(2) Establishes the rate for, and determines the amount of, the additional assistance.

(c) If the LEA, in applying for a regular payment under section 3, recommends to the Secretary a local contribution rate based on generally comparable LEAs in its State, the Secretary—

(1) In determining the applicant LEA's eligibility for, and the amount of, any additional assistance, considers as comparable LEAs the same LEAs that the applicant identifies as comparable in its application for a regular payment under section 3; and

(2) Establishes the rate for, and determines the amount of, the additional assistance.

(d) In the case of an applicant that recommends the "hold-harmless" rate, the Secretary—

(1) In determining the applicant LEA's eligibility for, and the amount of, any additional assistance, considers as comparable LEAs the group of LEAs that produces the highest regular section 3 rate under the generally comparable LEA method, as described in § 222.33(a); and

(2) Establishes the rate for, and determines the amount of, the additional assistance.

(20 U.S.C. 238(d)(2)(B); 242(b))

§ 222.37 Determination of compensation for unusual geographical factors.

(a) The Secretary may determine, after reviewing the data provided under paragraph (c) of this section, that an applicant LEA cannot provide a level of education equivalent to that provided by the generally comparable LEAs on which the applicant's local contribution rate is based because the applicant's current expenditures are affected by unusual geographical factors, and, as a result, those current expenditures are not reasonably comparable to the current expenditures of the generally comparable LEAs.

(b) If the Secretary makes the determination in paragraph (a) of this section, the Secretary increases the applicant LEA's local contribution rate up to the amount the Secretary determines will compensate the applicant for the increase in its current expenditures necessitated by the unusual geographical factors, but no more than is necessary to allow the applicant to provide a level of education equivalent to that provided by its generally comparable LEAs.

(c) When applying for compensation under this section, an applicant shall provide the Secretary the following information—

(1) A specific description of the unusual geographical factors on which the applicant is basing its request for compensation under this section, and objective data demonstrating that the applicant is more severely affected by these factors than any other LEA in its State;

(2) Objective data demonstrating the specific ways in which the unusual geographical factors affect the applicant's current expenditures so that they are not reasonably comparable to the current expenditures of the generally comparable LEAs on which the applicant's local contribution rate is based;

(3) Objective data demonstrating the specific ways in which the unusual geographical factors prevent the applicant from providing a level of education equivalent to that provided by the generally comparable LEAs on which the applicant's local contribution rate is based;

(4) Objective data demonstrating that the applicant's fiscal effort per student based on expenditures of State and local revenues for the provision of free public education in the preceding fiscal year was at least equal to the same fiscal effort per student for the second preceding fiscal year; and

(5) Any other information that the Secretary may reasonably require to

make the determination under paragraph (a) of this section.

(d) The Secretary does not provide compensation under section 3(d)(3)(B)(ii) to an applicant in a State that takes such compensation into account in an equalization program that qualifies under section 5(d)(2) of the Act.

(20 U.S.C. 238(d)(3)(B)(ii); 242(b))

Appendix—Summary of Comments and Responses to the Interim Final Regulations

Note.—This appendix will not be codified in the Code of Federal Regulations.

Part 222—Impact Aid Program

General

A number of individual commenters, as well as a spokesperson for the SEA of a State with 53 applicants, a spokesperson for a State-wide Impact Aid association representing 245 applicants, and the director of the national Impact Aid association, indicated their support for the interim final regulations because they provide a more equitable distribution of Impact Aid funds. Other specific comments follow.

Comment. One commenter stated that "adoption of these regulations will cause severe economic hardship to heavily impacted districts throughout the United States."

Response. No change has been made. The effect of these regulations is quite the opposite of what this commenter suggests. The local contribution rates of 86 percent of all heavily impacted LEAs are either increased or not affected by the new generally comparable LEA rate policy in the regulations. Of the 579 heavily impacted LEAs in 1984 (those LEAs whose "a" children equal at least 20 percent of their total ADA or whose "b" children equal at least 20 percent of their total ADA, or both), 392 LEAs, 68 percent of the total, requested the minimum rate guaranteed by the Act. The rates of these LEAs were not affected by the new rate policy. One hundred and four LEAs, 18.0 percent of the total, requested rates under the generally comparable LEA method in the regulations. Presumably, the rates of these LEAs are higher under the new policy. The remaining 83 LEAs, 14 percent of the total, requested rates under the 1984 "hold-harmless" provision. Presumably, the rates of these LEAs would have been lower under the new rate policy.

Comment. One commenter suggested that there be a graduated payment scale for the program so that there would not be an abrupt change in payment levels from those LEAs with 20 percent "a" children or 20 percent "b" children to those with fewer than 20 percent "a" children or 20 percent "b" children. The commenter gave as an example of this alternative the following scale:

Percent of Federal children ("a" or "b")	Percent of entitlement to be paid
25 to 100	95
20 to 24	85
15 to 19	75
0 to 14	(1)

[1] Prorated to available funds.

Response. No change has been made. This suggestion cannot be implemented in these proposed regulations, because it would require an amendment to the Act.

Comment. One commenter objected to the $5,000 minimum payment provision, which has prevented his LEA from receiving any funds since fiscal year (FY) 1981.

Response. No change has been made. The minimum payment provision was implemented through legislative action by the Congress. In many cases, payments of small amounts are not cost effective—the expenses incurred by LEAs and SEAs in filing Impact Aid applications and those incurred by the Department in processing applications are greater than the payment amounts. The $5,000 minimum payment provision has been implemented through appropriation legislation by the Congress and cannot be dealt with in these regulations.

Comment. One commenter objected to the classification of the regulations as "non-major" under Executive Order 12291 (46 FR 13193, February 19, 1981).

Response. No change has been made. The commenter did not base his disagreement on evidence that the regulations met one of the three specific criteria found in the definition of a "major rule" in section 1(b) of the Executive Order. Instead, the commenter believed that the regulations reflected major policy or methodological changes. The Secretary therefore affirms the classification of the regulations as non-major rules under Executive Order 12291.

Comment. One commenter disagreed with the Secretary's certification that the regulations would not have a significant economic impact on a substantial number of small LEAs.

Response. No change has been made. These regulations propose a "hold-harmless" provision for FY 1985 and subsequent years under which no applicant would be required to absorb more than a 10 percent reduction from its prior year's local contribution rate. This provision will minimize the economic impact of these proposed regulations on small LEAs; however, only approximately 10 percent of all Impact Aid recipients are expected to take advantage of the "hold-harmless" provision. The Secretary believes that this can be taken as evidence that the remaining 90 percent of the program's recipients are either not affected by the generally comparable LEA method, or that their rates, and thus their payments, increase under the method.

Section 222.30 Determination of local contribution rates: general.

Comment. One commenter noted that § 222.30(c) requires LEAs enumerated in section 3(d)(3)(B)(iii) of the Act to use the rate guaranteed by the Act. The commenter objected to this restriction and suggested that a new section be added to the regulations which would allow the Secretary to modify the procedures for establishing local contribution rates for these LEAs on a case-by-case basis.

Response. A change has been made. Section 3(d)(3)(B)(iii) of the Act provides that the Secretary shall establish the local contribution rate for LEAs in the territories, in States with substantial unorganized territory, and in States having a single LEA. The Secretary was given this discretion apparently because it was thought to be difficult or impossible to identify generally comparable LEAs for applicants in those areas. The Department determined that the previously used group and individually selected comparable district rate methods could not be applied meaningfully to these LEAs, and they were assigned the rate guaranteed by the Act. The Secretary believes that the broad objective criteria contained in the new generally comparable LEA method in §§ 222.33 and 222.34 can be used to identify appropriate groups of generally comparable LEAs for applicants in States with substantial unorganized territory. However, the Secretary also believes that it is not possible to identify generally comparable LEAs for the remaining LEAs listed in section 3(d)(3)(B)(iii) and payments to LEAs in States or territories in which there is only one LEA will continue to be based on the rate guaranteed by the Act. It is not necessary to add a new section to the proposed regulations to accomplish the change being made.

Section 222.31 Recommendation of local contribution rate.

Comment. A number of commenters suggested that a "hold-harmless" provision should be available not only in FY 1984 but in subsequent years as well. One commenter requested that

such a provision be continued from year to year until the rate guaranteed by the Act has increased to the extent that the "hold-harmless" provision can be phased out. The commenter believed that this transition period would allow LEAs to trim expenses and make other adjustments in their budgets without disruption. Another commenter recommended that LEAs having received "grossly excessive" local contribution rates in the past be allowed "hold-harmless" rates in FY 1985 of up to 125 percent of the rate guaranteed by the Act. A third commenter suggested that the "hold-harmless" provision could be calculated by adjusting FY 1981 rates that were higher than the rate guaranteed by the Act by an inflation factor each year through FY 1989.

Response. A change has been made. The Secretary has decided that a "hold-harmless" provision should be available in FY 1985 and future years to enable LEAs to continue to make the transition to the generally comparable LEA rate method. Beginning in FY 1985, an LEA can recommend to the Secretary a rate that is 90 percent of its prior year's regular section 3 rate. Thus, no LEA would be required to absorb more than a 10 percent reduction from its prior year's rate. Because the "hold-harmless" provision would produce a predictable local contribution rate from year to year, LEAs choosing to use this rate should be able to plan better their expenditures for the coming year and avoid budgetary disruption. The Secretary decided against the two specific methods of calculating "hold-harmless" rates suggested by the commenters because one would perpetuate unfairly high rates for some LEAs at the expense of others, and neither would help LEAs receiving such rates make the transition to the generally comparable LEA rate method.

Comment. One commenter asserted that rates calculated under the FY 1984 "hold-harmless" provision were inconsistent with "applicable law." The commenter also found it unfair to applicants eligible for additional assistance under section 3(d)(2)(B) of the Act that the percentage increase allowed under the "hold-harmless" provision was applied only to a regular section 3 rate and not to a section 3(d)(2)(B) rate.

Response. No change has been made. The Secretary decided to add a "hold-harmless" provision to the interim final regulations in response to numerous public comments on the notice of proposed rulemaking (NPRM) published on March 30, 1984. The commenters stated that LEAs that had received a rate higher than the rate guaranteed by the Act in 1981 needed some type of "hold-harmless" provision to enable those LEAs to make the transition to the Department's generally comparable LEA method without budgetary disruption. In FY 1981, regular section 3 rates other than the rate guaranteed by the Act were established using SEA-selected groups of LEAs or using individually selected comparable districts (ISCDs). The Department's procedure known as the "$50 rule" was an integral part of the administration of the ISCD method.

The Secretary determined that the LEAs that had used the group and ISCD methods in FY 1981 needed a chance to adjust to the rates established under the Department's new method and that a "hold-harmless" provision should be available, based on those FY 1981 rates. Accordingly, the interim final regulations provided that in FY 1984 an applicant could request a rate calculated by increasing its regular section 3 rate for FY 1981 by the same percentage as the rate guaranteed by the Act (based on the national average per pupil expenditure) increased from FY 1981 to FY 1984. This procedure was fair to LEAs that has used the group and ISCD rates in FY 1981, because it was based on the higher rates upon which some applicants had come to depend. However, it was also fair to the remaining applicants that used the rate guaranteed by the Act because, while those higher FY 1981 rates increased, they were only allowed to increase by a reasonable amount.

The Secretary does not believe that basing the "hold-harmless" provision on rates established using the "$50 rule" violates any "applicable law." The court decision regarding the "$50 rule" is now on appeal. The Department continues to believe that the "$50 rule" is a valid method under the Act and previous regulations for determining which LEAs are generally comparable to an applicant. Further, in appropriation legislation, the Congress based payments for FYs 1982 and 1983 on the FY 1981 payments. By basing regular section 3 rates under the "hold-harmless" provision on FY 1981 rates, the Department is adapting Congressional policy for the purposes of these regulations.

The Secretary does not believe that it would be consistent with section 3(d)(2)(B) of the Act to calculate a "hold-harmless" rate by applying a percentage increase to an applicant's section 3(d)(2)(B) rate. Payments under this section are made to certain heavily impacted applicants to enable them to provide a level of education equivalent to that provided by their generally comparable LEAs. In general, once the threshold eligibility requirement has been met, final eligibility for and the amount of these payments are established if the applicant can demonstrate financial need. The applicant's financial need is assessed on the basis of current fiscal data, rather than the two-year old data on which regular section 3 local contribution rates are based. Establishing a section 3(d)(2)(B) rate by increasing a prior year's rate by a specified percentage would eliminate the assessment of the applicant's need required by the statute. In addition, this calculation might reduce the amount of the applicant's payment because the applicant's need might have increased by more than the specified percentage.

Section 222.33 Identification of generally comparable LEAs.

Comment. One commenter repeated an earlier objection that the interim final regulations and the new generally comparable LEA method are a "complete and dramatic departure" from the previous regulations and are therefore inconsistent with and in violation of the Act.

Response. No change has been made. These proposed regulations implement the statutory requirement that the Secretary identify LEAs generally comparable to the applicant and are consistent with the previous regulations. All of the factors in these regulations used to determine general comparability are found in the previous regulations as well as in the legislative history. In keeping with the legislative history, both regulations include the concept of basing local contribution rates on larger groups of LEAs.

Comment. A number of commenters contended that the requirement that every group contain at least 10 LEAs is arbitrary and too restrictive. Suggestions for a minimum of five or three were offered.

Response. No change has been made. The legislative history indicates the Congress' belief that the larger the number of comparable LEAs on which a local contribution rate is based, the more objective and equitable the resulting rate will be. A minimum of 10 LEAs per group was established to be consistent with the legislative intent and to achieve confidence in the objectivity of the calculated local contribution rates.

Comment. Six commenters stated that grouping LEAs by size into only two groups would result in LEAs with major differences in ADA being identified as "generally comparable." The commenters generally suggested that

LEAs be divided into thirds or fourths instead of into halves. Another commenter maintained that even dividing LEAs into fourths would produce groups that are too large and local contribution rates that do not reflect the great differences in the capacity of individual LEAs to raise local revenues.

Response. A change has been made. The proposed regulations permit an SEA, after consultation with the applicant LEAs in the State, to divide the LEAs by size into halves *or* thirds. This change is designed to provide greater flexibility in determining groups of generally comparable LEAs. States with large numbers of LEAs will be able to subdivide their groups into thirds in order to have groups of generally comparable LEAs with less variation in size within the groups. At the same time, States with fewer LEAs will be able to continue to use the median to subdivide their groups into halves.

The suggestion that LEAs be divided into fourths was not adopted because in many cases it would produce groups that contain too few LEAs. Groups that are too small are not consistent with the intent expressed in the legislative history.

Comment. One commenter asked that the number of groups not be increased because of the possible adverse effect on States with relatively few LEAs.

Response. A change has been made. While the proposed regulations provide that LEAs may be divided into thirds as well as into halves, the choice of whether to divide LEAs into halves or thirds is left to the discretion of the SEA in consultation with the applicant LEAs in the State.

Therefore, this change in the proposed regulations will not adversely affect States with small numbers of LEAs.

Comment. One commenter again asserted that ADA will, in effect, be the only criterion used to identify generally comparable LEAs.

Response. No change has been made. The generally comparable LEA method in these regulations is based on a number of factors of general comparability including grade span, legal classification (if the Secretary regards this classification as relevant and sufficiently different from grade span within the State), size as measured by ADA, and location as determined by metropolitan status. No option in these regulations uses ADA as the only factor on which comparability is determined.

Comment. One commenter suggested that an SEA should not be required to apply "grade span" as a comparability factor in identifying a group of generally comparable LEAs for a coterminous applicant LEA if the coterminous applicant has a different grade span from every other LEA in its State.

Response. A change has been made. Because the Secretary believes that the circumstances of heavily impacted coterminous LEAs deseve special consideration, an SEA would be given some additional flexibility in selecting a group of generally comparable LEAs for coterminous applicants under the provisions of § 222.33(c). In the case where a coterminous applicant LEA has a different grade span from all other LEAs in its State, the SEA may select generally comparable LEAs for the coterminous applicant from the group of LEAs that match the coterminous applicant in legal classification as well as size as measured by ADA.

Comment. Several commenters suggested that the generally comparable LEA method should be changed to enable an aplicant to select a small number of LEAs that would, as one commenter phrased it, "most closely resemble the applicant's situation had the applicant not been subjected to the federal presence." One commenter suggested that this change should be applied only to small LEAs (less than 800 students) serving grades K–12. Another commenter thought that heavily impacted LEAs were most in need of this change.

Response. No change has been made. These commenters seem to be suggesting that an applicant should be allowed to base its local contribution rate on LEAs that are the "most nearly comparable" to the applicant. The "most nearly comparable" standard was used for a short period of time early in the history of the Impact Aid program. However, since 1958, the Act has specified that "generally comparable" LEAs must be identified and the task of defining "generally comparable" has been placed within the Secretary's discretion. The Secretary has determined that, for the purposes of these regulations, the term "generally" should be interpreted to mean that comparability is determined by taking an overall view of LEAs' shared basic circumstances. The broad objective factors contained in the generally comparable LEA method are appropriate measures of these basic circumstances and therefore of *general* comparability.

Comment. Six individual commenters, the director of the national Impact Aid association, and the spokesperson for one SEA writing on behalf of 53 applicants in its State asked that the interim final regulations be amended to provide additional flexibility in identifying generally comparable LEAs for certain "unique" or "exceptional" applicants. The commenters generally defined an "exceptional" applicant as one whose ADA consists of at least 50 percent federally connected students, at least 20 percent of whom are category "a" students, and that is located in a State which provides a low level of State aid for education. Some commenters suggested that the State should be providing less than 50 percent of educational costs on average, and others suggested less than 40 percent.

One commenter believed that "exceptional" LEAs should be limited to those heavily impacted LEAs serving fewer than 800 students in grades K–12. Another suggested that, in addition to the general criteria, an "exceptional" LEA is one that is raising a low percentage of its funds from local sources. One commenter suggested that an LEA should be considered "exceptional" if it is located in a State providing less than 50 percent of total current operating expenditures and meets two of the following three conditions: the LEA's enrollment is composed of 50 percent federally connected students; the Federal Government owns property whose aggregate worth equals 25 percent of the total assessed value of all real property in the LEA *or* the LEA qualifies for additional assistance under section 3(d)(2)(B); or 25 percent of the LEA's students are economically disadvantaged as that term is defined in Chapter 1 of the Education Consolidation and Improvement Act of 1981 (ECIA).

While some commenters only offered criteria for identifying "exceptional" applicants, others offered various proposals for selecting generally comparable LEAs on which to base the local contribution rates of these applicants. One commenter suggested that once an "exceptional" applicant has been identified, it should be allowed to choose a minimum of 10 LEAs that are within plus or minus 200 of the applicant's ADA. Another believed than an "exceptional" applicant should choose not more than five LEAs from its group identified under § 222.33(a)(2). A third commenter recommended that an "exceptional" applicant should be allowed to pick any 10 LEAs from its group identified under § 222.33(a)(4), as the LEAs that are coterminous with military reservations did in FY 1984. One commenter suggested that an "exceptional" applicant should select five LEAs which share at least three of the following five characteristics, in addition to the same grade span and legal classification: enrollment within

500 students or 10 percent of the "exceptional" applicant's, whichever is less; enrollment per square mile within 10 percent of the "exceptional" applicant's; pupil-teacher ratio within five pupils of the "exceptional" applicant's; tax effort not more than 10 percent higher than the "exceptional" applicant's; or cost of transportation for educational purposes within 10 percent of the "exceptional" applicant's.

Response. A change has been made. In developing the generally comparable LEA method, the Department attempted to devise a procedure for identifying generally comparable LEAs that was based on objective factors that affect educational costs and that produced fair results on a national scale. The Secretary believes the method contained in the interim final regulations largely achieves the goal of equitably distributing funds under the Impact Aid program, a belief the comments indicate many applicants share. However, while believing the method fair, the Department was aware that in developing rules of general applicability the legitimate concerns of some LEAs might be overlooked. The comments submitted in response to the interim final regulations reveal that such legitimate concerns exist, and the Secretary has determined that they should be addressed.

There is a group of LEAs whose circumstances appear to be inadequately addressed by the four standard options under the generally comparable LEA method. A number of commenters agreed on the basic identifying characteristics of this group. The LEAs in this group are heavily impacted, having at least 50 percent federally connected students, a high proportion of whom are category "a" students. These LEAs are also located in States which provide, on the average, 40 percent or less of the cost of education.

The Secretary believes that the Federal presence places a greater burden on this group of heavily impacted LEAs than is placed on other LEAs. Large numbers of federally connected students, especially category "a" students, combined with Federal ownership of real property in an LEA can result in a reduction in the local revenues per student available to an LEA for educational purposes. Such a reduction in local revenues can be compensated for if the LEA is in a State which provides a relatively large amount of support for education. If the LEA is located in a State which provides a relatively small amount of support, however, the LEA has fewer options for making up these reduced local revenues. Because such an LEA has fewer options from which to choose in meeting its greater burden, the Secretary has determined that these proposed regulations should include a provision that allows more flexibility in identifying generally comparable LEAs under these circumstances.

A new § 222.33(c) has been added to these proposed regulations to address the needs of the LEAs whose circumstances the Secretary has determined warrant special consideration. The new section will include LEAs whose boundaries are coterminous with the boundaries of Federal property. This category of LEA has been expanded from the interim final regulations to include LEAs that are coterminous with all types of Federal property and not only those coterminous with Federal military property.

The new § 222.33(c) will apply also to LEAs with at least 50 percent federally connected students, at least 20 percent category "a" students, located in States where State aid makes up no more than 40 percent of the State average per pupil expenditure. The SEA, in consultation with an applicant eligible under this section, will select at least 10 generally comparable LEAs from the group identified under § 222.33(a)(2) that includes the applicant. The SEA must use generally accepted, objective factors that affect the applicant's cost of educating its children to identify the applicant's group of generally comparable LEAs. The SEA will compute the applicant's local contribution rate using data from all of the LEAs in the applicant's group. The SEA will then recommend the resulting rate to the Secretary and will submit with its recommendation data supporting the factors and the method used to choose the applicant's group of generally comparable LEAs. The Secretary will review the recommended rate and supporting data and will approve them if the Secretary determines they meet the purpose of the Act and the regulations.

This procedure is modeled as one commenter suggested it should be, after the procedure contained in the former § 222.33(c) in the interim final regulations, which applied to LEAs coterminous with Federal military property. Borrowed from the former provision is the concept of allowing the SEA and LEA to identify the applicant's generally comparable LEAs by further subdividing a larger group identified under one of the standard options in the generally comparable LEA method. Instead of option 4, however, the new provision uses option 2, under which LEAs are subdivided by grade span, legal classification (if relevant and sufficiently different), and size. Using the option 2 group will give applicants and their SEAs more flexibility by making available a larger group from which to choose generally comparable LEAs.

The new provision includes for the first time a general procedure to be followed by the SEAs and applicants in identifying the applicants' generally comparable LEAs. This procedure ensures that objective, cost-related factors will be used to identify LEAs under this section, as under the four standard options of the generally comparable LEA method. As one commenter stated, this procedure would provide "uniformity in the method of establishing exceptionality, and would eliminate the previous practice in which districts generate additional aid based on self-defined exceptionality."

It is equitable to apply the same procedure to all the LEAs whose circumstances the Secretary has determined warrant special consideration. All these LEAs are greatly burdened by the Federal presence in their districts and have a limited ability or no ability to compensate for the reduction in or elimination of local revenues resulting from this burden. The Secretary believes there is enough flexibility in the new procedure to address the circumstances of both types of LEAs. Applicants eligible to use this procedure will be allowed to choose the factor(s) of general comparability most appropriate to their circumstances.

However, the public is invited to submit substantive comments regarding the practical application of this procedure. If the procedure does not adequately address the circumstances of the applicants to whom it applies, the Secretary would like specific suggestions for an alternative based on objective factors that would be more responsive.

The Secretary decided for several reasons not to adopt the commenters' other suggestions concerning either which applicants should be considered "exceptional" or what procedure should be used to identify generally comparable LEAs for those applicants.

The Secretary did not want to limit this "exceptional" category to LEAs serving 800 students or fewer in grades K–12, as one commenter suggested. Such a limit would unfairly eliminate from consideration LEAs serving larger numbers of students that are likely to be at least as burdened by the Federal

presence as smaller LEAs. The Secretary also decided to set the level of State aid at 40 percent rather than at 50 percent as two commenters requested. Because the generally comparable LEA method works well for the majority of applicants, the Secretary believes that § 222.33(c) should address the circumstances of a very small number of LEAs that are not adequately treated under the four standard options.

Restricting § 222.33(c) is in keeping with one commenter's statement that there should be a "strict test of 'exceptionality'." If the 50 percent level of State aid were to be used, LEAs in approximately half of the States could qualify for special consideration. The provision would then apply to heavily impacted LEAs in an average situation, defeating the purpose of addressing the circumstances of "exceptional" LEAs.

Another commenter suggested that "exceptional" LEAs include those that qualify for additional assistance under section 3(d)(2)(B) of the Act, or contain Federal property with a value equal to 25 percent of the assessed value of all property in the LEA, or have disadvantaged students as defined under Chapter 1 of the ECIA equal to at least 25 percent of the LEA's total ADA. While all of these LEAs may qualify under the new procedure, there is no reason to make the first two circumstances eligibility requirements under § 222.33(c). In both cases LEAs could already be receiving additional compensation for their circumstances, either under section 3(d)(2)(B) or under section 2 of the Act. The third circumstance, involving disadvantaged children, is not appropriate as a threshold criterion of eligibility because serving disadvantaged children is unrelated to the purpose of the Impact Aid program. Such children may be federally connected as defined in the Act but, for the most part, Federal activities have not brought them into the LEAs. LEAs already receive assistance to provide services for these children under another program. An LEA eligible under § 222.33(c) may use the presence of a large proportion of disadvantaged students as a factor of general comparability, however.

Commenters' suggestions regarding the method of identifying generally comparable LEAs for "exceptional" applicants generally were not adopted because they either did not give any guidance regarding the standards that should be used or they involved factors that were too limited. The Secretary determined that an applicant should not simply select any 10 LEAs from the group identified under § 222.33(a)(4) that includes the applicant. Since this group would not include the required minimum number of 10 LEAs for some applicants, these otherwise eligible applicants would not be able to benefit from § 222.33(c). Also, this option does not provide any guidance concerning the standards the Secretary believes should be used to identify generally comparable LEAs.

The Secretary also rejected a procedure containing six different criteria from which an applicant could choose to identify its generally comparable LEAs. The criteria suggested are inappropriate because they are not broad enough to include all the possible situations faced by "exceptional" applicants. Some of them, such as pupil-teacher ratio, are objectionable because they can be controlled at the discretion of the applicant. An approach similar to this was considered by the Department briefly several years ago and was found unsatisfactory.

Comment. One commenter said that the metropolitan versus rural classification totally ignores the suburban group, which is a significant grouping for LEAs. Pupils, salaries, resources, and courses of study are different in city and suburban LEAs and therefore a suburban classification should be used in determining comparability.

Response. No change has been made. The Secretary does not believe that the differences between urban and suburban school districts are significant for the purposes of these regulations. Based on data compiled by the U.S. Bureau of the Census, urban and suburban communities are grouped together as a metropolitan area because they share certain basic economic characteristics. As a result, the Secretary believes that the LEAs in these urban and suburban communities share basic characteristics that are relevant to the determination of general comparability.

Comment. One commenter (speaking for almost 300 superintendents in his State and the SEA) urged that any generally comparable LEA method of establishing local contribution rates be eliminated and a study be conducted to determine " 'actual' local contributions and a simple method to determine the relative necessary federal assistance." The commenter made this suggestion because, although these regulations "will greatly reduce the gross injustices of excessive rates under the previous reg[ulation]s, . . . the alternatives offered under the minimum rate are the most equitable."

Response. No change has been made. The Act authorizes the Secretary to establish local contribution rates for applicants based on fiscal and pupil attendance data from generally comparable LEAs, except that such rates may not be less than the rate guaranteed by the Act. The Act requires the Secretary to make the final determination regarding which LEAs are generally comparable to the applicant. The Secretary believes that the generally comparable LEA method for determining local contribution rates contained in these proposed regulations is fair and equitable and is consistent with the Act and the legislative history.

Section 222.35 Computation of local contribution rates.

Comment. One commenter stated that some exorbitant rates, beyond the districts' needs, are still possible under the revised regulations, resulting in these districts' benefitting unfairly at the expense of others. The commenter felt that such rates should be identified and prevented.

Response. No change has been made. The Secretary is required to use the formula in section 3(d)(3)(A) of the Act to compute an applicant's regular section 3 local contribution rate. This formula does not attempt to establish the extent of an applicant's "need." Rather, it attempts to establish the approximate amount per student contributed by local taxpayers in generally comparable LEAs toward the cost of elementary and secondary education.

Comment. One commenter asked that payments be based on all students enrolled in a district rather than those in average daily attendance. The commenter stated that a district's expenses are the same whether students are present or absent.

Response. No change has been made. The Act specifically directs that entitlements be computed on the basis of federally connected in average daily attendance.

Comment. Three commenters asked for a clarification of the term "revenue derived from local sources." One asked that the regulations further clarify that Federal as well as State funds are excluded from local revenues. Two were particularly concerned about the classification and treatment of funds collected by the State and returned to the local jurisdictions in which they were collected.

Response. A change has been made regarding the first concern. Section 222.35(a)(2) has been changed to indicate that neither State nor Federal funds may be considered local revenues.

Regarding the second concern, for purposes of the Impact Aid program, the Secretary will use the same guidelines to determine sources of revenue as are used by the National Center for Education Statistics for its annual collection of data on school district revenues and expenditures. In addition, § 222.3(1) of the Impact Aid regulations explains how to treat funds collected by the State and returned to local jurisdictions.

Section 222.37 Determination of compensation for unusual geographical factors.

Comment. One commenter objected to the deletion of the regulation implementing section 3(d)(3)(B)(ii) of the Act which provides additional compensation to certain LEAs whose current expenditures are affected by unusual geographical factors.

Response. A change has been made. The Secretary is proposing a new § 222.37 implementing section 3(d)(3)(B)(ii) of the Act that contains a more explicit statement of the standards the Secretary uses to determine an applicant's eligibility for compensation under this section of the Act. The new provision is intended to clarify the Department's existing policy regarding this section of the Act.

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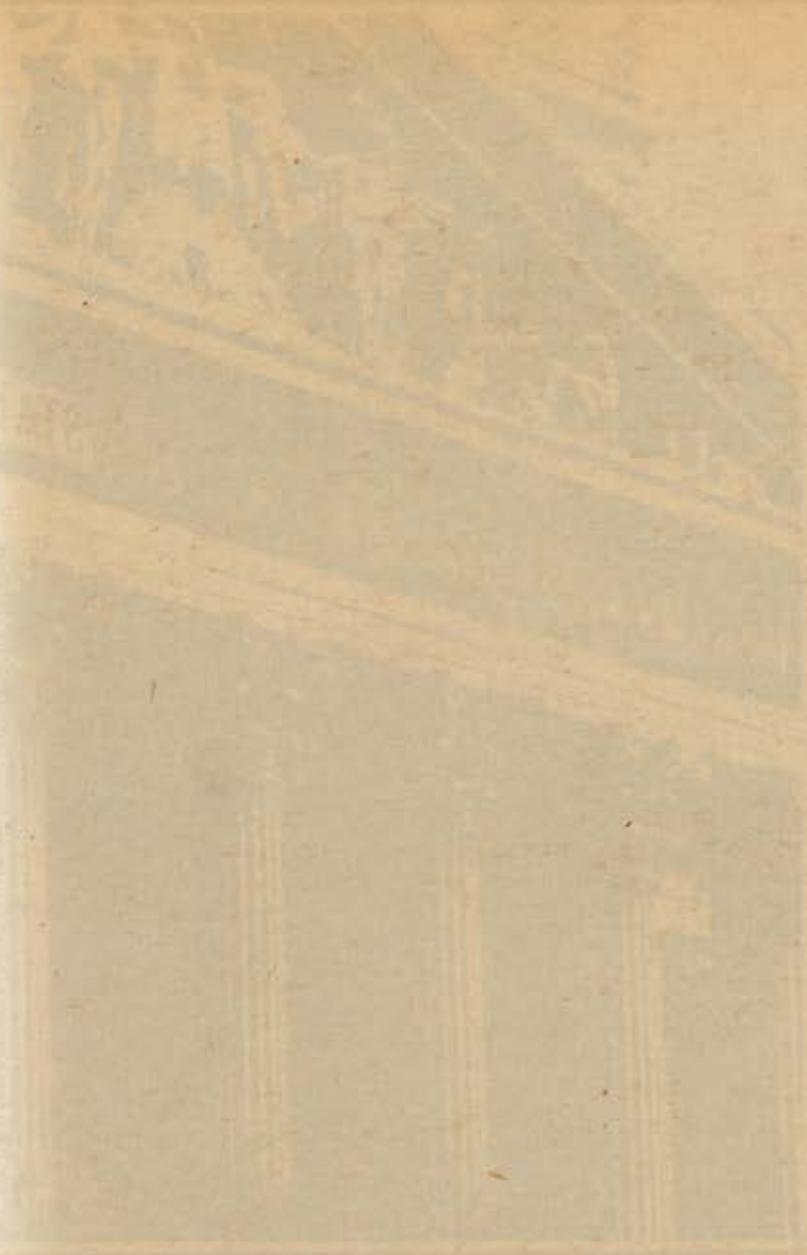

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