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Friday
July 19, 1985

Selected Subjects

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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

[Docket No. 85-401]

Delegation of Authority Pertaining to Biotechnology

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document amends the delegations of authority of the Department of Agriculture to assign responsibility for the regulation of biotechnology and for agricultural research in biotechnology.

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. James W. Glosser, Assistant Administrator, Animal and Plant Health Inspection Service, USDA, Room 313-E, Administration Building, 12th and Independence Avenue, SW., Washington, D.C. 20250. Telephone (202) 447-3580; or Dr. John Patrick Jordan, Administrator, Cooperative State Research Service, USDA, Room 305-A, Administration Building, 12th and Independence Avenue, SW., Washington, D.C. 20250. Telephone (202) 447-4423.

SUPPLEMENTARY INFORMATION: This document amends the delegations of authority of the Department of Agriculture in 7 CFR Part 2 by delegating from the Secretary of Agriculture to the Assistant Secretary for Marketing and Inspection Services the responsibility to coordinate the development and carrying out by Department agencies of all matters and functions pertaining to the Department's regulation of biotechnology, and to act as liaison on all matters and functions pertaining to the regulation of biotechnology between agencies within the Department and between the Department and other governmental and private organizations. This document also amends the delegations of authority in 7 CFR Part 2 by further delegating the responsibilities referred to above from the Assistant Secretary for Marketing and Inspection Services to the Administrator of the Animal and Plant Health Inspection Service.

This document also amends the delegations of authority in 7 CFR Part 2 by delegating from the Secretary of Agriculture to the Assistant Secretary for Science and Education the responsibility to coordinate the development and carrying out by Department agencies of all matters and functions pertaining to agricultural research involving biotechnology conducted or funded by the Department including the development and implementation of guidelines for oversight of research activities, and to act as liaison on all matters and functions pertaining to agricultural research in biotechnology between agencies within the Department and between the Department and other governmental, educational and private organizations.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management it is exempt from the provisions of E.O. 12291. Also, this action is not a rule as defined by Pub. L. 96-354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, 7 CFR Part 2 is amended as follows:

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

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, except as otherwise stated.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.17 is amended by adding a new paragraph (j) to read as follows:

§ 2.17 Delegations of authority to the Assistant Secretary for Marketing and Inspection Services.

* * * * *

(j) *Related to Biotechnology.* Coordinate the development and carrying out by Department agencies of all matters and functions pertaining to the Department's regulation of biotechnology, an act as liaison on all matters and functions pertaining to the regulation of biotechnology between agencies within the Department and between the Department and governmental and private organizations.

3. Section 2.30 is amended by adding a new paragraph (e) to read as follows:

§ 2.30 Delegations of authority to the Assistant Secretary for Science and Education.

* * * * *

(e) Coordinate the development and carrying out by Department agencies of all matters and functions pertaining to agricultural research conducted or funded by the Department involving biotechnology, including the development and implementation of guidelines for oversight of research activities, and to act as liaison on all matters and functions pertaining to agricultural research in biotechnology between agencies within the Department and between the Department and other governmental, educational and private organizations.

Subpart F—Delegations of Authority by the Assistant Secretary for Marketing and Inspection Services

4. Section 2.51 is amended by revising the introductory text of paragraph (a) and by adding a new paragraph (a)(40) to read as follows:

§ 2.51 Administrator, Animal and Plant Health Inspection Service

(a) *Delegations.* Pursuant to § 2.17 (b), (i) and (j), subject to reservations in § 2.18(b), the following delegations of authority are made by the Assistant

Secretary for Marketing and Inspection Services to the Administrator, Animal and Plan Health Inspection Service: Exercise functions of the Secretary of Agriculture under the following authorities:

* * * * *

(40) Coordinate the development and carrying out by Department agencies of all matters and functions pertaining to the Department's regulation of biotechnology, and act as liaison on all matters and functions pertaining to the regulation of biotechnology between agencies within the Department and between the Department and other governmental and private organizations.

For Subpart C:

Dated: July 12, 1985.

John R. Block,

Secretary of Agriculture.

For Subpart F:

Dated: June 21, 1985.

Karen K. Darling,

Acting Assistant Secretary for Marketing and Inspection Services.

Dated: June 28, 1985.

Orville G. Bentley,

Assistant Secretary for Science and Education.

[FR Doc. 85-17144 Filed 7-18-85; 8:45 am]

BILLING CODE 3410-34-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34-22229]

Delegation of Authority to Director of the Division of Market Regulation

AGENCY: Securities and Exchange Commission.

ACTION: Final rule amendment.

SUMMARY: The Commission is amending its rules governing delegation of authority to provide the Director of the Division of Market Regulation with authority to comment to the Commodity Futures Trading Commission on whether proposals for futures contracts involving an index or group of securities meet the standards set forth under section 2(a)(1)(B)(ii) of the Commodity Exchange Act.

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Sharon Lawson, (202) 272-2825, Division of Market Regulation, Securities and Exchange Commission, Room 5032, 450 5th Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is amending its rules governing delegation of authority to delegate to the Director of the Division of Market Regulation the authority to determine whether, and issue orders regarding, proposals submitted to the Commodity Futures Trading Commission ("CFTC") for designation of a contract market for futures trading on an index or group of securities meet the eligibility criteria set forth under section 2(a)(1)(B)(ii) of the Commodity Exchange Act ("CEA"), as amended by the Futures Trading Act of 1982 to reflect the terms of the SEC/CFTC Accord.[1]

The Commission finds, in accordance with the Administrative Procedure Act ("APA") [5 U.S.C. 553(b)(3)(B)], that notice is not necessary, because this amendment relates solely to agency organization, procedures, or practice. In addition, the Commission finds good cause for the amendment to become effective immediately because it will facilitate the prompt analysis of futures contracts proposals.

List of Subjects in 17 CFR Part 200

Organization and functions (government agencies).

On the basis of the above discussion, the Commission amends Part 200 of Title 17, Chapter II of the *Code of Federal Regulations* as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. The authority citation for Part 200 continues to read:

Authority: Secs. 19, 23, 48 Stat. 85, 901, as amended, sec. 20, 49 Stat. 833, sec. 319, 53 Stat. 1173, secs. 38, 211, 54 Stat. 841, 855; 15 U.S.C. 77s, 78w, 79t, 77sss, 80a-37, 80b-11

* * *

2. By amending § 200.30-3 by adding a new paragraph (e) and redesignating current paragraph (e) as (f) as follows:

§ 200.30-3 Delegation of authority to Director of Division of Market Regulation.

* * * * *

(e) To determine whether, and issue orders regarding, proposals for designation of a contract market for futures trading on an index or group of securities meet the eligibility criteria set forth under Section 2(a)(1)(B)(ii) of the Commodity Exchange Act, 7 U.S.C. 2(a).

* * * * *

Dated: July 12, 1985.

By the Commission.

John Wheeler,

Secretary.

[FR Doc. 85-17069 Filed 7-18-85; 8:45 am]

BILLING CODE 8010-01-M

[1] Pursuant to section 2(a)(1)(B)(iv)(II) of the CEA, the CFTC cannot approve a contract proposal, submitted after December 9, 1982, if the Commission determines that such futures contract or the underlying securities index or group of securities does not meet the eligibility standards set forth in section 2(a)(1)(B)(ii).

17 CFR Part 274

[Release Nos. 33-6591A; 34-22194A; IC-14606A; File Nos. S7-1-85; S7-2-85]

Withdrawal of Quarterly Reporting Forms and Filing Obligations of Certain Registered Investment Companies; Incorporation of Quarterly Reporting Obligations in Form N-SAR; Adoption of Conforming Amendments to Registration Forms; Related Rule Amendments; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; correction.

SUMMARY: On July 1, 1985, the Commission issued a release rescinding the quarterly reporting obligations of certain registered investment companies [50 FR 27937, July 9, 1985] and incorporating them into Form N-SAR, the semi-annual reporting form for such companies. At that time, the Commission withdrew the obligation to file form N-1Q [17 CFR 249.331] as required by the Securities Exchange Act of 1934 [15 U.S.C. 78a *et seq.*]. The Commission is now amending that release to withdraw the obligation to file form N-1Q [17 CFR 274.106] under the Investment Company Act of 1940 [15 U.S.C. 80a-1 *et seq.*].

EFFECTIVE DATE: August 8, 1985.

FOR FURTHER INFORMATION CONTACT: William C. Gibbs, Attorney, Office of Regulatory Policy, (202) 272-2048.

List of Subjects in 17 CFR Part 274

Investment companies, Reporting and recordkeeping requirements, Securities.

Form Rescission

Part 274 of Chapter II, Title 17 of the Code of Federal Regulations is amended as set forth below:

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

1. The authority citation for Part 274 continues to read as follows:

Authority: Investment Company Act of 1940, 15 U.S.C. 80a-1, *et seq.*, * * *.

§ 274.106 [Removed]

2. By removing § 274.106.

Dated: July 11, 1985.

By the Commission.

John Wheeler,

Secretary.

[FR Doc. 85-17067 Filed 7-18-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8035]

Investment Credit for Commuter Highway Vehicles

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to special rules for computing the investment credit for commuter highway vehicles. The Energy Tax Act of 1978 (Pub. L. 95-618, 92 Stat. 3193) enacted special rules for determining the amount of that credit and for the recapture of that credit. The regulations provide the public and Internal Revenue Service personnel with the guidance needed to comply with and administer the law.

DATES: The amendments are effective for commuter highway vehicles placed in service on or after November 9, 1978 and before January 1, 1986.

FOR FURTHER INFORMATION CONTACT: Patricia Wendlandt of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T [202-566-3458, not a toll-free call].

SUPPLEMENTARY INFORMATION:

Background

This document contains final amendments to the Income Tax Regulations (26 CFR Part 1) under sections 46(c)(6) and 47(a)(4) of the Internal Revenue Code of 1954, relating to the investment credit for commuter highway vehicles. These regulations were published in proposed form in the **Federal Register** on October 5, 1984 (49 FR 39344). One comment was received suggesting changes to the proposed amendments to the regulations. There were no requests for a public hearing and none was held. With only minor revisions, the proposed regulations are adopted by this Treasury decision.

Commuter Use Requirement

The proposed regulations define the 80 percent commuter use requirement. To qualify for the investment credit for commuter highway vehicles, section 46(c)(6)(B)(ii) and the regulations provide that at least 80 percent of the vehicle's mileage must be for purposes of transporting the taxpayer's employees between their residences and their places of employment. The comment suggested that personal incentive mileage and mileage for maintenance and refueling be included as qualified commuter uses. Such usage is not considered to be for the purpose of transporting the taxpayer's employees between their residences and places of employment and is not properly considered a qualified commuter use of the vehicle. Although personal incentive mileage and mileage for maintenance and refueling are not includible as qualified commuter uses, such mileage will not disqualify a commuter highway vehicle provided it does not exceed 20 percent of the vehicle's total mileage. Accordingly, the final regulations adopt the proposed definition of the commuter use requirement without change.

Executive Order 12291 and Regulatory Flexibility Act

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although a notice of proposed rulemaking that solicited public comment was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 did not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Paperwork Reduction Act

The collection of information requirements contained in these regulations have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB.

Drafting Information

The principal author of these final regulations is Patricia Wendlandt of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 1.0-1 through 1.58-8

Income taxes, Tax liabilty, Tax rates, Credits.

26 CFR Part 602

OMB Control Numbers, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 and Part 602 are amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The Authority citation for Part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805 * * * § 1.47-1 also issued under 26 U.S.C. 47(a).

Par. 2. A new § 1.46-10 is added and reserved in the appropriate place.

§ 1.46-10 [Reserved].

Par. 3. A new § 1.46-11 is added in the appropriate place. As added, the new section reads as follows:

§ 1.46-11 Commuter highway vehicles.

(a) *In general.* Section 46(c)(6) provides that the applicable percentage to determine qualified investment under section 46(c)(1) for a qualifying commuter highway vehicle is 100 percent. A qualifying commuter highway vehicle is a vehicle (defined in paragraph (b) of this section)—

(1) Which is acquired by the taxpayer on or after November 9, 1978,

(2) Which is placed in service by the taxpayer before January 1, 1986, and

(3) With respect to which the taxpayer makes an election under paragraph (g) of this section.

(b) *Definition of commuter highway vehicle.* A commuter highway vehicle is a highway vehicle that meets the following requirements:

(1) The vehicle is section 38 property in the hands of the taxpayer. The rule of section 48(d), allowing a lessor to elect to treat the lessee of new section 38 property as having acquired the property, applies to commuter highway vehicles. If the vehicle is leased and that election is made, the lessee is treated as the taxpayer under this section. However, if that election is not made, the lessor, and not the lessee, is treated as the taxpayer under this section.

(2) The vehicle must meet the seating capacity requirement of paragraph (c) of this section; and

(3) The taxpayer reasonably expects to meet the commuter use requirement

of paragraph (d) of this section for at least the first 36 months after the vehicle is placed in service.

(c) *Seating capacity.* A commuter highway vehicle must have a seating capacity of a least 8 adults in addition to the driver's seat.

(d) *Commuter use requirement.* A vehicle meets the commuter use requirement only if at least 80 percent of the miles the vehicle is driven are for trips to transport the taxpayer's employees between their residences and their places of employment. A trip for this purpose includes driving the vehicle before or after employees are in the vehicle, so long as the mileage driven is necessary either to pick up or drop off passengers or to park the vehicle in its regular parking space. A trip does not include miles driven solely for maintenance or to refuel the vehicle. A trip is not considered to transport the taxpayer's employees between their residences and their places of employment unless at least one-half the seating capacity (defined in paragraph (c) of this section) is used to seat employees of the taxpayer. In no event is the driver counted as an employee of the taxpayer.

(e) *Definition of employee.* An employee in this section is the same as in section 3121 (d) (definition of employee for withholding purposes).

(f) *Transportation between employee's residence and place of employment.* An employee is transported between that employee's residence and place of employment even if that place of employment is not the same as any of the other employees transported, and even if picked up or dropped off at some central point between that residence and place of employment. An employee is not transported between that employee's residence and place of employment if the transportation is of the type for which a deduction would be allowed under § 1.162–2 were the employee providing it, such as the transportation from one work site to another after beginning work for the day.

(g) *Election.* A taxpayer must elect to have the vehicle treated as a qualifying commuter highway vehicle on the return for the taxable year in which the vehicle is placed in service. The election may be made only if the vehicle actually meets the commuter use requirement under paragraph (d) of this section for that taxable year. It must be made on or before the due date (including extensions) of that return. The election is effective as of that due date.

Par. 4. Section 1.47–1 is amended by:

1. Inserting in the first sentence of paragraph (a)(1)(i) of that section, "or is a qualifying commuter highway vehicle (as defined in paragraph (a) of § 1.46–11) which undergoes a change in use (as defined in paragraph (m)(2) of this section)" immediately following "(as defined in paragraph (g) of § 1.46–3)", and

2. Adding and reserving paragraphs (i), (j), (k), and (l) and by adding a new paragraph (m) to read as follows:

§ 1.47–1 Recomputation of credit allowed by section 38.

* * * * *

(i) [Reserved].

(j) [Reserved].

(k) [Reserved].

(l) [Reserved].

(m) *Commuter highway vehicles*—(1) *Recomputed qualified investment.* (i) If a qualifying commuter highway vehicle (as defined in § 1.46–11(a) undergoes a change in use but does not cease to be section 38 property, qualified investment for that vehicle is recomputed as if the vehicle was section 38 property which is not a qualifying commuter highway vehicle for its entire useful life.

(ii) The following example illustrates this paragraph (m)(1).

Example. X Corporation, a calendar year taxpayer, acquired and placed in service on January 1, 1982, a qualifying commuter highway vehicle with a basis of $10,000 and which qualified as three year recovery property under section 168(c)(2)(A)(i). The amount of qualified investment for the vehicle under section 46(c) (1) and (6) is $10,000. For the taxable year 1982, X Corporation's credit earned was $1,000 (10 percent of $10,000) and X Corporation was allowed under section 38 a $1,000 credit against its 1982 tax liability. During the taxable year 1984, the vehicle undergoes a change in use but does not cease to be section 38 property. The vehicle is treated as section 38 property which is not a qualifying commuter highway vehicle for its entire useful life. The recomputed qualified investment for the vehicle is $6,000 (60 percent of $10,000) and X Corporation's recomputed credit earned is $600 (10 percent of $6,000). The income tax imposed by chapter 1 of the Code on X Corporation for 1984 is increased by the $400 decrease in its credit earned for 1982 ($1,000 – $600).

(2) *Change in use*—(i) A qualifying commuter highway vehicle undergoes a change in use if the vehicle does not meet the commuter use requirement (as defined in § 1.46–11(d)) for each computation period.

(ii) Each of the following is a computation period:

(A) The period beginning on the date the vehicle was placed in service and ending on the last day of the taxpayer's taxable year in which the vehicle was placed in service;

(B) Each of the taxpayer's taxable years beginning after the date the vehicle was placed in service and ending before the end of the first 36 months after the vehicle was placed in service; and

(C) The period ending at the end of the first 36 months after the vehicle was placed in service and beginning on the first day of the taxpayer's taxable year in which the end of those first 36 months falls.

(iii) The following example illustrates this paragraph (m)(2).

Example. (*a*) Z Corporation, a calendar year taxpayer, acquired and placed in service a qualifying commuter highway vehicle on January 15, 1979. Z Corporation used the vehicle as set forth in the following table:

Taxable year ending	Total miles	Commuter miles	Ratio
1979	10,000	9,000	.90
1980	10,000	8,000	.80
1981	10,000	8,000	.80
1982 (1–14)	1,000	100	.10

(*b*) The first computation period begins on the date the vehicle is placed in service, in this example 1–15–79, and ends 12–31–79. In that computation period, the ratio of commuter miles to total miles is .90 (9,000 miles ÷ 10,000 miles). Therefore, the vehicle meets the commuter use requirement for that period and has not undergone a change in use. Similar calculations for the computation periods 1–1–80 to 12–31–80 and 1–1–81 to 12–31–81 produce the same result.

(*c*) As of the computation period beginning 1–1–82 and ending 1–14–82, the ratio of commuter use to total mileage is .10 (100 miles ÷ 1,000 miles). Since that ratio is less than .80, the vehicle does not meet the commuter use requirement for the period and the vehicle has undergone a change in use.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 5. The authority citation for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 6. Section 602.101(c) is amended by inserting in the appropriate place in the table "§ 1.46–11(g) . . . 1545–0155".

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: June 17, 1985.

Ronald A. Pearlman,

Assistant Secretary of the Treasury.

[FR Doc. 85–17269 Filed 7–18–85; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Part 1

[T.D. 8038]

Income Tax, Taxable Years Beginning After December 31, 1953; Effective Dates, Transitional Rules, Restrictions on Plan Distributions, and Other Issues Arising Under the Retirement Equity Act of 1984

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the effective dates, transitional rules, restrictions on distributions from employee plans, and other issues arising under the Retirement Equity Act of 1984. The regulations will generally affect sponsors of, and participants in, pension, profit-sharing, and stock bonus plans, and they provide plan sponsors with guidance necessary to comply with the law.

In addition, the text of the temporary regulations set forth in this document also serves as the text of the notice of proposed rulemaking that appears in the Proposed Rules section of this issue of the **Federal Register**.

DATES: The regulations are effective July 19, 1985, and generally apply for plan years beginning after December 31, 1984, except as otherwise specified in the Retirement Equity Act of 1984.

FOR FURTHER INFORMATION CONTACT: Charles M. Watkins of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention CC:LR:T) (202-566-3903, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to the requirements for payment of survivor annuities, to restrictions on payments under qualified employee plans, and other rules, as enacted by Titles II and III of the Retirement Equity Act of 1984 ("REA '84") (Pub. L. 98-397, 98 Stat. 1436 *et seq.*).

Taxpayers may rely on these temporary regulations for guidance pending the issuance of final regulations. These temporary regulations do not, however, address comprehensively the issues raised by Titles II and III of REA '84, and no inferences should be drawn by reason of the fact that an issue is not addressed in this Treasury decision.

Under section 101 of Reorganization Plan No. 4 of 1978 (43 FR 47713), the Secretary of the Treasury has jurisdiction over the subject matter addressed in these regulations (except the definition of a qualified domestic relations order). Therefore, under section 104 of the Reorganization Plan, these regulations apply when the Secretary of Labor exercises authority under Title I of the Employee Retirement Income Security Act of 1974 (as amended, including the amendments made by Title I of REA) ("ERISA"). Thus, the requirements also apply to employee plans subject to Title I of ERISA.

New Requirements

Sections 411(a)(11) and 417(e) of the Internal Revenue Code restrict a plan's ability to distribute benefits to participants and, when applicable, spouses. Section 411(a)(11) treats as forfeitable, for purposes of section 411(a), any accrued benefit that may be distributed to a participant without the participant's consent when the present value of the participant's nonforfeitable accrued benefit in the plan exceeds $3,500. Section 417(e) prohibits any plan subject to section 401(a)(11) from distributing any portion of a qualified joint and survivor annuity (QJSA), or a qualified preretirement survivor annuity (QPSA), if the present value of such an annuity is greater than $3,500, without the consent of the participant and the participant's spouse. Under sections 411(a)(11) and 417(e), the present value of a participant's annuity benefit in a defined benefit plan is to be determined by reference to an interest rate that is not greater than the interest rate used by the Pension Benefit Guaranty Corporation (PBGC) in valuing immediate annuities on plan termination. Plans are required to use this PBGC interest rate for both determining whether the $3,500 floor is reached and valuing the accrued benefit.

Defined contribution plans, such as money purchase, profit-sharing, and stock bonus plans, whether or not subject to section 401(a)(11), are not required to use interest rates that are not greater than the PBGC rates to calculate the amount to be distributed, even if such plans use an account balance to purchase an annuity.

The regulations provide that, for purposes of sections 401(a)(11), 411(a)(11), and 417, a participant's accrued benefit includes benefits attributable to both employer and employee contributions under the plan, excluding deductible employee contributions described in section 72(o).

The regulations also provide two rules governing when a reduction in an accrued benefit to satisfy a participant's loan obligation to the plan is treated as a distribution from the plan. Such a reduction is generally subject to the applicable consent requirements of sections 411(a)(11) and 417(e). Alternatively, a plan may obtain the consent of the participant and the participant's spouse to a subsequent reduction in accrued benefits within the 90 day period before the making of a loan secured by an accrued benefit.

The Department of Labor has jurisdiction over the prohibited transaction rules of section 4975. It has indicated that a loan secured by an accrued benefit subject to REA '84 may not be adequately secured under section 4975(d)(1) if consent to a reduction in the accrued benefit is not obtained before such a loan is made, and, therefore, may be a prohibited transaction.

Plan Amendments

Plan amendments required by the Retirement Equity Act of 1984 must, in general, be adopted not later than the end of the first plan year to which the statutory provisions generally apply.

Nonapplicability of Executive Order 12291

The Treasury Department has determined that this regulation is not subject to review under Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, this regulation does not constitute a regulation subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal authors of these regulations are William D. Gibbs and Charles M. Watkins, of the Employee Plans and Exempt Organizations Division of the Office of the Chief Counsel, Internal Revenue Service. Personnel from other offices of the Internal Revenue Service and Treasury Department also participated in developing the regulations, on matters of both substance and style.

List of Subjects in 26 CFR 1.401-0—1.425-1

Income taxes, Employee benefit plans, Pensions.

Adoption of Amendments to the Regulations

PART 1—[AMENDED]

Accordingly, 26 CFR Part 1 is amended as follows:

Paragraph 1. The authority citation for Part 1 continues to read:

Authority: 26 U.S.C. 7805 * * *.

Par. 2. A new § 1.401(a)–11T is added immediately after § 1.401(a)–11 to read as follows:

§ 1.401(a)–11T Requirement of qualified joint and survivor annuity and qualified preretirement survivor annuity (temporary).

Q–1: Are there new survivor annuity requirements added to the Code by the Retirement Equity Act of 1984 (REA '84) to protect spouses?

A–1: Yes. REA '84 replaced section 401(a)(11) with a new section 491(a)(11) and added a new section 417. Plans subject to new section 401(a)(11) must comply with the requirements of section 401(a)(11) and section 417 in order to remain qualified under section 401(a) or 403(a). In general, these plans must now provide both a qualified joint and survivor annuity (QJSA) and a qualified preretirement survivor annuity (QPSA) to remain qualified. These new survivor annuity requirements are applicable to any benefit payable under a plan, including benefits payable to a participant under a contract purchased by the plan and paid by a third party. Thus, an annuity contract purchased by a plan and distributed to or owned by the participant must comply with the new survivor annuity requirements as they would apply to the plan if the benefits were paid directly by the plan.

Q–2: What plans are subject to sections 401(a)(11) and 417?

A–2: Sections 401(a)(11) and 417 apply to any defined benefit plan and to any defined contribution plan that is subject to the minimum funding standards of section 412. These sections also apply to any participant under any other defined contribution plan unless—

(a) The plan provides that the participant's nonforfeitable accrued benefit is payable in full, upon the participant's death, to the participant's surviving spouse (unless the participant has elected, with spousal consent that satisifies the requirements of section 417(a)(2), that such benefit be provided instead to a designated beneficiary);

(b) Such participant does not elect the payment of benefits in the form of a life annuity; and

(c) With respect to the participant, the plan is not a transferee plan (see Q&As–7 and 8).

Section 401(a)(11)(C) provides that, for purposes of determining whether benefits under an employee stock ownership plan are subject to sections 401(a)(11) and 417, that portion of a participant's accrued benefit that is subject to section 409(h) is to be treated as though such benefit were provided under a defined contribution plan not subject to section 412.

Q–3: May a defined contribution plan not subject to section 412 that provides that a participant's nonforfeitable accrued benefit is payable in full to a surviving spouse use the rules set forth in section 417(d) for determining whether or not the participant is married at the time of death?

A–3: Yes.

Q–4: How do the survivor annuity requirements added by REA '84 apply to married participants?

A–4: Section 401(a)(11)(A) requires that upon the death of a married participant with vested benefits attributable to employer contributions, plan benefits with respect to such participant, except plan benefits the payment of which had commenced prior to the participant's death, must be paid in the form of a QPSA. A QPSA must be provided regardless of whether the participant separated from service before the date of death. Section 401(a)(11)(A) also requires that the plan benefits of a married participant who survives until commencement of payment of such benefits be provided in the form of a QJSA. The QPSA and the QJSA may be waived if the applicable notice, election, and spousal consent requirements of section 417 are satisfied. Thus, for example, in order for a money purchase pension plan to distribute any portion of a married participant's benefit to such participant—even if the distribution is merely an ad hoc distribution after the participant has attained the normal retirement age under the plan but has not yet separated from service—the plan must distribute such portion in the form of a QJSA (unless the plan satisfies the applicable requirements of section 417(a) with respect to such portion of the participant's benefit). The plan still must satisfy the QPSA requirements with respect to any portion of the participant's benefits that has not been distributed, except any benefits the payment of which has commenced. However, if, prior to the commencement of a distribution of any benefits, the present value of such married participant's nonforefeitable accrued benefit is not more than $3,500, the requirements of section 417(a) need not be satisfied with respect to the payment of such participant's benefits. See § 1.417(e)–1T.

Q–5: Must a plan subject to sections 401(a)(11) and 417 provide an annuity to participants who are not married?

A–5: Yes. Plans subject to the requirements of sections 401(a)(11)(and 417 must satisfy those requirements with respect to participants who are not married. A QJSA for a participant who is not married is an annuity for the life of the participant, and thus, an unmarried participant must be provided such an annuity unless he elects another form of benefit.

Q–6: Must plans subject to new section 401(a)(11) meet other requirements?

A–6: Yes. Plans subject to new section 401(a)(11) must satisfy the requirements of section 417 (relating to minimum survivor annuity requirements).

Q–7: How do sections 401(a)(11) and 417 apply to transferee plans (certain defined contribution plans that are not subject to section 412)?

A–7: Although profit-sharing, stock bonus, and other defined contribution plans not subject to section 412 are generally not subject to sections 401(a)(11) and 417 with respect to their participants, these plans are subject to sections 401(a)(11) and 417 with respect to any participant if the plan is a transferee plan with respect to that participant. A defined contribution plan is a transferee plan with respect to a participant if the plan is a direct or indirect transferee, with respect to that participant, of benefits that were held, on or after January 1, 1985, by:

(a) A defined benefit plan;

(b) A defined contribution plan subject to section 412; or

(c) A defined contribution plan that is subject to sections 401(a)(11) and 417 with respect to that participant.

A transfer made before January 1, 1985, and any rollover contribution made at any time, is not a transfer that subjects a plan to the new survivor annuity rules with respect to a participant. If a plan is a transferee plan with respect to a participant, the section 417 requirements do not apply with respect to other plan participants solely because of the transfer. However, in order to prevent discrimination under section 401(a)(4), it may be necessary for the plan to provide QJSAs or QPSAs with respect to other participants.

Q–8: What benefits in a transferee plan are subject to the new survivor annuity requirements?

A–8: All accrued benefits held for a participant with respect to whom the plan is a transferee plan are subject to the new survivor annuity requirements

unless there is an acceptable separate accounting between the transferred benefits and any other benefits under the plan. A separate accounting is not acceptable unless gains, losses, withdrawals, contributions, forfeitures, and other credits or charges are allocated between the accrued benefits subject to the new survivor annuity requirements and other benefits on a reasonable and consistent basis. If there is an acceptable separate accounting between transferred benefits and any other benefits under the plan, only the transferred benefits are subject to the new survivor annuity requirements.

Q–9: Must annuity contracts purchased and distributed to a participant or spouse by a plan subject to sections 401(a)(11) and 417 satisfy the requirements of those sections?

A–9: Yes. No rights to accrued benefits, optional forms of payments, consents, or other privileges provided for by section 401(a)(11) or 417 may be eliminated or reduced because the plan uses annuity contracts to provide benefits or because such a contract is held by a participant or spouse instead of a plan trustee. Similarly, the protection provided by section 411(d)(6) may not be eliminated or reduced by the use of annuity contracts.

Q–10: If a plan would otherwise be subject to the survivor annuity requirements of new sections 401(a)(11) and 417, does the fact that it is frozen or terminated make a difference?

A–10: In general, benefits provided under a plan that is subject to the new survivor annuity requirements of sections 401(a)(11) and 417 must be provided in accordance with those requirements even if the plan is terminated or frozen. However, any plan that has a termination date prior to September 17, 1985, and that distributes all remaining assets as soon as administratively feasible after the termination date is not subject to the new survivor annuity requirements. The date of termination is determined under section 411(d)(3) and § 1.411(d)–2(c).

Q–11: If a plan would otherwise be subject to the survivor annuity requirements of new sections 401(a)(11) and 417, does it make a difference that the Pension Benefit Guaranty Corporation (PBGC) is administering the plan?

A–11: No. Participants and spouses are entitled to the same protection irrespective of whether an employer or the PBGC is administering a plan.

Q–12: Do the new survivor annuity requirements apply to benefits derived from employer and employee contributions?

A–12: Yes. The new survivor annuity benefit requirements apply to benefits derived from both employer and employee contributions.

Q–13: To what benefits do the new survivor annuity requirements apply?

A–13: (a) *Defined benefit plans.* Sections 401(a)(11) and 417 apply only to benefits in which a participant was vested immediately prior to death. They do not apply to benefits in which a participant becomes vested by reason of death or to the proceeds of a life insurance contract maintained by the plan for a participant to the extent such proceeds exceed the present value of the participant's nonforfeitable accrued benefits existing immediately prior to death.

(b) *Defined contribution plans.* Sections 401(a)(11) and 417 apply to all vested benefits, whether vested before or upon death, payable under the plan, including the proceeds of insurance contracts.

Q–14: What preretirement survivor annuity benefits must a defined contribution plan provide?

A–14: A defined contribution plan that is subject to sections 401(a)(11) and 417 must provide an annuity whose actuarial equivalent is not less than 50 percent of the nonforfeitable account balance of the participant as of the date of the participant's death. For this purpose, the nonforfeitable account balance of the participant includes amounts attributable to nonforfeitable employer contributions and amounts attributable to employee contributions.

Q–15: In determining whether amounts attributable to employer contributions to a defind contribution plan are nonforfeitable under sections 401(a)(11) and 417, does the rule of section 411(a)(3)(A) (permitting forfeitures on account of death) apply?

A–15: No. Therefore, sections 401(a)(11) and 417 apply to benefits that were nonforfeitable immediately prior to death (determined without regard to section 411(a)(3)(A)), as well as to benefits that become nonforfeitable at death.

Q–16: Do sections 401(a)(11) and 417 apply to accumulated deductible employee contributions, as defined in section 72(o)?

A–16: No. Accumulated deductible employee contributions are not subject to the new survivor annuity rules even though such contributions are made to a defined benefit or defined contribution plan that is subject to sections 401(a)(11) and 417.

Q–17: When do the new survivor annuity requirements apply to plans?

A–17: New sections 401(a)(11) and 417 generally apply to plan years beginning after December 31, 1984. Sections 302 and 303 of REA '84 provide specific effective dates and transitional rules under which the QJSA or QPSA (or pre-REA '84 section 401(a)(11)) requirements may be applicable to particular plans or with respect to benefits provided to particular participants. In general, the new section 401(a)(11) survivor annuity requirements do not apply with respect to a participant who does not have at least one hour of service or one hour of paid leave under the plan after August 22, 1984.

Q–18: Are there special effective dates for plans maintained pursuant to collective bargaining agreements?

A–18: Yes. Section 302(b) of REA '84 provides a special deferred effective date for such plans. Whether or not a plan is described in section 302(b) will be determined under the principles applied under section 1017(c) of the Employee Retirement Income Security Act of 1974. In addition, a plan will not be treated as maintained under a collective bargaining agreement unless the employee representative satisfies section 7701(a)(46) of the Internal Revenue Code after March 31, 1984. Nothing in section 302(b) shall deny a participant or spouse the rights set forth in sections 303(c)(2), 303(c)(3), 303(e)(1), and 303(e)(2) of REA '84.

Q–19: What is one hour of service or paid leave under the plan for purposes of the transition rules in section 303 of REA '84?

A–19: One hour of service or paid leave under the plan is one hour of service or paid leave recognized or required to be recognized under the plan for any purpose, *e.g.*, participation, vesting percentage, or benefit accrual purposes. For plans that do not compute hours of service, one hour of service or paid leave means any service or paid leave recognized or required to be recognized under the plan for any purpose.

Q–20: Must a plan be amended to provide for the QPSA required by section 303(c)(2) of REA '84, or for the survivor annuities required by section 303(e) of REA '84?

A–20: A plan will not fail to satisfy the qualification requirements of section 401(a) or 403(a) merely because it is not amended to provide the QPSA required by section 303(c)(2) or the survivor annuities required by section 303(e). The plan must, however, satisfy those requirements in operation. In addition, the plan must be amended to satisfy sections 401(a)(11) and 417 not later than the last day of the first plan year to which sections 401(a)(11) and 417 apply.

Q-21: Is a participant's election, or a spouse's consent to an election, with respect to a QPSA, made before August 23, 1984, valid?

A-21: No.

Q-22: Is spousal consent required for certain survivor annuity elections made by the participant after December 31, 1984, and before the first plan year to which new sections 401(a)(11) and 417 apply?

A-22: Yes. Section 303(c)(3) of REA '84 provides that any election by a participant, made after December 31, 1984, and before the date sections 401(a)(11) and 417 apply to the plan, not to take a QJSA is not effective unless the spousal consent requirements of section 417 are met with respect to such election. Unless the participant's annuity starting date occurred before January 1, 1985, the spousal consent required by section 417(a)(2) and (e) must be obtained even though the participant elected the benefit prior to January 1, 1985. By the end of the first plan year to which new sections 401(a)(11) and 417 apply, the plan must be amended to comply with the QJSA requirements.

Par. 3. A new § 1.401(a)-13T is added immediately after § 1.401(a)-13 to read as follows:

§ 1.401(a)-13T Assignment or alienation of benefits; special rules for qualified domestic relations orders (temporary).

(a) *Definition.* The term qualified domestic relations order (QDRO) has the meaning set forth in section 414(p). For purposes of the Internal Revenue Code, a QDRO also includes any domestic relations order described in section 303(d) of the Retirement Equity Act of 1984, as provided in that section.

(b) *Plan amendments.* A plan will not fail to satisfy the qualification requirements of section 401(a) or 403(a) merely because it is not amended to require the plan to comply with a QDRO.

Par. 4. A new § 1.410(a)-5T is added immediately after § 1.410(a)-5 to read as follows:

§ 1.410(a)-5T Five consecutive 1-year breaks in service, transitional rules under the Retirement Equity Act of 1984 (temporary).

Sections 410(a)(5)(D) and 411(a)(6)(D), as amended by the Retirement Equity Act of 1984 (REA '84), permit a plan to disregard years of service that were disregarded under plan provisions satisfying those sections (as in effect on August 22, 1984), as of the day before the amendments apply to the plan. Under section 302(a) of REA '84, the new break in service rules generally apply to plan years beginning after December 31, 1984. Thus, for example, assume a plan has a calendar plan year and disregarded years of service as permitted by sections 410(a)(5)(D) and 411(a)(6)(D) as in effect on August 22, 1984. An employee completed two years of service in 1981 and 1982, and then incurred two consecutive 1-year breaks in service in 1983 and 1984. The plan may disregard the prior years of service, even though the employee did not incur five consecutive 1-year breaks in service. On the other hand, assume the employee completed three consecutive years of service beginning in 1980, and incurred two 1-year breaks in service in 1983 and 1984. Because, as of December 31, 1984, the years of service credited before 1983 could not be disregarded, whether the plan may subsequently disregard those years of service would be governed by the rules enacted by REA '84.

§ 1.411(a)-7 [Amended]

Par. 5. Section 1.411(a)-7(d)(4)(iv)(B) is amended by adding at the end thereof the following sentence:

* * * * *

(d) * * *

(4) * * *

(iv) * * *

(B) * * * Notwithstanding the above sentence, no defined benefit plan or defined contribution plan may require that repayments be made earlier than the end of a period of 5 consecutive one-year breaks in service.

* * * * *

Par. 6. A new § 1.410(a)-7T is added immediately after § 1.410(a)-7 to read as follows:

§ 1.410(a)-7T Elapsed time method; maternity and paternity absence (temporary).

(a) *General rule.* For purposes of applying the rules of § 1.410(a)-7 (relating to the elapsed time method of crediting service) to absences described in sections 410(a)(5)(E) and 411(a)(6)(E) (relating to maternity or paternity absence), the severance from service date of an employee who is absent from service beyond the first anniversary of the first date of absence by reason of a maternity or paternity absence described in section 410(a)(5)(E)(i) or 411(a)(6)(E)(i) is the second anniversary of the first date of such absence. The period between the first and second anniversaries of the first date of absence from work is neither a period of service nor a period of severance. This rule applies to maternity or paternity absences beginning on or after the first day of the first plan year in which the plan is required to credit service under sections 410(a)(5)(E) and 411(a)(6)(E).

(b) *Example.* The rules of this section are illustrated by the following example:

Assume an individual works until June 30, 1986; is first absent from employment on July 1, 1986, on account of maternity or paternity absence; and on July 1, 1989, performs an hour of service. The period of service must include the period from employment commencement date until June 30, 1987 (one year after the date of separation for any reason other than a quit, discharge, retirement, or death). The period from July 1, 1987, to June 30, 1988, is neither a period of service nor a period of severance. The period of severance would be from July 1, 1988 to June 30, 1989.

Par. 7. A new § 1.411(a)(11)-1T is added after § 1.411(a)-9 to read as follows:

§ 1.411(a)(11)-1T. Restrictions and valuations of distributions (temporary).

(a) *Scope.* Section 411(a)(11) restricts the ability of a plan subject to section 411 to distribute any portion of a participant's accrued benefits without the participant's consent. Section 411(a)(11) applies in determining whether a plan satisfies the nonforfeitability requirements of section 411(a).

(b) *General rules*—(1) *New requirements.* If a plan does not satisfy the participant consent requirement with respect to the immediate distribution of any participant's nonforfeitable accrued benefit with a present value in excess of $3,500, the entire accrued benefit is forfeitable for purposes of determining whether section 411(a) is satisfied.

(2) *Additional requirements.* The requirements of section 411(a)(11) and this section are in addition to the requirements of sections 401(a)(9) (relating to required distributions), 401(a)(14) (relating to benefit commencement), and 417 (relating to survivor benefits). Notwithstanding any provision to the contrary in section 401(a)(14) or § 1.401(a)-14, the failure of a participant to consent to a distribution while a benefit is immediately distributable is deemed to be an election to defer commencement of payment of any benefit sufficient to satisfy section 401(a)(14) and § 1.401(a)-14.

(c) *Consent, etc. requirements*—(1) *General rule.* Section 411(a)(11) permits plans subject to that section to provide for the distribution of any portion of a participant's nonforfeitable accrued benefits only if either the applicable consent requirements are satisfied or such distribution is not immediately distributable.

(2) *Consent.* Written consent of the participant is required before the commencement of the distribution of any part of an accrued benefit if the

present value of the nonforfeitable portion of such benefit is greater than $3,500.

(3) *Accrued benefit.* The term "accrued benefit" has the same meaning as such term has under section 417(e) and the regulations thereunder.

(4) *Immediately distributable.* An accrued benefit is immediately distributable for purposes of section 411(a)(11) and this section if any part of the benefit may be distributed to the participant before the later of the normal retirement age (as defined in section 411(a)(8)) or age 62.

(5) *Death of participant.* Section 411(a)(11) does not apply after the death of the participant.

§ 1.411(d)(3) [Amended]

Par. 8. Section 1.411(d)-3 is amended by removing the second sentence of paragraph (a)(1).

Par. 9. A new § 1.411(d)-3T is added immediately after § 1.411(d)-3, to read as follows:

§ 1.411(d)-3T Class year plans; plan years beginning after 1984 (temporary).

In the case of a class year plan, the rights of an employee who separates from service prior to the time such rights become nonforfeitable may be forfeited only if there is a 5-year break-in-service. A 5-year break-in-service is a period of five consecutive plan years, beginning with the plan year in which the employee separates from service, during which the employee is not employed on the last day of each plan year. For purposes of the preceding sentence, any plan year in which an individual is absent from work on the last day of the plan year by reason of an absence described in section 411(a)(6)(E)(i) shall be disregarded.

Par. 10. A new § 1.417(e)-1T is added after § 1.416-1 to read as follows:

§ 1.417(e)-1T Restrictions and valuations of distributions from plans subject to section 401(a)(11) (temporary).

(a) *Scope*—(1) *New requirements.* Section 417(e) restricts the ability of certain qualified plans to distribute any portion of a participant's accrued benefits without the consent of the participant and the participant's spouse. It also requires the present value of accrued benefits to be calculated using specified interest rates. Section 417(e) applies in determining whether certain plans satisfy the survivor annuity requirements of sections 401(a)(11) and 417. These requirements must be satisfied by pension plans with respect to all participants, and by profit-sharing and stock bonus plans with respect to participants to whom section 401(a)(11)(B) applies. Special rules are provided in section 401(a)(11)(C) for certain ESOP benefits. A plan does not satisfy the requirements of sections 401(a)(11) and 417 unless it satisfies the consent requirements, the determination of present value requirements and the other requirements set forth in this section. This section does not apply to payments to an alternate payee, defined in section 414(p)(8), except as provided in a qualified domestic relations order pursuant to section 414(p)(5).

(2) *Additional requirements.* The requirements of section 417(e) and this section are in addition to the requirements of sections 401(a)(9) (relating to required distributions), 401(a)(14) (relating to benefit commencement), and 411(a)(11) (relating to distributions). Notwithstanding any provision to the contrary in section 401(a)(14) or § 1.401(a)-14, the failure of a participant or spouse to consent to a distribution while a benefit is immediately distributable is deemed to be an election to defer commencement of payment of any benefit sufficient to satisfy section 401(a)(14) and § 1.401(a)-14.

(3) *Accrued benefit.* For purposes of this section, accrued benefit has the same meaning as specified in section 411(a)(7). The present value of an accrued benefit or annuity includes benefits attributable to both employee and employer contributions. Because section 401(a)(11) is not applicable to accumulated deductible employee contributions described in section 72(o), such accumulated contributions are not part of the accrued benefit. The value of an accrued benefit does not include any plan subsidy included in the present value of the qualified joint and survivor annuity (QJSA) or in the present value of the qualified preretirement survivor annuity (QPSA).

(b) *Consent, etc. requirements*—(1) *General rule.* Section 417(e) prohibits plans subject to that section from permitting the commencement of any distribution of any portion of a participant's accrued benefits unless—

(i) The applicable consent requirements are satisfied; or

(ii) (A) Such distribution is provided in the form of a qualified joint and survivor annuity (QJSA) or a qualified preretirement survivor annuity (QPSA); and

(B) Such benefit is not immediately distributable as described in paragraph (b)(3) of this section.

The consent requirement is applicable to accrued benefits that are immediately distributable.

(2) *Consent.* (i) Written consent of the participant and, if the participant is married at the time of the commencement of the distribution of benefits, the participant's spouse (or, if either the participant or the spouse has died, the survivor) is required before the commencement of the distribution of any part of an accrued benefit if the present value of the nonforfeitable accrued benefit is greater than $3,500. Such present value will be treated as greater than $3,500 at all times after the commencement of a distribution of benefits that was subject to this consent requirement. No consent is required before the commencement of the distribution of benefits if the present value of the nonforfeitable accrued benefit is not more than $3,500.

(ii) In determining the present value of the nonforfeitable accrued benefit, a defined benefit plan must use an interest rate not greater than the rate used by the Pension Benefit Guaranty Corporation (PBGC) to value immediate annuities for plans terminating as of either (A) the proposed distribution (or benefit commencement) date or (B) the first day of the plan year that contains the proposed distribution (or benefit commencement) date (the PBGC rate.).

(3) *Immediately distributable.* An accrued benefit is immediately distributable if any part of the benefit could be distributed to the participant or beneficiary before that participant attains (or would have attained if not dead) the later of normal retirement age (as defined in section 411(a)(8)) or age 62.

(4) *Time of consent.* Written consent of the participant and the participant's spouse to the distribution must be obtained not more than 90 days before the commencement of the distribution of any part of an accrued benefit. See paragraph (d) of this section for a special rule for loans.

(5) *Other rules.* Except as provided in paragraphs (b)(2) and (d) of this section, the commencement of any distribution (including loans) permitted under section 417(e) and this section is subject to the election, spousal consent, and written explanation requirements of section 417(a).

(c) *Permitted distributions*—(1) *In general.* A plan may not require that a participant or surviving spouse begin to receive benefits without satisfying paragraph (b) of this section while such benefits are immediately distributable, as defined in paragraph (b)(3) of this section. Once benefits are no longer immediately distributable, all benefits must be provided in the form of a QJSA and QPSA unless the applicable written explanation, election, and consent

requirements of section 417(a) are satisfied.

(2) *Special rule.* (i) In the case of a defined benefit plan, the plan must permit the surviving spouse to direct the commencement of payments under the QPSA no later than the month in which the participant would have attained the earliest retirement age under the plan. A plan may permit the commencement of payments at an earlier date.

(ii) In the case of a defined contribution plan, the plan must permit the surviving spouse to direct the commencement of payments under the QPSA within a reasonable time after the participant's death.

(3) *Unmarried participant.* In the case of a participant who is not married, the term "QJSA" means an annuity for the life of a participant.

(d) *Loans*—(1) *General rule.* (i) A loan from a plan to a participant shall not be treated as a distribution for purposes of this section. However, the reduction of an account balance or the present value of an accrued benefit to satisfy an obligation of a participant arising in connection with a loan from a plan to a participant is a distribution to the participant requiring the consent of the participant and spouse (if any) at the time of the reduction. The preceding sentence also applies to loans described in section 72(p)(4).

(ii) For purposes of satisfying the consent requirement with respect to a loan that is secured by a married participant's accrued benefit, a plan may require the participant and spouse to consent to the loan and the possible reduction in the accrued benefit within the 90-day period before the making of the loan. Thus, if spousal consent is obtained at the time of making a plan loan to a married participant, spousal consent is not required at the time of any setoff of the loan against the accrued benefit resulting from nonpayment, even though the participant is married to a different spouse at the time of the setoff. Similarly, in the case of an unmarried participant, the consent requirement may be satisfied by requiring the participant's consent to the loan and the possible reduction in the accrued benefit within the 90-day period before the making of the loan, even if the participant is married at the time of any setoff of the loan against the accrued benefit.

(iii) If the plan does not obtain consent of a current spouse at the time of a loan secured by some portion of the participant's accrued benefit, the plan will not be certain that it will be able to execute on the security by reducing the participant's accrued benefit without violating section 417(e). Thus the plan (depending upon whether there is other security for the loan) may have made a loan that is not adequately secured. See sections 401(a)(13) and 4975.

(2) *Renegotiation, etc.* For purposes of this paragraph (d), any renegotiation, extension, renewal, or other revision of a loan shall be treated as a new loan made on the date of the renegotiation, extension, renewal, or other revision.

(3) *Effective date.* This paragraph does not apply to loans made prior to August 19, 1985.

(e) *Present value requirement*—(1) *Interest rate.* For purposes of determining the present value of any accrued benefit and for purposes of determining the amount (subject to section 415) of any distribution, a defined benefit plan must use an interest rate not greater than the PBGC rate determined in the same manner and time as set forth in paragraph (b)(2)(ii). The same rate must be used for both purposes.

(2) *Other rules.* (i) In the case of a defined benefit plan that assumes a rate other than the PBGC rate, the rate producing the greater benefit (subject to section 415) must be used.

(ii) Any change in a rate described in subparagraph (1) is subject to section 411(d)(6).

(3) *Exceptions.* (i) Subparagraphs (1) and (2)(i) do not apply to a distribution under a non-decreasing annuity payable for a period not less than the life of the participant or, in the case of a QPSA, the life of the surviving spouse. A non-decreasing annuity includes an annuity that decreases merely because of the cessation or reduction of Social Security supplements or qualified disability payments (as defined in section 411(a)(9)).

(ii) Subparagraphs (1) and (2)(i) do not apply to any payment under a QJSA or QPSA.

(4) *Defined contribution plans.* Because the accrued benefit in a defined contribution plan equals the account balance, such plans are not subject to the interest rate requirements of this paragraph (e), even though they are subject to section 401(a)(11).

(f) *Special rules for annuity contracts*—(1) *General rule.* Any annuity contract purchased by a plan subject to section 401(a)(11) and distributed to or owned by a participant must provide that benefits under the contract are provided in accordance with the applicable consent, present value, and other requirements of this section applicable to the plan.

(2) *Effective date.* This paragraph does not apply to contracts distributed to or owned by a participant prior to September 17, 1985, unless additional contributions are made under the plan by the employer with respect to such contracts.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impractical to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

James I. Owens,

Acting Commissioner of Internal Revenue.

Approved: July 3, 1985.

Ronald A. Pearlman,

Assistant Secretary of the Treasury.

[FR Doc. 85-17238 Filed 7-18-85; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Parts 1 and 602

[T.D. 8037]

Income Tax—Taxable Years Beginning After December 31, 1953 and OMB Control Numbers Under the Paperwork Reduction Act; Notice, Election, and Consent Rules Under the Retirement Equity Act of 1984

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to the notice, election and consent rules enacted by the Retirement Equity Act of 1984. The regulations will generally affect sponsors of, and participants in, pension, profit-sharing, and stock bonus plans, and they provide plan sponsors with guidance necessary to comply with the law.

In addition, the text of the temporary regulations set forth in this document also serves as the text of the notice of proposed rulemaking that appears in the Proposed Rules Section of this issue of the **Federal Register.**

DATES: The regulations are effective July 19, 1985, and generally apply for plan years beginning after December 31, 1984, except as otherwise specified in the Retirement Equity Act of 1984.

FOR FURTHER INFORMATION CONTACT: Charles M. Watkins of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention CC:LR:T) (202-566-3903, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to the requirements for payment of survivor annuities and other rules relating to qualified employee plans, as enacted by Titles II and III of the Retirement Equity Act of 1984 ("REA '84") (Pub. L. 98-397, 98 Stat. 1436 et seq.).

Taxpayers may rely on these temporary regulations for guidance pending the issuance of final regulations. These temporary regulations do not, however, address comprehensively the issues raised by Titles II and III of REA '84, and no inferences should be drawn by reason of the fact that an issue is not addressed in this Treasury decision.

Under section 101 of Reorganization Plan No. 4 of 1978, (43 FR 47713), the Secretary of the Treasury has jurisdiction over the subject matter addressed in these regulations (except the definition of a qualified domestic relations order). Therefore, under section 104 of the Reorganization Plan, these regulations apply when the Secretary of Labor exercises authority under Title I of the Employee Retirement Income Security Act of 1974 (as amended, including the amendments made by Title I of REA '84).

Plan Amendments

Plan amendments required by the Retirement Equity Act of 1984 must, in general, be adopted not later than the end of the first plan year to which the statutory provisions apply.

Nonapplicability of Executive Order 12291

The Treasury Department has determined that this Regulation is not subject to review under Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, this regulation does not constitute a regulation subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Paperwork Reduction Act

The collections of information contained in these regulations have been submitted to the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB under Control No. 1545-0928.

Drafting Information

The principal authors of these temporary regulations are William D. Gibbs and Charles M. Watkins, of the Employee Plans and Exempt Organizations Division of the Office of the Chief Counsel, Internal Revenue Service. Personnel from other offices of the Internal Revenue Service and Treasury Department also participated in developing the regulations, on matters of both substance and style.

List of Subjects

26 CFR 1.401-0—1.425-1

Income taxes, Employee benefit plans, Pensions.

26 CFR Part 602

OMB control numbers, Paperwork Reduction Act, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

PART 1—[AMENDED]

Accordingly, 26 CFR Part 1 is amended as follows:

Paragraph 1. The authority citation for Part 1 continues to read:

Authority: 26 U.S.C. 7805.

Par. 1a. Section 1.401(a)-11T is amended by adding the following Q & A's at the end thereof:

§ 1.401(a)-11T Requirement of qualified joint and survivor annuity and qualified preretirement survivor annuity (temporary).

* * * * *

Q-23: If a participant's spouse consents to the participant's waiver of a survivor annuity form of benefit under section 417(a)(2)(A), is a subsequent spouse of the same participant bound by the consent?

A-23: No. A consent under section 417(a)(2)(A) by one spouse is binding only with respect to the consenting spouse.

Q-24: Does the spousal consent requirement of section 417(a)(2)(A) require that a spouse's consent be irrevocable?

A-24: No. A plan may preclude a spouse from revoking consent once it has been given. However, a plan may also permit a spouse to revoke a consent after it has been given, and thereby to render ineffective the participant's prior election not to receive a QPSA or QJSA.

Q-25: Does the spousal consent requirement of section 417(a)(2) apply with respect to a participant's affirmative election of a non-spouse beneficiary?

A-25: Yes. The spousal consent requirement of section 417(a)(2) applies to the participant's election of a non-spouse beneficiary. Thus, for example, if spouse B consents to participants A's election not to receive a QPSA, but instead to have any benefits payable upon A's death before the annuity starting date paid to A's children, A may not subsequently change beneficiaries without the consent of B. In addition, any consent must acknowledge the specific nonspouse beneficiary, including any class of beneficiaries or any contingent beneficiaries.

Q-26: Must the notice and rights required by section 417(a) (1) and (3) be provided to nonvested participants?

A-26: Yes.

Q-27: Are there special rules for certain participants who separated from service prior to August 23, 1984?

A-27: Yes. Section 303(e) of REA '84 provides special rules for certain participants who separated from service before August 23, 1984. Section 303(e)(1), which applies only to plans subject to section 401(a)(11) of the Code (as in effect on August 22, 1984), provides that participants whose annuity starting date did not occur before August 24, 1984, and who had one hour of service on or after September 2, 1974, but not after December 31, 1975, may elect to receive the benefits required to be provided under section 401(a)(11) of the Code (as in effect on August 22, 1984). Section 303(e)(2) provides that certain participants who had one hour of service on or after January 1, 1976, but not after August 22, 1984, may elect to be provided a QPSA under new sections 401(a)(11) and 417 in plans subject to these provisions. Section 303(e)(4)(A) requires plans to notify those participants of the provisions of section 303(e).

Q-28: When must a plan provide the notice required by section 303(e)(4)(A) of REA '84?

A-28: The notice required by section 303(e)(4)(A) must be provided no later than the earlier of:

(a) The date the first summary annual report provided September 17, 1985 is distributed to participants; or

(b) *September 30, 1985.* A plan will not fail to satisfy the preceding sentence if the plan provides the notice before January 1, 1987, and provides a fully subsidized qualified preretirement survivor annuity with respect to any participant described in section 303(e) who dies on or after July 19, 1985 and before the notice is received. For this purpose, an annuity payable to a nonspouse beneficiary elected by the participant, in lieu of a spouse, shall satisfy such survivor benefit. The notice required by this paragraph must be in

writing and sent to the participant's last known address.

Q–29: Is there another time when plans must provide notice of the right, described in section 303(e)(1) of REA '84, to elect a pre-REA '84 qualified joint and survivor annuity?

A–29: Yes. Notice of this right must also be provided to a participant at the time the participant applies for benefit payments.

Q–30: When must a plan provide the written explanation, required by section 417(a)(3)(B), of the QPSA to an individual who becomes a participant after age 32; or who was a participant on August 23, 1984, and, as of that date, had attained age 34?

A–30: (a) In the case of an individual who becomes a participant after age 32, the plan will satisfy the time requirement of section 417(a)(3)(B) if it provides the explanation by the end of the three-year period beginning with the first day of the first plan year for which the individual is a participant.

(b) In the case of an individual who was a participant in the plan on August 23, 1984, and, as of that date, had attained age 34, the plan will satisfy the requirement of section 417(a)(3)(B) if it provides the explanation not later than December 31, 1985.

Q–31: When must a plan provide the written explanation, required by section 417(a)(3)(B), of the QPSA to a participant who separates from service before attaining age 32?

A–31: In the case of separation before age 32, a plan must provide the explanation at the time of separation or within one year after separation.

Q–32: What are the consequences of fully subsidizing the cost of either a qualified joint and survivor annuity (QJSA) or a qualified preretirement survivor annuity (QPSA), in accordance with section 417(a)(4)?

A–32: If a plan fully subsidizes a QJSA or QPSA (in accordance with section 417(a)(4)), it is not required to provide the written explanation required by section 417(a)(3)(A) or 417(a)(3)(B), respectively. Such a plan need not offer an election. However, if the plan offers an election, it must satisfy the election, consent, and notice requirements of section 417(a) (1), (2), and (3), even if it subsidizes the cost of the QJSA and QPSA in accordance with section 417(a)(4).

Q–33: What is a fully subsidized benefit?

A–33: A fully subsidized benefit is one under which no increase in cost, or decrease in benefits, to the participant may result from the participant's failure to elect another benefit. Thus, for example, if a plan provides a joint and survivor annuity and a lump sum option, the plan does not fully subsidize the joint and survivor annuity, even if the actuarial value of the joint and survivor annuity is greater than the amount of the lump sum payment, because the participant's benefit in the event of his early death would be less than the benefit that would have been received if the lump sum were elected.

Similarly, if a plan provides for a life annuity of $100 per month and a joint and 100% survivor benefit of $99 per month, the plan is not fully subsidizing the joint and survivor benefit. A QPSA would be fully subsidized if the participant's account is not reduced because of the QPSA coverage and if no charge to the participant is made for the coverage. Thus, the QPSA would be fully subsidized in a defined contribution plan because account balances are not reduced by the QPSA coverage and no charge is made against accounts for such coverage.

Par. 2. A new § 1.402(f)–1T is added after § 1.402(e)–1 to read as follows:

§ 1.402(f)–1T. Required explanation of rollovers, capital gains, and ten-year averaging tax treatment (Temporary).

(a) *General rules.* Section 402(f) requires plan administrators to give recipients of certain distributions a written explanation of the rules relating to the taxation of certain amounts as capital gains under section 402(a)(2), the separate tax on the ordinary income portion of lump-sum distributions under section 402(e), and the exclusion from gross income under section 402(a)(5) for amounts rolled over into eligible retirement plans. This notice must be provided to the recipient of any qualified total distribution or any partial distribution satisfying section 402(a)(5)(D)(i) that is made after December 31, 1984, not later than two weeks after the distribution is made.

(b) *Safe harbor notice.* The requirements of section 402(f)(1) may be satisfied by providing each recipient of a qualified total distribution or a partial distribution that satisfies the requirements of section 402(a)(5)(D)(i) a copy of the notice included in this paragraph. Additional information may be provided to distributees, except that such information may not be inconsistent with the following safe harbor notice:

Special Tax Rules

The Internal Revenue Code provides several complex rules relating to the taxation of the amounts you received in this distribution. This notice merely summarizes these rules. You should promptly consult a tax advisor in deciding what course to follow with respect to this distribution.

Rollovers

The Internal Revenue Code permits you to avoid current taxation on any portion of the taxable amount of an eligible distribution by rolling over that portion into another qualified employer retirement plan that accepts rollover contributions or into an individual retirement arrangement (IRA). A tax-free rollover is accomplished by transferring the amount you are rolling over to the new plan or IRA *not later than 60 days* after you receive the amount from this plan and notifying the trustee or issuer of the new plan or IRA that you are making a rollover contribution. If you receive a series of distributions within a single year that would be treated as a lump sum distribution, the 60-day period does not expire until 60 days after the day you receive the last distribution in the series.

Not all plan distributions are eligible to be rolled over. A distribution must be either a "qualified total distribution" or a "partial distribution" in order to be rolled over. In general, a qualified total distribution is either a lump sum distribution or a distribution because of a plan termination. A lump sum distribution is the payment of all remaining benefits under a plan because of death or other separation from service or after the employee reaches age 59½. A partial distribution is payment of 50 percent or more of plan benefits that is not of a series of periodic payments. A rollover of any portion of a partial distribution may disqualify a subsequent distribution from the same type of plan for capital gains treatment and 10-year averaging (described below). There are specific and technical qualifications and requirements set forth in section 402 of the Internal Revenue Code that must be satisfied in order for your plan distribution to be eligible to be rolled over.

Capital Gains Treatment and 10-Year Averaging

If your distribution qualifies under section 402(e) of the Internal Revenue Code as a lump sum distribution, and no part of your distribution is rolled over, you may be able to elect to have the part of the distribution attributable to your participation in the plan before 1974 (if any) taxed as a long term capital gain, and the remainder taxed as ordinary income or under special 10-year averaging rules that may reduce the amount of income tax you will be required to pay on account of this distribution. Alternatively, you may elect to have the entire amount of the distribution taxed as ordinary income or under the 10-year averaging rules. In addition, 10-year averaging may not be elected unless the employee participated in the plan making the distribution for any part of at least five years.

PART 602—[AMENDED]

Par. 2a. The authority citation for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 3. Section 602.101(c) is amended by inserting in the appropriate places in

the table, "§ 1.401(a)–11T . . . 1545–0928" and "§ 1.402(f)–1T . . . 1545–0928".

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impractical to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

James I. Owens,

Acting Commissioner of Internal Revenue.

Approved: July 3, 1985.

Ronald A. Pearlman,

Assistant Secretary of the Treasury.

[FR Doc. 85–17237 Filed 7–18–85; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

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

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

ACTION: Final rule.

SUMMARY: The Director, OSM is announcing the approval of a program amendment submitted by Alabama to modify its approved permanent regulatory program (hereinafter referred to as the Alabama program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment establishes requirements for operations extracting coal incidental to extraction of other minerals (Sub-chapter 880–X–2E).

On May 22, 1985, Alabama submitted an amendment to its program which consisted of an emergency rule to establish requirements for operations extracting coal incidental to extraction of other minerals. After providing opportunity for public comment and conducting a thorough review of the program amendments, the Director, OSM, has determined that the amendment meets the requirements of SMCRA and the Federal regulations. Accordingly, the Director is approving the program amendment. The Federal rules at 30 CFR Part 901 codifying decisions concerning the Alabama program are being amended to implement this action.

This final rule is being made effective immediately in order to expedite the State program amendment process and encourage States to conform their programs to the Federal standards without undue delay; consistency of the State and Federal standards is required by SMCRA.

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: John T. Davis, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209; Telephone: (205) 254–0890.

SUPPLEMENTARY INFORMATION:

I. Background

Information regarding the general background on the Alabama State program, including the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Alabama program can be found at 47 FR 22020–22058 (May 20, 1982) and 48 FR 34026 (July 27, 1983).

II. Proposed Amendment

On May 22, 1985, Alabama submitted a proposed amendment to its approved regulatory program to establish requirements for operations extracting coal incidental to extraction of other minerals (Sub-chapter 880–X–2E). These amended rules establish the responsibility of those persons intending to conduct operations under this exemption to apply for a determination of eligibility for the exemption prior to conducting such operations. The rules outline the informational requirements necessary for such applications and criteria to be used by the Alabama Surface Mining Commission (ASMC) to determine the eligiblity of the proposed operation for exemption and establish conditions and requirements for maintaining such eligibility during the conduct of such operations.

Section 9–16–99(d) of the Code of Alabama provides that the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅔ percent of tonnage of minerals removed for commercial sale or use are exempt from the provisions of Act 81–435 and authorizes the regulatory authority to establish regulations for such exemption. Under existing ASMC rules, the provisions of the Act were repeated along with establishment of record keeping requirements, but guidelines were not presented establishing the means, procedure and criteria for determining eligibility for the exemption.

On June 7, 1985, OSM announced receipt of the amendments and procedures for a public comment period and for a public hearing on the substantive adequacy of the proposed amendments (50 FR 23996). Since no timely requests for a public hearing were received, the public hearing scheduled for July 2, 1985, was not held. The comment period ended on July 8, 1985.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17, that the amendment submitted by Alabama on May 22, 1985, meets the requirements of SMCRA and the Federal regulations. The amended provisions are cited at the end of this notice in the amendatory language for § 901.15.

Sub-chapter 880–X–2E of the Alabama Surface Mining Commission (ASMC) rules establishes procedures for determining those surface coal mining and reclamation operations which are exempt from the Act and the ASMC rules, when the extraction of coal is incidental to extraction of other minerals. The rules require that persons who intend to extract coal incidental to extraction of other minerals shall apply for and obtain a written exemption prior to conducting operations.

The rules place the burden of establishing the qualification for the exemption upon the operator, who must show that the coal extraction is incidental to the extraction of other minerals and that it shall not exceed 16⅔ percent of the mineral tonnage removed for commercial sale or use. The rules establish specific requirements for applications for the exemption, criteria for approval of the exemption, and conditions of the exemption.

The Director finds that the Alabama amendment is no less stringent than the requirements of section 528 of SMCRA and no less effective than 30 CFR 700.11(a)(4), which provide for exemption from the requirements of SMCRA and 30 CFR Chapter VII where the extraction of coal is incidental to the extraction of other minerals and where coal does not exceed 16⅔ percent of the mineral tonnage removed for commercial use or sale.

IV. Public Comments

Two responses to the request for public comments were received on the proposed rulemaking. Both commenters requested that the public hearing be

held to answer questions. The requests for the public hearing were not received until July 8, which was six days after the date of the scheduled hearing. Since no request for the hearing had been received by June 24, 1985, the deadline for such requests, no public hearing was held. In any event questions would not necessarily be answered during a public hearing, which is held to provide an opportunity for the public to offer comments on proposed rules.

The commenters asked why the preamble of the rule implied that current operations extracting coal incidental to other extraction were ineligible for the exemption. The preamble does not necessarily make this implication. It states only that in certain instances coal extraction was initiated without a prior determination of eligibility by ASMC.

The commenters state that ASMC rule 880–X–2E–.02 requires that a person who intends to extract coal incidental to other mineral extraction must obtain a written determination of exemption and that the intent to extract coal incidentally cannot be determined before commencing operations. The commenters further stated that 880–X–2E–.04 also refers to the intentions of the operator, "which cannot be legally predetermined." The commenters also objected to the rule which places the burden of establishing certain proofs for the exemption on the operator. The commenters stated that the application criteria were too vague.

Under section 880–X–2E–.05, the commenters objected to the language which requires the operator to make certain showings "to the satisfaction of the SRA (state regulatory authority)." The commenters asked for more clear standards. The commenters said that the ASMC could prolong the application period until an operator is "driven out of business" because requirements are not explicit enough. The commenters said that the term of the exemption is not defined.

The commenters wanted to know how current their records have to be to satisfy the requirement in rule 880–X–2E–.06 that the operator make the records available on request. The commenters expressed concern that records of sales may be made public under this section and could thus put the company at a competitive disadvantage. The commenters asked whether ASMC had the right to close mines other than coal mines as provided in 880–X–2E–.06(6), and whether ASMC would be liable for losses suffered by the closed mines.

OSM notes the commenters' concerns but feels that the rules adopted by Alabama provide a thorough and fair method of determining which operations qualify for a "16⅔" exemption. Operators should be aware of coal deposits present in their proposed mining operations. Operators should have the burden of establishing their rights to an exemption from an Act and rules which regulate activities associated with coal extraction, since there is no argument that some coal is being extracted.

OSM does not agree that the application criteria are vague. The criteria include a topographic map showing coal deposits and a geologic report of minerals to be removed for commercial purposes, containing information relating to extent, depth, thickness, volume, quantity, quality and commercial value of the minerals.

The regulatory authority is required to act on the application within 30 days of receipt and is required to inform the applicant of deficiencies in the application within that time period. Thus, the applicant should know within 30 days of a second application, at the latest, whether he qualifies for the exemption. The term of the exemption as indicated by 880–X–2E–.05(4) is established in the exemption. The commenters' concerns about records and potential losses from closed mines should be directed to the State. Copies of the commenters' letters will be supplied to the State for consideration.

The Director, OSM, has found the State's amendment to be no less stringent than the Federal law and no less effective than the Federal rules.

V. Director's Decision

The Director, based on the findings above, is approving the May 22, 1985 amendment to the Alabama program. The Director is amending 30 CFR Part 901 to reflect the approval of the above State program modification.

VI. Additional Determinations

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

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSM is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory review by OMB.

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

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

List of Subjects in 30 CFR Part 901

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

Dated: July 15, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

PART 901—ALABAMA

30 CFR Part 901 is amended as follows:

1. The authority citation for Part 901 continues to read as follows:

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

2. 30 CFR 901.15 is amended by adding a new paragraph (f) to read as follows:

§ 901.15 Approval of regulatory program amendments.

* * * * *

(f) The following amendment is approved effective July 19, 1985. Regulations concerning exemptions for coal extraction incidental to the extraction of other minerals, contained in Alabama Surface Mining Commission rules at Sub-chapter 880–X–2E as submitted to OSM on May 22, 1985.

[FR Doc. 85–17244 Filed 7–18–85; 8:45 am]

BILLING CODE 4310–05–M

POSTAL SERVICE

39 CFR Part 3

Amendment to Bylaws of Board of Governors

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends the bylaws of the Board of Governors to add to the list of matters reserved for decision by the Board each research and development project costing more than

$5 million. The Board also provides that the expenditure of any funds in excess of amounts previously authorized must be specifically approved by the Board. The purpose of these changes is to improve control of research and development spending and overruns on capital investment projects.

EFFECTIVE DATE: July 10, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. David F. Harris, (202) 245–3734.

List of Subjects in 39 CFR Part 3

Administrative practice and procedure, Reporting and record keeping requirements.

For the reasons set out above, the Board amends title 39, Code of Federal Regulations, Part 3 as follows:

PART 3—BOARD OF GOVERNORS [ARTICLE III]

1. The authority citation for Part 3 is revised to read as set forth below and the authority citations following all the sections in Part 3 are removed.

Authority: 39 U.S.C. 202, 203, 205, 401(2), (10), 1003, 3013; 5 U.S.C. 552b (g), (j).

2. In § 3.4 revise paragraph (g) to read as follows:

§ 3.4 Matters reserved for decision by the Board.

* * * * *

(g) Approval of the Postal Service Five-Year Capital Investment Plans, including specific approval of each capital investment project, each new lease/rental agreement, and each research and development project exceeding $5 million total external costs. In the case of any project or agreement subject to the requirement of Board approval under this provision, the expenditure of any funds in excess of the amount previously authorized by the Board must be specifically approved by the Board. For the purpose of determining the cost of a capital investment project, lease rental agreement, or research and development project,

(1) All such projects and agreements undertaken as part of a unitary plan (either for contemporaneous or sequential development in one of several locations) shall be considered one project or agreement, and

(2) The cost of a lease/rental agreement shall be the present value of all lease payments over the term of the lease, including all periods covered by renewal options or all periods for which failure to renew imposes a penalty or a hardship such that renewal appears to be reasonably assured, plus the cost of any leasehold improvements planned in connection with the lease/rental agreement. The present value will be determined using the cost of capital of the Postal Service.

* * * * *

David F. Harris,

Secretary.

[FR Doc. 85–17243 Filed 7–18–85; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. 53 A-2-FRL-2867-1]

Approval and Promulgation of Implementation Plans; Revision to the State of New York Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces that the Environmental Protection Agency is approving a revision to the New York State Implementation Plan which concerns several revisions made by New York to its air pollution control regulations, Parts 201, 212, 223 and 224. These revisions involve the adoption of emission standards and monitoring requirements for existing sulfuric and nitric acid plants, minor corrections to existing provisions of these regulations and changes to make certain of their requirements internally consistent.

EFFECTIVE DATE: This action will be effective September 17, 1985 unless notice is received by August 19, 1985 that someone wishes to submit adverse or critical comments.

ADDRESSES: All comments should be addressed to Christopher J. Daggett, Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of the SIP revision are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch, Room 1005, 26 Federal Plaza, New York, New York 10278

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460

The Office of the Federal Register, 1100 L Street, N.W.—Room 8401, Washington, D.C. 20408

New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233

FOR FURTHER INFORMATION CONTACT William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Room 1005, 26 Federal Plaza, New York, New York 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION: On December 27, 1984 the State of New York sent to the Environmental Protection Agency (EPA) a request to revise its State Implementation Plant (SIP). The New York submission contained adopted revisions to State regulations currently contained in the SIP. These revisions to Title 6 of the New York Code of Rules and Regulations (6 NYCRR) affect the following Parts of the Code:

- Part 201—"Permits and Certificates," effective May 10, 1984,
- Part 212—"Processes and Exhaust and/or Ventilation Systems," effective May 10, 1984,
- Part 223—"Petroleum Refineries," effective August 9, 1984, and
- Part 224—"Sulfuric and Nitric Acid Plants," effective May 10, 1984.

These revisions and the results of EPA's review are summarized as follows:

Part 201—Permits and Certificates

Part 201 has been revised to exempt certain small stationary combustion sources and small gas turbines from State permit requirements. Maple syrup processes and certain food processes, which only emit carbon dioxide and water vapor, are also exempted. It should be noted that the regulation does not exempt food processes that emit substances other than carbon dioxide and water vapor. Such food processes must still comply with Part 201 permit requirements and any other applicable regulations. Open fires, small fecal incinerators, small dry cleaning facilities and petroleum liquid storage vessels that are not subject to Part 229 ("Petroleum Liquids, Storage and Transfer") or Part 230 ("Gasoline Dispensing Sites and Transport Vehicles") have also been exempted from State permit requirements.

Part 201 now requires that any source subject to State new source review or prevention of significant deterioration requirements also comply with Part 201 permit requirements.

In revising Part 201, the State inadvertently exempted some types of petroleum liquid storage tanks that are regulated by EPA's New Source Performance Standards (NSPS). This exemption will affect EPA's delegation

to the State of enforcement responsibility for Title 40 of the Code of Federal Regulations, Part 60 (40 CFR 60), Subparts K and Ka, but does not affect the ability of EPA to approve the revisions made to Part 201. Consequently, EPA is approving this revision.

Part 212—Processes and Exhaust and/or Ventilation Systems

Part 212 has been revised to exempt those sulfuric and nitric acid processes that are regulated by Part 224, "Sulfuric and Nitric Acid Plants." Any other process at a source of this type would still have to comply with Part 212 requirements. This revision serves to clarify the applicability of Parts 212 and 224 and EPA is approving it.

Part 223—Petroleum Refineries

Part 223 has been revised to correct typographical errors and make other non-substantive changes. EPA is approving this revision.

Part 224—Sulfuric and Nitric Acid Plants

Part 224 has been revised to add sulfuric acid mist limitations for existing sulfuric acid plants. Sulfuric acid mist is regulated by Section 224.2(b)(1) to 0.50 pounds per ton of sulfuric acid produced. By reference to Part 212 limitations, Part 224 has also been revised to regulate sulfur dioxide and nitrogen oxide emissions from existing sources. The visible emissions from sulfuric and nitric acid plants are now limited in Part 224 to an average 20 percent opacity for six minutes.

Part 224 has also been revised to require continuous emission monitoring (CEM) for sulfuric and nitric acid plants above a certain production capacity. Section 224.4(b) requires affected sources to install, calibrate, maintain and operate a CEM system. In addition, the source owner or operator must submit written reports, establish conversion factors to convert monitored data into units of the applicable emission standard, maintain records and make such records available for inspection. These requirements are consistent with EPA's monitoring provisions at 40 CFR 51.19(e) and Appendix P—Minimum Emission Monitoring Requirements.

It should be noted that earlier versions of Part 224 contained NSPS emission standards and CEM requirements. In this current revision, the State included additional details on the CEM requirements applicable to NSPS sources. These expanded CEM requirements are consistent with NSPS requirements.

Section 224.6(b) provides a general variance mechanism for non-NSPS affected sources. It allows for variances from the requirements of Part 224 if it can be demonstrated to the satisfaction of the Commissioner of NYSDEC that a particular source is unable to meet the required degree of control because of economic or technical reasons. EPA is approving this section, however, each variance issued by the State must be submitted to EPA for approval as a SIP revision.

The requirements for sulfuric and nitric acid plants in Part 224 are consistent with EPA policy and guidance and EPA is approving them.

Conclusion

EPA is approving the revisions made to Parts 201, 212, 223 and 224 as a part of the New York SIP. Part 224 has been found to satisfy EPA's CEM requirements for nitric and sulfuric acid plants.

This notice is issued as required by section 110 of the Clean Air Act, as amended. The Administrator's decision regarding the approval of this plan revision is based on its meeting the requirements of section 110 of the Clean Air Act and 40 CFR Part 51.

EPA is approving this SIP revision request without prior proposal because it is viewed as noncontroversial and no adverse comments are anticipated. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and the other will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

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

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days of today. This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2).).

List of Subjects in 40 CFR Part 52

Air Pollution Control Agency, Sulfur oxides, Ozone, Nitrogen dioxide, Particulate matter, Incorporation by Reference.

Note.—Incorporation by Reference of the State Implementation Plan of New York was approved by the Director of the Federal Register on July 1, 1982.

Dated: July 11, 1985.

Lee M. Thomas,

Administrator, Environmental Protection Agency.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Chapter I, Subchapter C, Part 52, Code of Federal Regulations is amended as follows:

Subpart HH—New York

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1670 paragraph (c) is amended by adding new paragraph (c)(74) as follows:

§ 52.1670 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(74) Regulatory information submitted by New York State Department of Environmental Conservation for controlling various pollutants and establishing continuous emission monitoring requirements for sulfuric and nitric acid plants, dated December 27, 1984, providing adopted revisions to regulations Parts 201, 212, 223 and 224.

3. Section 52.1679 is amended by revising the entries for Parts 201, 212, 223, and 224 to the Table in numerical order as follows:

§ 52.1679 EPA-approved New York State regulations.

New York State regulation	State effective date	Latest EPA approval date	Comments
* *	*	* *	* *
Part 201, Permits and Certificates	5/10/84	[Date & Citation of this notice]	
* *	*	* *	* *
Part 212, Processes & Exhaust and/or Ventilation Systems.	5/10/84	[Date & Citation of this notice]	

New York State regulation	State effective date	Latest EPA approval date	Comments
* * *	*	* * *	*
Part 223, Petroleum Refineries	8/9/84	[Date & Citation of this notice]	
Part 224, Sulfuric and Nitric Acid Plants.	5/10/84	do	Variances adopted by the State pursuant to Part 224.6(b) become applicable only if approved by EPA as SIP revisions [Citation & date of this notice].
* * *	*	* * *	*

[FR Doc. 85-17080 Filed 7-18-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-4-FRL-2867-2; TN-024]

Approval and Promulgation of Implementation Plans; Tennessee, Approval of Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today approving two State Implementation Plan (SIP) revisions submitted by the State of Tennessee. These changes in the regulatory part of the Tennessee plan involve Chapter 1200-3-5 (Visible Emissions for Wood-Fired Fuel Burning Equipment) of the rules of the Tennessee Department of Public Health, Division of Air Pollution Control.

DATES: This action will be effective on September 17, 1985, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to Ray Gregory of EPA Region IV's Air Management Branch at 345 Courtland Street, N.E., Atlanta, GA, 30365. Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C.

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Division of Air Pollution Control, Tennessee Department of Health and Environment, 150 9th Avenue North, Nashville, Tennessee 37203.

FOR FURTHER INFORMATION CONTACT: Mr. Ray Gregory, EPA Region IV, Air Management Branch, at the above address, telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: On October 17, 1984, Tennessee submitted a revision to rule 1200-3-5-.07, Visible Emission, Certain Wood Fired Fuel Burning Equipment. On January 18, 1985, Tennessee submitted a revision to rule 1200-3-5-.06, Visible Emissions, Wood-Fired Fuel Burning Equipment. These revisions, discussed below, were adopted by the Tennessee Air Pollution Control Board and became State-effective on July 29, 1984, and January 19, 1985, respectively. Source coverage is greatly expanded by these revisions, and the compliance method is changed to a more universally accepted one. Since no relaxation of emission limits is involved, a control strategy to demonstrate compliance with the National Ambient Air Quality Standard and Prevention of Significant Deterioration increments is unnecessary.

1200-3-5-.06, Visible Emissions, Wood-Fired Fuel Burning Equipment

Tennessee has changed 1200-3-5-.06 to expand its coverage of size categories of wood-fired fuel burning equipment in certain counties in the State. Also, the method by which compliance with the visible emission limitations is determined is being changed from the aggregate method to a six-minute averaging method.

The present 1200-3-5-.06 limits wood-fired fuel burning equipment of greater than 100 million BTU per hour (MBTU/hr) heat input in all counties except Davidson, Hamilton, Knox, and Shelby to an opacity of 40%. With the revision approved in this notice, 1200-3-5-.06 will now apply to wood-fired fuel burning equipment of size categories from zero (0) to over 100 MBTU/hr heat input in certain counties. Opacity limits for sources newly covered will be either 20% or 40% (see below). Also, compliance with the opacity standards contained in this rule will now be determined using the six-minute averaging technique (average of all the readings taken in six minutes) rather than the aggregate technique (specified number of violations per specified time, i.e., only 20 readings in violation per hour).

For purposes of illustration in this notice, wood-fired burning equipment in Tennessee has been categorized, by date commenced and size, as follows:

Categorization of Wood-Fired Fuel Burning Equipment in Tennessee

I. Commenced before March 1, 1978
- A. Up to and including 50 MBTU/hr heat input
- B. Between 50 M and 100 MBTU/hr heat input
- C. Greater than or equal to 100 MBTU/hr heat input

II. Commenced on or after March 1, 1978
- A. Up to and including 25 MBTU/hr heat input
- B. Between 25 M and 100 MBTU/hr heat input
- C. Greater than or equal to 100 MBTU/hr heat input

The new requirements of 1200-3-5-.06 are now summarized.

- Category IC and IIC equipment in all counties except Davidson, Hamilton, Knox, and Shelby shall not exceed an opacity of 40% except for four six-minute periods per day not to exceed one six-minute period hour.
- Category IA and IB equipment in Madison, Bedford, Hamilton, and Coffee counties shall not exceed an opacity of 20% except for one six-minute period per hour.
- Category IA and IB equipment in Bradley, Claiborne, Cocke, Cumberland, Dickson, Fentress, Franklin, Gibson, Giles, Grainer, Greene, Henry, Jefferson, Lawrence, Loudon, Macon, Marion, Marshal, McMinn, Montgomery, Polk, Putman, Rhea, Rutherford, Scott, Sevier, Summer, Warren, Wayne, Weakley, White, Williamson, and Wilson counties shall not exceed an opacity of 40% except for one six-minute period per hour.
- Category IIA and IIB equipment in all counties except Davison, Hamilton, Knox, and Shelby shall not exceed an opacity of 20% except for one six-minute period per hour.

1200-3-5-.07, Visible Emissions, Certain Wood-Fired Fuel Burning Equipment

Tennessee has moved 1200-3-5-.07 and made it a part of 1200-3-5-.06, as 1200-3-5-.06-(3). Also, the State has

changed the technique by which compliance with the 40% opacity limit will be determined from an aggregate method to the six-minute averaging method.

Final Action

EPA has reviewed these changes in the regulatory part of the Tennessee SIP and is approving them as submitted. This action is taken without prior proposal because the changes are noncontroversial and EPA anticipates no comments on them. The public should be advised that his action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rule-making by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

Under 5 U.S.C. Section 605(b), I certify that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

Incorporation by reference of the Tennessee State Implementation Plan was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Particulate matter, Incorporation by reference.

Dated: July 11, 1985.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart RR—Tennesse

2. Section 52.2220 is amended by adding paragraph (c)(65) as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified. * * *

(65) Changes in visible emission limitations for wood-fired fuel burning equipment (changes in regulations 1200–3–5–.06 and 1200–3–5–.07), submitted on October 17, 1984, and January 18, 1985, by the Tennessee Department of Health and Environment. Coverage of wood-fired equipment was expanded to include units of 0 to 100 million BTU per hour heat input in certain counties; the compliance determining technique was changed from the aggregate method to the six-minute average.

[FR Doc. 85–17205 Filed 7–18–85; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 86

[AMS–FRL–2861–1]

Particulate Regulations for Heavy-Duty Diesel Engines Information Collection Requirements; OMB Approval

AGENCY: Environmental Protection Agency.

ACTION: Information collection requirements; OMB aproval.

SUMMARY: In the preamble to the regulations published at 50 FR 10606 on March 15, 1985, on page 10646 EPA noted that a portion of the information collection requirements relating to heavy-duty diesel particulate standards were under review at the Office of Management and Budget (OMB). In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, those provisions are not effective until OMB approval has been obtained. The Agency is announcing today the approval of these information collection requirements by OMB for §§ 86.088–23 and 86.091–23 under OMB Control Number 2060–0104.

EFFECTIVE DATE: June 13, 1985.

FOR FURTHER INFORMATION CONTACT: Gregory J. Dana, Office of Mobile Sources, Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, (202) 382–7647.

Dated: July 10, 1985.

Lee M. Thomas,

Administrator.

[FR Doc. 85–17204 Filed 7–18–85; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 68

[CC Docket No. 81–216; RM–2845, et al; FCC 85–347]

Connection of Telephone Equipment, Systems and Protective Apparatus to the Telephone Network; Standards for Inclusion of One and Two-Line Business and Residential Premises Wiring and Party Line Service in Part 68 of the Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this action the Commission rules on three petitions for reconsideration of various aspects of a previous order expanding the Part 68 registration program to allow subscribers to install their own business and residential one and two-line ("simple" or "non-system") wiring located on their premises. The Commission: (1) Denies the North American Telecommunications Association's request to amend the network demarcation point definition as it applies to multi-unit dwellings; (2) grants the alternative relief sought by National Burglar and Fire Alarm Association clarifying the right of states to permit non-telephone company entities limited access to the telephone company protector; and (3) grants U.S. West's request to amend the Part 68 rules to permit telephone companies flexibility in the ringback testing methods they make available to the public for testing subscriber wiring installations.

EFFECTIVE DATE: August 19, 1985.

FOR FURTHER INFORMATION CONTACT: Anne M. Siegel, Esq., Domestic Services Branch, Common Carrier Bureau, (202) 634–1831.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 68

Communications common carriers, Communications equipment, Telephone.

Memorandum Opinion and Order

In the matters of petitions seeking Amendment of Part 68 of the Commission's rules concerning connection of telephone equipment, systems and protective apparatus to the telephone network and notice of inquiry into standards for inclusion of one and two-line business and residential premises wiring and party line service in Part 68 of the Commission's rules. CC Docket No. 81–216, RM–2845, RM–2930, RM–3195, RM–3206, RM–3227, RM–3283, RM–3316, RM–3329, RM–3548, RM–3501, RM–3526, RM–3530, RM–4054.

Adopted July 5, 1985.
Released July 12, 1985.
By the Commission:

I. Introduction

1. Before the Commission are three petitions seeking reconsideration of various aspects of the Commission's *First Report and Order ("Order")* in CC Docket No. 81-216, FCC 84-182, released May 18, 1984, 49 FR 21719 (May 23, 1984), adopting final rules amending Part 68. Those rules went into effect on August 21, 1984.[1] The Commission's Part 68 program provides the technical and procedural standards under which telephone equipment, systems and protective apparatus may be directly connected to the nationwide telephone network without causing harm. The rules adopted in the *Order* expand Part 68 to allow subscribers to install one and two-line (non-system) business and residential customer-owned premises wiring (COPW).[2]

2. The focus of the *Order* was to extend the registration program to one- and two-line customer-owned premises wiring; no party seeks reconsideration of this aspect of the Commission's decision, though the North American Telecommunications Association ("NATA") requests that the demarcation point definition adopted in the *Order* be amended to ensure that in multi-unit buildings the demarcation point will be located on, or a reasonable distance within, the premises of each individual subscriber. The National Burglar and Fire Alarm Association's ("National Alarm") petition for reconsideration requests that the Commission amend the rules to permit, or in the alternative to authorize states to permit, qualified alarm company personnel to install demarcation jacks directly to telephone company protectors. The Mountain States Telephone and Telegraph Company, Northwestern Bell Telephone Company and Pacific Northwest Bell Telephone Company ("U.S. West") also filed a petition for partial reconsideration in which they ask the Commission to modify the *Order's* requirement that telephone companies make "ringback" facilities available to the general public for purposes of testing COPW installations.[3] For the reasons discussed below, the Commission denies NATA's petition, grants the alternative relief requested by National Alarm, and grants the U.S. West petition.

II. The Demarcation Point Definition

3. *Background.* In order to implement its program to permit customer installation of simple COPW, the *Order* adopted a definition of "demarcation point" in § 68.3(h). This definition generally identifies the point where telephone company facilities end and COPW begins:

> *Network Interface or Demarcation Point:* The point of interconnection between telephone company communications facilities and terminal equipment, protective apparatus or wiring at a subscriber's premises. The network interface or demarcation point shall be located on the subscriber's side of the telephone company's protector, or the equivalent thereof in cases where a protector is not employed, as provided under the local telephone company's reasonable and nondiscriminatory standard operating practices.

A new § 68.213(b) was also added to the rules, providing, in part, that non-system premises wiring:

> [M]ay be used to connect units of terminal equipment or protective circuitry to one another and to the network interface (or demarcation point). . . . Subsequent relocation of a demarcation point may be arranged, either at the subscriber's request or on the serving telephone company's initiative, but the serving telephone company shall not discriminate in its treatment of demarcation point location, or relocation. . . .

The demarcation point definition recognized that nearly all telephone companies utilize protectors, generally located at or near the telephone cable's point of entry into the subscriber's premises, as a means to safeguard the subscriber's premises and telephone network from atmospheric or other electrical discharges through outside telephone plant. The demarcation point definition is also intended to provide a legal boundary definition between the telephone company network and COPW for all types of wiring (including multiline wiring), and to apply to all building types (including multi-unit business and residential premises), to embedded as well as new wiring, and to apply for all regulatory purposes, *i.e.*, those relating to accounting as well as COPW installation.

4. While it establishes the basic principles for locating the network-subscriber interface, the demarcation point definition is also designed to accommodate local telephone company practices, building types and environmental factors that may be encountered nationwide. Under our demarcation point definition, which requires only that the demarcation point be somewhere on the subscriber's side of the protector, the network-subscriber interface point will typically be located between the protector and the first jack on the customer's premises. *Order*, para. 33. It need not be located adjacent or in close proximity to the protector, although that will commonly be the case. Apart from the requirement in §§ 68.3(h) and 68.213(b) that telephone company operating practices not be unreasonable or discriminatory, the location, or relocation, of the demarcation point is left to the parties involved, *i.e.*, the subscriber and telephone company, subject to any applicable state requirements. In the case of multi-unit dwellings, the Commission declined to require that the demarcation point be located inside each individual unit.[4] The Commission

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1 MCI Telecommunications Corporation filed a request that the Commission stay the effective date of certain of these amendments pending decision on the petition for reconsideration filed by National Burglar and Fire Alarm Association. That motion for stay was denied. FCC 84-546, released November 20, 1984. *See infra* note 35.

2 COPW, which includes all wiring on the customer's premises that is owned by the customer, may be either complex, system (multiline) wiring, or simple, non-system (one and two-line) wiring. Part 68 has permitted customer provision of system wiring since 1978, subject to the condition that multiline premises wiring—typically the telephone wiring associated with private branch exchange (PBX) and key telephone systems—be performed under the supervision of persons with specified experience and qualifications. *See* 47 CFR 68.215. The Commission has detariffed the provision of new system wiring installed as part of a detariffed CPE system after May 2, 1984, although the maintenance of embedded system wiring is provided pursuant to tariff, unless otherwise provided by the states. Modification to the Uniform System of Accounts, CC Docket No. 82-681, paras. 56-61, FCC 83-457 (released Nov. 2, 1983), 48 FR 50534 (1983). The installation of new and maintenance of embedded non-system wiring may still be provided by the telephone company on a regulated basis. In a Further Notice of Proposed Rulemaking in CC Docket No. 79-105, released April 5, 1985, the Commission has, among other things, proposed to detariff the installation of simple inside wiring and to detariff the maintenance of all simple and complex wiring. FCC 85-148.

3 Comments in response to the three petitions were variously filed by U.S. West; the Bell Telephone Company of Pennsylvania, the Chesapeake and Potomac Telephone Companies, The Diamond State Telephone Company, Illinois Bell, Indiana Bell, Michigan Bell, Nevada Bell, New England Telephone and Telegraph, New Jersey Bell, New York Telephone, The Ohio Bell, Pacific Bell, South Central Bell, Southern Bell, Southwestern Bell and Wisconsin Bell Companies (Bell Companies); GTE Service Corporation (GTE); Southern New England Telephone Company (SNET); AT&T Technologies, Inc. (AT&T-TI); and The Independent Data Manufacturers Association, Inc. (IDCMA). Reply comments were filed by NATA, National Alarm, SNET and MCI Telecommunications (MCI).

4 Multi-unit buildings present distinct definitional problems because there is generally a network of house riser and floor distribution cables interposed between the building protector, generally located in a basement equipment room, and the individual subscribers'/tenants' premises. House risers are the vertical cables which run from the outside plant terminal up through various floors of the building. Floor distribution cables are the horizontal cables which run from the distribution box or closet on each floor to the individual units. These house risers and floor distribution cables are also known as house or building cables. *See also infra* note 13.

Continued

did not feel that the potential difficulties associated with multi-unit dwellings warranted a departure from its definition; it therefore adhered to its flexible approach to allow the demarcation point in such dwellings to be located either near the common building protector or inside each individual unit, as agreed to by the building owner and telephone company, and in accordance with the telephone company's reasonable and non-discriminatory standard operating procedures. Para. 13. The *Order* also made clear that local or federal regulatory authority could be invoked to redress any network access problems arising in multi-unit buildings, and expressed the Commission's willingness to revisit the matter if experience proved its flexible demarcation point definition to be unworkable. Paras. 14 and 24.

5. *The Petition and Comments.* NATA's petition for partial reconsideration asks the Commission to modify its definition of demarcation point, insofar as that definition applies to multiline or system premises wiring, to require that the demarcation point on the subscriber's side of the network interface be located on the customer's premises, or within a reasonable distance thereof rather than at a common location in the basement. NATA is concerned that tenants in multi-unit buildings will not otherwise be afforded full and equitable access to the network. In support of its position, NATA points to what it regards as the inconsistency between the current demarcation point definition and the "cost-causation" rationale of earlier Commission proceedings.[5] NATA Petition at 2. NATA claims that there is a significant amount of cabling on the subscriber's side of the protector block that represents "network distribution plant" which should be capitalized and regulated.[6] NATA Petition at 3. NATA believes that, as applied to multi-tenant or multiline single tenant buildings, the Commission's demarcation point definition imposes on individual ratepayers costs that should be capitalized and borne by the general class of present and future ratepayers.[7] NATA also requests that the Commission distinguish between new and embedded inside wire, and apply its demarcation point definition only on a phased-in basis as new wire is installed. NATA's concern with respect to embedded wire seems to be that under our demarcation point definition the ownership and maintenance of the riser and floor cable between the protector block and the various premises in multi-unit buildings could be stranded by the telephone companies. NATA also asks the Commission to clarify that the demarcation point concept applies to wiring used to provide Centrex-CO service[8] as well as wiring used in conjunction with PBX or key system devices. NATA Petition at 10; Reply Comments at 10.[9] Finally, NATA claims the Commission's flexible approach to demarcation point location is both unwise, because of the time-consuming nature of the regulatory complaint processes, and illegal because it is an abdication of authority.

6. Of the parties commenting on this issue, only IDCMA supports NATA's position, though with minor modifications. IDCMA Comments at 6. IDCMA notes that although our demarcation point definition does not prohibit location of the demarcation point in the individual premises of each tenant in a multi-unit building, neither does the definition *ensure* that it will be so located. In instances where the demarcation point is located in a place out of the individual users' control, it contends network access may be restricted. IDCMA believes the demarcation point definition adopted confers unacceptably broad discretion on telephone companies, and urges the Commission to require a demarcation point within the premises of individual telephone subscribers, whether in single- or multi-unit business or residential buildings. Finally, in any situation where non-carrier entities such as landlords own or control bottleneck facilities crucial for individual network access, e.g. the riser and distribution cables, IDCMA seeks to impose on them the same obligations as imposed upon carriers to provide reasonable and nondiscriminatory interconnection for CPE at a location within the customer's control.

7. GTE, U.S. West and the Bell Companies oppose the NATA petition. They support application of the demarcation point definition to all premises wiring including embedded and new wiring, as well as to all building types. They view the flexibility incorporated in the demaraction point definition as a necessary and desirable method to deal with the variety of building types and operational and environmental conditions which must be accommodated in locating a demarcation point. They also generally regard the Commission's non-discrimination requirement and provision for state and federal regulatory oversight to be adequate safeguards against subscriber network isolation in multi-unit buildings.[10] In GTE's view, NATA's fears about subscriber network isolation are unwarranted: In old buildings network access is assured because the house and riser cables running to each unit are already in place, and in new buildings, where the demarcation point may not be near the subscriber's premises, access will be assured without direct tenant involvement in this wiring because the building owner will include the wiring connecting each unit to the network in his construction plans. U.S. West and the Bell Companies further argue that NATA's concerns regarding multi-unit dwellings have already been considered by the Commission. They claim that no new arguments warranting modification of the current flexible approach have been offered. The Bell Companies also dispute NATA's assertion that there is an inconsistency between the demarcation point definition and earlier Commission accounting decisions where an interim demarcation point concept was utilized pending completion of the instant docket. And, NATA's proposal to distinguish between new and

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regarding the accounting treatment accorded house cable.

[5] NATA cites "Accounting for Station Connections", First Report and Order, CC Docket No. 79-105, 85 F.C.C.2d 818 (1981), and Deregulation of Customer Premises Inside Wiring, Further Notice of Inquiry CC Docket No. 79-105, 86 F.C.C.2d 685 (1981).

[6] *Id.*

[7] NATA cites the dilemma of a 25th floor tenant who, denied access to building cable by the landlord, will be forced to pay the cost of running building cable from the demarcation point in the building basement to his or her premises. NATA argues that this is unfair because this tenant must pay for building cable that will be available to serve successive generations of subscribers in that 25th floor unit, and the expense to the subscriber of installing such cable would be so prohibitive as to effectively preclude subscriber choice of CPE, undermining the Commission's deregulatory and procompetitive goals.

[8] Centrex-CO refers to a tariffed telephone service in which calls among a customer's internal telephone stations (intercom calls), as well as calls between the customer's stations and the rest of the world, are switched at the central office of the local exchange telephone company. Each main station in a Centrex-based system is connected by a separate loop to the central office switch providing the service. By contrast, in a PBX system the lines from each station terminate on the customer's premises in the PBX switch, which is in turn connected to the central office by a smaller number of loops than the station terminations involved.

[9] *See infra* note 18.

[10] On the Centrex CO issue, U.S. West asserts that the relief sought by NATA is already provided for by § 68.213(b) and by the Order's non-discrimination rules which would prevent the telephone company from installing customer premises riser cable for Centrex-CO customers on a more favorable basis than for other customers. U.S. West Opposition at 6; *See* Bell Companies' Opposition and Comments at 10.

embedded wiring would, in the view of these companies, introduce a lack of uniformity undermining the Commission's concept of a universally applicable demarcation point definition.[11]

8. *Discussion.* We deny NATA's petition for reconsideration of the demaraction point definition. As U.S. West and the Bell Companies correctly indicate, the arguments presented in NATA's petition concerning demarcation point location were previously raised in response to our *Second Notice of Proposed Rulemaking and Order* 92 F.C.C.2d 1 (1982). NATA has presented nothing in its reconsideration request that justifies altering the conclusions or result reached in the *Order.*[12] Nevertheless, we believe responding to some of the points made in the NATA petition is necessary to clarify certain confusion regarding the demarcation point definition and its relationship to other Commission decisions concerning inside wiring.

9. NATA's claims that the *Order's* demarcation point definition is inconsistent with the cost-causation rationale of earlier Commission decisions, and that the demarcation point decision improperly charges a single ratepayer for what is actually network plant misperceive the meaning and operation of the demarcation point concept. *In Accounting for Station Connections,* the Commission determined that in order to more fully place the burden of costs associated with station connections.[13] on the causative ratepayer, as opposed to all present and future ratepayers, the "inside wiring" portion of station connection costs should be expensed rather than capitalized, while the "other" drop and block station connection costs would continue to be capitalized.[14] This bifurcated accounting treatment was based on the differences in the physical and investment characteristics of inside wiring and drop and block wiring. For instance, the Commission found that while inside wiring is subject to frequent change and reconfiguration due to the constant churning, or movement, of station apparatus by subscribers, the drop and block portion of station connections is rarely so affected. *Accounting for Station Connections,* paras. 22–25. The Commission deferred precise identification of a demarcation point to distinguish between the capitalized and expensed components of telephone company station connection investment,[15] indicating that industry's generally accepted understanding of demarcation point location would suffice in the interim.

10. In *Accounting for Station Connections* the Commission was applying the concepts of "cost-causation", "expensing", "capitalizing" and "churning" to situations where there was telephone company plant on both sides of the demarcation point. In this environment the Commission implemented its cost-causation policy by modifying the accounting rules governing telephone company cost recovery. Recognizing the limits of accounting changes to effectuate its goal of placing all inside wiring costs on the cost-causative customer,[16] the Commission issued a *Further Notice of Inquiry* in CC Docket No. 79–105, 85 F.C.C. 2d 885 (1981), proposing to deregulate the customer premises portion of station connections altogether. This led to the detariffing in CC Docket No. 82–681 [17] of new complex wiring installed for use with detariffed CPE systems.[18] And, as a result of the *Order* here under review, subscribers can also now provide their own simple inside wiring. In instances where a premises owner provides his own simple or complex inside wiring, the demarcation point serves as the commonly referenced, *i.e.,* institutional, boundary between telephone company-provided and owned plant and facilities which are subject to the Commission's accounting rules, and customer-owned wiring and equipment which are not. Simple or complex premises wiring in single or multi-unit structures extending from the customer's side of the demarcation point and installed by the premises or building owner belongs to the customer, not the telephone company, in which case the Commission's accounting rules and concepts are inapposite, and NATA's attempts to apply these accounting

[11] In its reply comments, NATA claims that: (1) The commenting parties have failed to address the argument that the Order is inconsistent with earlier Commission accounting decisions; (2) the BOCs are inconsistent in calling for flexibility for state regulators and telephone companies on the demarcation point issue and then expressing fear of such flexibility with respect to access to the protector, *see* discussion *infra* paras. 17–19; and (3) the danger of subscriber isolation is actual and not merely speculative, contrary to the views of the commenters.

[12] While NATA may view the Commission's demarcation point approach issue as "unwise", *supra* para. 5, NATA is incorrect in concluding that it is also "illegal." It is well established that the Commission has wide discretion in fashioning the particular rules and policies to effectuate its goals and fulfill its broad statutory mandate to foster a "rapid, efficient communications system." Our decision to allow telephone companies and their customers a degree of choice and flexibility in demarcation point location, subject to the non-discrimination constraints of the Act, our rules and federal and local regulatory oversight, is an exercise of, not an abdication of, our authority.

[13] *See supra* note 5. "Station connections", recorded in Account 232, originally consisted of the cost of inside wiring and cabling and the cost of installing or connecting items of station apparatus, including the drop and block wires and the protector. "Accounting for Station Connections" required subject carriers to separate their investment in station connections into two subclasses: "Station connections-inside wiring" and "station connections-other." The "inside wiring" component is the customer premises portion of station connections and refers to telephone plant, including labor and material costs, located on the customer's side of the protector. The "other" portion consisted of the drop and block (aerial or underground) wiring costs up to and including the protector. In the Report and Order in CC Docket No. 82–679, FCC 83–456, 48 FR 49843 (Oct. 28, 1983), the existing drop and block investment was transferred from Account 232, subclass "Station Connections-Other" to Account 242:1, "Aerial Cable", and Account 242:3, "Buried Cable", as appropriate, so that Account 232 now includes only "Station Connections-inside wiring". The house cable, which runs from the outside plant terminal up through the various floors of a building and is located on the telephone company's side of the demarcation point, is included in account 242:1. *See* Report and Order in CC Docket No. 82–681, 48 FR 50534 (1983), para. 57.

[14] "Accounting for Station Connections" required that effective October 1, 1981 future carrier inside wiring costs be expensed either on a phased-in basis over a four year period with 100% expensing of these costs effective October 1, 1984, or a flash-cut (expensing immediately) basis pursuant to a state-approved plan, and that their embedded investment in inside wiring as of October 1, 1981 was to be amortized over a ten-year period resulting in full cost recovery by October 1, 1991. The Commission's Further Notice of Proposed Rulemaking in CC Docket No. 79–105, *supra* note 2, proposes that the telephone companies relinquish all claims of ownership of the inside wiring when their inside wiring costs have been fully amortized.

[15] Also, in Report and Order in CC Docket No. 82–681, 48 FR 50534 (1983), the Commission ruled that carrier costs for installing network terminating wire (that wire which runs from the house cable terminal to the demarcation point) for large PBXs should be expensed rather than continue to be capitalized because network terminating wiring more closely resembled the inside wire expensed in "Accounting for Station Connections" than the drop wire which was there required to be capitalized.

[16] While the expensing of inside wiring could ensure that future ratepayers would not pay for certain station connection expenditures which were incurred in earlier time periods, it could not insure that the particular customer occasioning an inside wiring expenditure in a particular time period separately and completely paid for those costs.

[17] *See supra* note 2.

[18] The intrasystem concept for new detariffed PBX's and key systems established by the Commission in CC Docket No. 82–681, consists of common control equipment (switchboards), station equipment (telephones or key systems) and intrasystem wiring. Intrasystem wiring would consist of all cable or wiring and associated components located on the customer's side of the demarcation point when this wiring is inside a building, or between a customer's buildings located on the same or contiguous property not separated by a public thoroughfare, which connect station components to one another or to common equipment.

principles to non-telephone company wiring are misplaced.

11. Contrary to NATA's claim that subscriber provision of house or building cables in multi-unit buildings undermines the Commission's deregulatory and pro-competitive goals, the opportunity afforded building owners to provide such wiring, which was previously the sole province of telephone companies, furthers the Commission's interest in promoting competition and multiple suppliers wherever technological and economic conditions permit. Furthermore, by removing control over this customer premises wiring from the telephone company, subscriber choice of CPE in multi-unit as well as single unit dwellings will be enhanced rather than frustrated.[19]

12. We also decline to adopt NATA's request that the demarcation point definition not apply to embedded inside wire.[20] Under the *Order*, the demarcation point in multi-unit structures with embedded wiring need not necessarily end at the protector block, despite NATA's claims. NATA Petition at 7–8.[21] Furthermore, even in those cases where the demarcation point associated with embedded wiring is located in or has been relocated to the basement protector block, the embedded telephone-company installed riser and floor cable located on the customer's side of the protector will not be stranded, as NATA suggests would happen. Location or relocation of the demarcation point to, for instance, enhance customer access to telephone company provided house cable, as requested by the ICA petition, will not necessarily affect the ownership or maintenance of this embedded wiring. In the absence of state or federal action transferring or authorizing the transfer of ownership or the sale of telephone company provided wiring, or detariffing or transferring the responsibility for wiring maintenance,[22] the telephone company will continue to own this embedded wiring, and, pursuant to state tariff requirements, be obligated to repair and maintain such wiring, regardless of the location of the demarcation point. What the demarcation point will do, however, is identify that point on the customer's premises from which that customer may provide his own new wiring. This new wiring will be COPW, owned by the customer and maintained by him or his vendor of choice. For embedded complex and simple wiring, as well as new simple wiring provided by the telephone company under tariff, the demarcation point serves as a dividing line between the telephone plant on one side that is to be capitalized and telephone company plant on the other side that is to be expensed.

13. In conclusion, we adhere to the principle that a single definition of demarcation point will obtain in all instances, and decline to modify that definition in any way, or to distinguish between new and embedded wiring. While our definition establishes general principles for demarcation point location, it is broad enough so that its universal application need not necessarily result in uniformity in demarcation point placement in all buildings or locations. We believe that this flexibility is both necessary and desirable in order to accommodate the variety of conditions and circumstances that exist. As regards the Centrex-CO issue newly raised by NATA, we note that the rules adopted in the *Order* apply to all premises wiring regardless of the function or service with which that wiring is associated. The demarcation point principles established do, therefore, apply to simple or complex premises wiring used to provide Centrex-CO service just as they apply to such wiring used to provide other subscriber services. Furthermore, we are confident that individual subscribers in multi-unit buildings will have access to the network without having to provide their own building house and riser cables. In existing buildings that cabling is already in place. This cable will be included in new construction pursuant to arrangements made by the building owner with the telephone company or other electrical contractor and provided to tenants, presumably at a market-clearing price; building owners have an incentive to equip their buildings with a range of affordable and accessible telecommunications services to make their leases competitive with those available in area buildings. The Commission also rejects as unfounded NATA's allegations that reliance on state and federal regulatory oversight to deal with problems of network isolation, should they arise, is inappropriate or inadequate.[23] For all the reasons discussed above, we affirm the demarcation point definition adopted in the *Order*, and deny NATA's petition for reconsideration.

III. Access to the Protector

14. *Background.* Consistent with our intent to bifurcate wiring responsibility at a demarcation point located on the subscriber's side of the protector and to prevent potential damage to the protector and network, we concluded in our *Order* that the wiring and grounding at the demarcation point protector should remain the responsibility of the telephone company. This determination was incorporated in § 68.213(b) of the rules, which states:

> Responsibility for the protector (and its associated grounding) on the network side of the demarcation point rests with the telephone company, though the subscriber is responsible for consequences resulting from erroneous wiring procedures conducted under his or her direction.

By virtue of this section and § 68.104 of the rules, which requires that all connections to the network be made through connectorized standard plug and jack arrangements (or other means, not here pertinent, specified in tariffs or

[19] The telephone company has greater incentive and opportunity to use its control over the customer premises wiring it provides to influence the individual subscriber's choice of CPE in favor of a single supplier, *i.e.*, its unregulated equipment affiliate, than does the owner of a multi-unit building who is providing only the cabling from a basement demarcation point to each unit, and who, to make the building attractive to potential lessees, has an incentive to facilitate effective communications by lessees.

[20] The Commission now has before it a petition filed by the International Communications Association (ICA) seeking a declaratory ruling to clarify users' rights of access to complex embedded intrasystem wiring (including house and riser cable) used with customer-provided CPE. That petition was put on notice for public comment and is currently under consideration.

[21] NATA misapprehends that the Commission's flexible approach to this issue permits, but does not require, that the demarcation point with respect to both new and embedded wiring in a multi-unit building be located at, or relocated to, a single point near the protector. Furthermore, we reject IDCMA's request that we modify the demarcation point definition to eliminate the discretion entrusted to the parties and to require, rather than merely permit, that the network interface be located at each individual premises in such a building. There have been no new arguments or evidence presented to warrant such a departure from our flexible approach to demarcation point location.

[22] In Accounting for Station Connections, the Commission permitted, but did not require, the states to provide for the sale of in-place inside wire. Para. 62. As earlier mentioned, the detariffing of the maintenance and installation as well as the transfer of ownership of all inside wiring still subject to tariff is currently being considered by the Commission in CC Docket No. 79–105. *See supra* notes 2 and 14.

[23] In this connection, we note that the Order indicated that state regulatory agencies were not prohibited from establishing "terms and conditions by which local telephone companies may or must install riser and distribution facilities to serve tenants directly in multi-unit buildings." *Paras.* 14 and 24. This is possible in today's environment, even though complex intrasystem wiring has been detariffed, because the wiring running from each individual unit demarcation point down to the basement protector would, by definition, constitute "house cable" which is telephone company plant subject to regulation, rather than detariffed intrasystem wiring which, by definition, is located on the customer's side of the demarcation point. See *supra* notes 13 and 18.

rules), subscribers are not authorized to directly access the protector. The program contemplates that new premises wiring, as well as additions and modifications to existing premises wiring, will be connected to the network either through an already existing jack or a telephone company installed demarcation jack. 97 F.C.C. 2d at 540–42. In the *Order*, the Commission rejected the request of National Alarm, a nationwide association of alarm companies, that alarm companies be permitted to wire alarm jacks directly onto the protector in the absence of an intervening telephone company installed demarcation jack.[24] The Commission was not convinced that telephone companies would improperly install or that they were delaying the installation of alarm or demarcation jacks, or that plug and jack connections would render alarm systems more susceptible to being disabled. Thus we refused to depart from the general rule that protector access on the network side of the demarcation point would be reserved to the telephone company. Moreover, the Commission felt the complaint process could adequately deal with any telephone company practices that were unreasonable or unresponsive to the needs of alarm companies and their customers. The Commission decided to require alarm companies either to install their own alarm jacks through a plug/adapter interposed between the demarcation jack provided by the telephone company and the subscriber's plug and associated wiring,[25] or have the telephone company install their RJ31X jacks.[26] 97 F.C.C. 2d at 536.

15. *The Petition and Comments.* In its petition for reconsideration, National Alarm seeks to eliminate the necessity of relying on the telephone company to install a demarcation jack.[27] It asks the Commission to amend § 68.213(b) to permit "qualified" alarm company personnel access to the telephone company protector to install an RJ3IX or equivalent jack to serve as a standard demarcation jack where a telephone-company installed demarcation jack does not already exist.[28] In the alternative, National Alarm asks the Commission to make clear that states are free to adopt rules permitting such limited access to the protector by certified alarm installers.

16. National Alarm claims as it did in its original comments in this proceeding that the telephone companies have often improperly installed these alarm jacks, or installed them in an untimely fashion, resulting in unfair and unnecessary expense, delay and inconvenience to consumers and alarm companies. National Alarm cites a January 5, 1984 decision of the California Public Utilities Commission (CPUC), *In the Matter of the Application of the Pacific Telephone and Telegraph Company*, Decision 84–01–036 ("California Decision"), in support of its petition. There, the CPUC concluded that telephone company installation of RJ31X jacks in the state had resulted in unnecessary hardship and service disruption to subscribers, and that licensed alarm installers were qualified and should be permitted to connect RJ31X or equivalent jacks directly to the telephone company protector.[29] National Alarm suggests that in order to satisfy the Commission's concerns regarding protector and network harm, only those alarm installers meeting certain qualifications, such as those reflected in §§ 68.215 (b) and (c) applicable to the installation of system wiring, be permitted to install the RJ3IX or equivalent jacks to the protector. National Alarm Petition at 8. National Alarm also claims that the language contained in paragraph 19 of the *Order* declaring that "the demarcation point protector should remain solely the telephone company's responsibility" would foreclose any such state action.[30] According to National Alarm, this result is contrary to precedent as reflected in *In the Matter of Telerent Leasing corp. et al. ("Telerent")* 45 F.C.C. 2d 204 (1974), *aff'd sub nom. North Carolina Utilities Commission v. FCC*, 537 F.2d 787 (4th Cir. 1976), *cert. denied*, 429 U.S. 1027 (1976), which established the principle that while the federal commission may have primacy in the interconnect arena, state commissions are not foreclosed from taking action to provide additional options to customers with respect to interconnection, provided the state action does not conflict with any interstate rulings. In short, National Alarm argues that under *Telerent* states may adopt procedures to permit subscribers the additional option of having alarm companies install demarcation jacks.

17. With the exception of MCI, all commenting parties oppose National Alarm's petition for reconsideration. SNET, the 16 Bell Companies, U.S. West and GTE argue that protector access should be limited to telephone company personnel. They believe that § 68.213(b) of the rules properly recognizes the compelling policy, technical and safety reasons for restricting grounding and wiring at the protector to telephone company employees. These telephone companies claim that they are prepared to install properly any requested jacks on a timely basis, and that the regulatory complaint process is available for occasional problems that may arise. They also believe that allowing one group, such as certified alarm companies, to access the protector would inevitably involve the Commission in evaluating the qualifications of other trade groups seeking similar authorization.[31]

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[24] The only other party to object to the reservation of the protector to the telephone company was the Pennsylvania Burglar and Fire Alarm Association.

[25] Most security alarm systems communicate with their central monitoring apparatus through the telephone line. The alarm equipment on a customer's premises is connected to the network through an alarm jack, such as the series-wired RJ31X jack, which is installed between the protector and the first telephone terminal. Activation of the alarm equipment will preempt normal use of the telephone line and will either allow a pre-programmed number to be dialed or trigger a local alarm.

[26] Because the RJ31X jacks are authorized connectors under Subpart F of Part 68, these jacks may serve as a demarcation jack if installed by the telephone company. *See* 97 F.C.C. 2d at 536, n. 15.

[27] SNET, the 16 Bell Companies, U.S. West, GTE, and AT&T–TI filed comments. Reply comments were filed by SNET, MCI and National Alarm.

[28] While National Alarm originally sought to install alarm jacks on the network side of the network interface, or between the demarcation jack and protector, National Alarm's emphasizes that its petition for reconsideration requests authority to install the demarcation jack as an alternative to telephone company installation; it does not dispute the demarcation jack requirement. National Alarm Reply Comments at 2.

[29] This decision represents a modification of CPUC's earlier comments in this proceeding opposing all direct customer access to the protector which, according to National Alarm, this Commission relied on in part in rejecting National Alarm's arguments and denying alarm companies the right to direct protector access. After a full evidentiary hearing, however, the CPUC concluded that alarm jacks "can be installed by licensed alarm company personnel at the protector with about as much likelihood of causing problems for a subscriber's telephone service that if they are installed by utility installation personnel." California Decision, p. 32. One condition imposed on alarm companies by the CPUC is that they also install a standard network interface, *i.e.*, demarcation jack, of a type approved by telephone utilities, inside the premises as near the outside protector as is reasonably possible. *See also infra* note 33 regarding maintenance responsibilities in such situations.

[30] National Alarm cites the finding of the California Decision that "there are no FCC rules or regulations which preclude states from allowing jacks to be installed at the protector by alarm industry installers." California Decision at 31. National Alarm apparently believes that the Order would prevent the state of California from permitting qualified alarm installers to install jacks at the protector. *But see* discussion *infra* at paras. 22–24.

[31] In this connection, AT&T–TI notes that the National Alarm petition raises the issue of whether members of groups other than alarm companies,

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18. Furthermore, these parties claim that the only new evidence presented by National Alarm is the decision of the CPUC, which they find to be unconvincing. GTE and SNET argue that the California decision is of limited significance because it has been stayed pending resolution of a reconsideration request, and that no other states have challenged the Commission's long-standing assignment of protector responsibility to the telephone company.[32]

19. The parties opposing National Alarm's petition also express opposition to the alternative request that states be afforded the authority to permit alarm companies to access the protector. SNET agrees with National Alarm that, as written, the *Order* precludes the position taken in the California Decision. According to SNET, the integrity of the public switched network on the telephone company side of the demarcation point, and not interconnection, is at issue here. U.S. West also believes that the *Order* properly standardizes policies relating to protector access and responsibility nationwide and overrides the California Decision. The 16 Bell Companies urge the Commission to reject National Alarm's position on the role of state commissions because the resulting variety of state policies would undermine the Commission's determination that a workable COPW program requires a uniform network demarcation point dividing and assigning responsibility between subscribers and telephone companies.[33]

20. MCI, the only party supporting National Alarm, argues that mandating exchange company installation of demarcation jacks as a precondition to the private installation of CPE would increase competitive barriers to the use of non-exchange company CPE and services. In support, MCI details the problems it experienced in having its Advantage Units [34] installed by Cincinnati Bell. MCI claims that requiring exchange company installation of a demarcation jack prior to connection of an automatic dialer adds at least $50 cost and several days delay to each Advantage Unit installation. MCI Reply Comments at 5.[35] MCI proposes that if an exchange company has failed to install demarcation jacks at a given location after a reasonable opportunity to do so, qualified non-exchange company personnel should be permitted to install a standard demarcation jack.

21. *Discussion.* California's initial decision to permit alarm companies to access the protector under certain circumstances does not, of itself, persuade us to alter our position that wiring and grounding at the protector be the responsibility of the telephone company. The State of California, which had earlier opposed such access, was but one of the many parties whose views were considered in this proceeding. Despite National Alarm's claims that the network harm posed by alarm company installation at the protector is "miniscule", we conclude that the weight of the evidence on the potential for network harm and service disruption still militates against a federal policy authorizing access to the protector by non-telephone company personnel. We remain unconvinced, despite MCI's allegations to the contrary, that the potential for error, delay and extra cost in jack installation imposed upon alarm companies and their customers by a requirement for a telephone company installed demarcation jack justifies an exception to this principle. We believe that the exchange companies have incentives to implement jack installation policies that will fairly satisfy the technical requirements and convenience of alarm companies and subscribers without increasing competitive barriers to the use of non-exchange company CPE and services. And, as we indicated in the *Order*, where problems do arise the federal or state regulatory oversight and complaint processes will be available to provide redress. Furthermore, were we to allow "qualified" alarm companies to access the protector, the Commission would need to define this term, and determine what other classes of persons or trade groups should be entitled to do so. We decline to embark on such a program. Instead, we adhere to our initial finding that access to the protector poses a potential harm to the network that justifies, as a federal minimum, reserving access to the protector on the telephone company side of the demarcation point to the telephone company alone. Accordingly, this general rule will continue to form part of the federal framework established for delineating the respective rights and responsibilities of subscribers and telephone companies to ensure that our COPW program can go forward in all states without resulting in harm to the network.

22. We did not, however, intend by this policy to preclude states from adopting *additional* solutions which achieve these network-protective goals, despite language in the *Order* which National Alarm and others may have interpreted otherwise. Based upon our finding that unfettered protector access posed an unjustifiable risk of damage to the protector and network, we decline to authorize at the federal level such access by other than exchange company personnel. While it is true, as SNET points out, that federal primacy in the face of inconsistent state interconnection provisions is well established under *Telerent*, National Alarm is also correct that state initiatives which *supplement* federal interconnection policies may be valid. In *Telerent*, the Commission made clear that, despite an interstate tariff provision that customer-owned equipment could be directly connected to the telephone network only through protective interface devices offered by the telephone companies, the states were not prevented from "providing *additional* options to customers with respect to interconnection, provided that they are alternatives to, rather than substitutes for, the requirements specified in the interstate tariffs, and provided further that such regulations accomplish the protective objectives of the interstate tariff regulations and in no way permit interference with or impairment of interstate services." *Telerent* at 221.

23. Thus, if states determine that subscribers should have the option of connecting COPW to the network through jacks installed by non-telephone company entities as well as through

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such as electrical contractor or appliance repair companies, might be qualified to install demarcation jacks. AT&T-TI asks the Commission to initiate a rulemaking to establish a record on this issue in the event the Commission rules favorably on National Alarm's request.

[33] *See also infra* note 35.

[32] As an example, the Bell companies cite the California Decision which permits alarm companies to wire alarm jacks directly to the protector, yet leaves to telephone companies both the responsibility to correct any errors regarding the rearrangement of the premises wiring entailed in this jack installation and the obligation to service and maintain, at no extra charge, those alarm company installed jacks.

[34] The Advantage Unit is MCI's automatic dialer which, like alarm dialers, requires the presence of an RJ31X jack.

[35] MCI filed a motion to stay the effective date of the rules adopted in the Order pending completion of this reconsideration proceeding. *Supra* note 1. MCI argued that the Order would newly bar its practice of installing RJ31X jacks for its Advantage units where no exchange company-installed jack is present. The Commission, however, found that MCI did not previously have any right to engage in such practice because of the requirement, contained in § 68.104 of the rules for eight years, that all connections to the telephone network be made through standard plugs and telephone company-installed jacks; the Order had merely implicitly extended that requirement to the installation of simple COPW. The Commission, therefore, concluded that MCI had not met its burden of demonstrating irreparable harm and denied the motion for stay.

jacks installed by telephone companies, such additional interconnection options are permissible, as long as the two *Telerent* conditions are met, *viz.*, that the states' options protect the network from harm and that interstate services are not impaired. To effectuate this additional interconnection option, the states may authorize non-telephone company employees to access the protector without contravening the *Order's* policies regarding limitations on protector access or sacrificing the integrity of the demarcation point concept. The *Order's* language reserving protector access to the telephone companies reflects a federal determination that unfettered protector access poses a threat of harm to the network. Under *Telerent*, states may meet the *Telerent* protective objective by ensuring that those parties it authorizes to access the protector for jack installation purposes have the requisite knowledge and skill to do so safely.[36] Thus, while the states may not permit indiscriminate protector access, they may authorize parties that they reasonably determine are "qualified" to access the protector where the state has determined those parties have the qualifications necessary to do so in a manner that will protect the network from harm.[37]

24. As to the second *Telerent* requirement that interstate services not be impaired, we disagree with the claims of some of the commenters that allowing states to authorize parties to access the protector on the telephone company's side of the demarcation point derogates from the demarcation point concept and function. Although the demarcation point marks the point where network and subscriber facilities interface for accounting, COPW installation and other regulatory purposes, and generally bifurcates telephone company and subscriber responsibility, it does not serve as an absolute barrier beyond which all subscriber activity is necessarily prohibited. The COPW program requires at a minimum a clear demarcation point at which subscribers providing their own premises wiring can connect into the public switched network. The states, however, may differ as to the rights of access subscribers or others should have to facilities on the telephone company side of the demarcation point. Some states may find it advisable to decline to authorize subscriber access to telephone company facilities such as the protector for jack installation purposes, while others may determine such access is warranted for certain parties and under certain circumstances. Some states may choose to embark on a licensing process for "qualified" parties; others may not. In our view, the various state policies regarding protector access would supplement rather than conflict with the general demarcation point principles established in the *Order* for interstate services, and are, therefore, permissible, as long as they alternatively protect the network from harm. Although we here merely clarify what was implicit in the *Order* and previous Commission decisions regarding the right of states to permit access to the protector, to the extent that this clarification coincides with the alternative relief requested by National Alarm we grant National Alarm's petition.

IV. Ringback Testing

25. *Backround.* In order to differentiate properly operating installations of one and two-line COPW from faulty ones that could cause network harm, the *Order* requires that installers conduct two forms of acceptance testing: (1) Dial tone testing [38] and (2) ringback testing. The ringback requirement for simple COPW is set forth in § 68.213(f)(2), which requires that whenever an operation associated with the installation, reconfiguration or removal (other than final removal) of customer provided simple wiring is performed, a prescribed ringback testing procedure must be observed. Under "ringback," or reverting-calling testing, the subscriber dials a telephone company-provided reverting-calling number from his completed installation, listens for a unique tone and then hangs up. The central office then automatically returns a ringing signal which allows the installer to determine that the non-system operations have been properly performed.[39] The test is generally conducted with a standard telephone which will ring on receipt of the returning ringing signal.

26. *The Petition and Comments.* The Mountain States Telephone and Telegraph Company, Northwestern Bell Telephone Company and Pacific Northwest Bell Telephone Company ("U.S. West") filed a petition for partial reconsideration asking the Commission to eliminate the current requirement that all telephone companies make ringback service available to the general public. U.S. West does not contest the requirement that a ringback test of some sort be performed on simple COPW installations, only the requirement that all central offices be equipped to permit subscribers to perform reverting-calling ringback testing. Specifically, U.S. West proposes that § 68.213(f)(2) as adopted in the *Order*, be amended to read as follows:

(2) Ringback testing. A telephone connected to the subscriber line(s) shall be used as follows:

(i) Have another person dial the number of the line being tested. Some telephone companies provide direct "ringback" services which may be available for ringback testing. The installer should check with the local telephone company to determine the availability of and procedure for utilizing such ringback service. [The remainder of the section would continue as currently written].

27. In support of the requested modification, U.S. West argues that in imposing a ringback service requirement on the telephone companies, the Commission failed to take adequate account of the serious operational and technical difficulties which make the requirement impractical, and in some instances impossible, to fulfill. U.S. West acknowledges that these obstacles can be overcome if sufficient resources are committed to the task, in order to, for example, reconfigure circuits and purchase new equipment. It concludes, however, that such telephone company expenditures and system modifications are not justifiable in light of the availability of the simple and inexpensive alternative of having ringback tests performed by a third person placing a call to the number of the line being tested.[40] U.S. West also

[36] This may be accomplished, for example, by subjecting these parties to some licensing or certification program especially designed for this purpose, or authorizing protector access only for those persons that belong to recognized local or national industry groups, such as licensed alarm companies, membership in which reasonably ensures that the parties have the requisite qualifications.

[37] Because of our decision allowing states to authorize limited protector access, any proceedings that might be appropriate, for example those requested by AT&T–TI, *supra* note 31, to determine those parties—alarm company personnel or others—who may be qualified to install demarcation jacks, would be conducted at the state level.

[38] This type of testing is designed to detect imbalance, *i.e.*, hum or noise on the telephone line, and is set forth in § 68.215(f)(1) for system wiring and § 68.213(f)(1) for one and two-line installations.

[39] Section 68.213(f)(2) directs the subscriber to obtain information from the local telephone company on how to make these ringback test calls. The subscriber is also given the option, at his discretion, of performing the same test by having another person, such as a friend, dial the line being tested. 48 CFR § 68.213(f)(2)(i).

[40] U.S. West does not provide the Commission with any actual figures or estimates of the costs that would be involved in making the modifications necessary for a universally available ringback service.

believes there is a significant potential that public dissemination of ringback numbers which are also used in party line services could lead to abuses which would impair the availability of such circuits for their primary party line purposes.[41] U.S. West concludes that the potential for such abuse outweighs the limited benefit which would accrue to the public through widespread availability of this automatic ringback testing service, especially in light of the accessibility of simpler, cheaper testing options.[42]

28. All commenting parties—the Bell Companies, GTE and SNET—support the U.S. West petition and concur with U.S. West's recitation of the engineering, administrative and cost problems associated with providing automatic ringback service. They argue that the Commission should not require the provision of ringback testing by telephone companies, and that telephone companies should be allowed some discretion as to whether to make this type of service available.

29. *Discussion.* We will adhere to the principle that some form of acceptance testing must be performed on subscriber-provided wiring installations in order to protect the network from harm. We also believe that, where feasible, a telephone company-provided automatic ringback service is the preferred method for such testing, and that some degree of telephone company investment to make this service available is not unreasonable. Indeed, we believe such equipment is available through many, if not most central offices. Nevertheless, after considering the claims presented in the U.S. West petition and supporting comments we will amend our acceptance testing requirement as currently reflected in § 68.213(f)(2) to make telephone company provision of ringback service permissive rather than mandatory. If, as U.S. West and the commenting parties argue, substantial investments in equipment and other central office modifications would in some instances be necessary to make the service available without impairing other central office functions, we believe that the public interest would be better served by offering alternatives that better reflect existing telephone company practices and plant configurations.[43]

30. In central offices where the equipment needs, operational difficulties, or potential for abuse would make the costs of providing a ringback service prohibitive, telephone companies should be able to offer alternative testing options to their customers. While we would prefer that a ringback service be universally available, we believe the use of alternative testing methods would be reasonable. In the event that neither ringback nor alternatives are made available by the telephone company in a particular central office, subscribers in that exchange area would then have no choice but to test their installation through the third-party calling method. In those central offices where the capability now exists to provide ringback service (or where ringback service could exist with modest expenditures) we expect that the telephone company will make automatic ringback service available to its subscribers *e.g.*, through telephone directory instructions or upon request. Our rule amendment merely recognizes that in some instances such service may be of greater cost than benefit to telephone ratepayers, and affords telephone companies a measure of flexibility in providing options for subscriber testing of inside wiring installations. We will therefore modify § 68.213(f)(2) to read:

(2) *"Ringback" testing.* A telephone connected to the subscriber's line(s) shall be used as follows:

(i) Either make a "ringback" call if the service is available (contact the local telephone company to determine the availability of and procedure for utilizing such ringback service), or have another person dial the number of the line being tested.

[2(ii)–(iv) would remain unchanged].

V. Ordering Clauses

31. Accordingly, it is Ordered, that the subject petitions for reconsideration ARE DENIED, except to the extent they are granted herein.

32. It is further Ordered, that the Secretary shall cause a copy of this *Memorandum Opinion and Order* to be printed in the **Federal Register.**

33. It is further Ordered, that the Secretary shall cause a copy of this *Memorandum Opinion and Order* to be served on the state commissions.

34. It is further Ordered, that CC Docket No. 81–216 IS TERMINATED with regard to the issues addressed herein.

35. It is further Ordered that Part 68 is Amended as set forth in the attached Appendix, effective August 19, 1985.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 68—[AMENDED]

Part 68 of Chapter I Title 47 of the Code of Federal Regulations is amended as set forth below.

1. The authority citation for Part 68 continues to read as follows:

Authority: Secs. 4, 201, 202, 203, 204, 205, 208, 215, 218, 313, 314, 403, 404, 410, 602, 48 Stat. as amended, 1066, 1070, 1071, 1072, 1073, 1076, 1077, 1087, 1094, 1098, 1102; 47 U.S.C. 154, 201, 202, 203, 204, 205, 208, 215, 218, 313, 314, 403, 404, 410, 602.

2. 47 CFR Part 68 is amended by revising § 68.213(f)(2)(i) to read as follows:

Section 68.213. Installation of other than "fully protected" non-system premises wiring.

* * * * *

(f) * * *

(2) * * *

(i) Either make a "ringback" call if the service is available (contact the local telephone company to determine the availability of and procedure for utilizing such ringback service) or have another person dial the number of the line being tested.

* * * * *

[FR Doc. 85–17159 Filed 7–18–85; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 83–385; RM–4292; MM Docket No. 83–1023; RM–4475]

TV Broadcast Station in Denver, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF Television Channels 50 and 59 to Denver, Colorado, as that community's

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[41] In particular, U.S. West points to the potential use of these ringback facilities by single line residential customers for intercom purposes, since on a ringback call all main stations on the line are able to communicate with each other through the central office. (U.S. West does not acknowledge that some ringback systems leave a relatively loud tone on the line during the off-hook period, making intercom use quite unpleasant or ineffective.)

[42] U.S. West notes that in concluding in the *Order* that the use of ringback circuits for the testing of wiring installations would not be so great as to disrupt party line service, the Commission did not address the possibility that once the ringback numbers were made public, the demand for these circuits would be higher on account of improper and abusive usage.

[43] Although several commenters in the initial proceeding leading to adoption of the ringback rule supported a mandatory telephone company ringback testing service, no comments were filed opposing the U.S. West reconsideration request or disputing any of the assertions made therein.

seventh and eighth commercial television assignments, in response to petitions filed by William V. Johnson and Samuel R. Levatino.

EFFECTIVE DATE: August 16, 1985.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order (Proceeding Terminated)

In the matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Denver, Colorado). MM Docket No. 83-385, RM-4292, MM Docket No. 83-1023, RM-4475.

Adopted: June 26, 1985.

Released: July 10, 1985.

By the Chief, Policy and Rules Division:

1. The Commission has before it: (1) The *Notice of Proposed Rule Making*, 48 FR 18854, published April 26, 1983, which invited comments on a proposal to add UHF television Channel 50 to Denver, Colorado, as its seventh commercial television assignment (Docket No. 83-385), in response to a petition filed by William V. Johnson ("Johnson"), and (2) the *Notice of Proposed Rule Making*, 48 FR 45435, published October 5, 1983, issued in response to a petition for rule making filed by Samuel R. Levatino ("Levatino"), requesting the assignment of UHF television Channel 59 to Denver, Colorado, as that community's eighth commercial television service. Johnson filed comments in support of the *Notice* in Docket 83-385, and restated his interest in applying for Channel 50, if assigned. Trinity Broadcasting of Denver, Inc. ("TBD"), filed comments in the nature of a counterproposal, in response to the *Notice* in both dockets.

2. TBD, licensee of low power television Station K57BT, Denver, Colorado, proposes the assignment of Channels 51 and 65 to Denver in place of Channels 50 and 59. TBD states that both assignments would cause interference to its low power television facility, and since a noninterfering alternative is available in both cases, the public interest would best be served by approving this counterproposal.

3. While TBD does recognize that its low power TV translator facility is, according to § 73.703(b), a secondary service, it says the station is providing television service to residents of Denver. As TBD submits, the Commission is not required to take into account possible interference considerations to a low power TV facility when evaluating the technical compliance with our Rules for a full service TV channel assignment. Here, the Commission has determined that either Channel 51 or 65 could be assigned to Denver consistent with spacing requirements. However, Channels 51 and 65 do not meet the spacing requirements with respect to each other.[1] Rather than lose an available channel, which could provide an additional television service to Denver, we will assign both Channels 50 and 59, as proposed. We believe that the petitioners have demonstrated the need for a seventh and eighth commercial television assignment to Denver. TBD will be expected to operate its low power facility so as not to cause interference to the reception of Channels 50 and 59. See § 74.703.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is Ordered, That effective August 16, 1985, the TV Table of Assignments, § 73.606(b) of the Rules, Is Amended, with respect to the following community:

City	Channel No.
Denver, Colorado	2, 4-, *6-, 7, 9-, 20, 31, *41, 50, 59

6. It is further Ordered, that this proceeding is terminated.

7. For further information contact: Stanley Schmulewitz, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85-17156 Filed 7-18-85; 8:45 am]

BILLING CODE 6712-01-M

[1] The required spacing between a Channel 51 and Channel 65 assignment is 60 miles. See § 73.698 (Table IV) of the Commission's Rules.

47 CFR Part 73

[MM Docket No. 85-2; RM-4809]

TV Broadcast Station in Rice Lake, WI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns UHF Television Channel 16 to Rice Lake, Wisconsin, as that community's first television broadcast service, at the request of James F. Dorrance, Jr.

EFFECTIVE DATE: August 16, 1985.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

The authority citation for Part 73 continues to read:

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

Report and order (Proceeding Terminated)

In the matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Rice Lake, Wisconsin), MM Docket No. 85-2, RM-4809.

Adopted: June 28, 1985.

Released: July 10, 1985.

By the Chief, Policy and Rules Division:

1. Before the Commission for consideration is the *Notice of Proposed Rule Making*, 50 FR 4713, published February 1, 1985, proposing the assignment of UHF Television Channel 16 to Rice Lake, Wisconsin, as that community's first television channel. The *Notice* was issued in response to a petition filed by James F. Dorrance, Jr. ("petitioner"). Petitioner filed supporting comments and a supplement thereto reiterating his intention to apply for the channel.

2. Rice Lake (population 7,691),[1] in Barron County (population 38,730), is located in northwestern Wisconsin, approximately 130 kilometers (80 miles) northeast of Minneapolis, Minnesota. Currently, the only television outlet licensed to serve Rice Lake is low power television Station W15AB-TV.

3. We believe the public interest would be served by the assignment of

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

Channel 16 to Rice Lake in order to provide that community with its first television service. The channel assignment can be made in compliance with §§ 73.610 and 73.698 of the Commission's Rules.

4. Since Rice Lake is located within 400 kilometers (250 miles) of the U.S.-Canadian border, concurrence from the Canadian government has been obtained.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.024(b) and 0.283 of the Commission's Rules, It is ordered, that effective August 16, 1985, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended for the community listed below:

City	Channel No.
Rice Lake, Wisconsin	16

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

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

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85-17155 Filed 7-18-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 74

[Gen. Docket No. 82-334; FCC 85-49]

Establishment of a Spectrum Utilization Policy for the Fixed and Mobile Services' Use of Certain Bands Between 947 MHz and 40 GHz

Correction

In FR Doc. 85-4028 beginning on page 7338 in the issue of Friday, February 22, 1985, make the following correction:

§ 74.536 [Corrected]

On page 7342 in § 74.536(b), in the table entitled, "Antenna Standards", the second entry under the fifth column reading, "10° to 15° K" should read, "10° to 15°".

BILLING CODE 1505-01-M

47 CFR Part 76

[Docket No. 21006; FCC 85-333]

Frequency Channelling Requirements and Restrictions and To Require Monitoring for Signal Leakage From Cable Television Systems; Amendment

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action grants in part and denies in all other respects seven petitions for reconsideration of the *Second Report and Order* in Docket No. 21006. Some petitioners requested that the Commission reinstitute the old rules governing cable television use of channels in the aeronautical frequency bands. However, the Commission determined that the uniform frequency offsets and quarterly monitoring requirements are necessary to ensure an absence of harmful interference to aeronautical services. It was determined, however, that delaying the effective date of compliance with the annual signal leakage performance criteria is warranted. The Commission also clarified that aeronautical frequency usage is grandfathered on a frequency rather than on a system-wide basis. Also, it was decided that average power, rather than peak power, will be used as the measure of potential cable interference to aeronautical radio systems. Finally, the Commission reconsidered its notification requirements and now only will require cable television operators using carrier signals with power levels of 10^{-4} watts or higher to notify the Commission of such frequency use.

EFFECTIVE DATE: Effective August 19, 1985 except § 76.611 which is removed effective July 19, 1985. A new § 76.611 is added effective July 1, 1990.

FOR FURTHER INFORMATION CONTACT: Freda Lippert Thyden, Mass Media Bureau, (202) 632-7792 on legal concerns and Bernard Gorden, Mass Media Bureau, (202) 632-9660 on technical concerns.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 76

Cable television.

Memorandum Opinion and Order (Proceeding Terminated)

In the matter of amendment of part 76 of the Commission's Rules to Add Frequency Channelling Requirements and Restrictions and to Require Monitoring for Signal Leakage from Cable Television Systems; Docket No. 21006.

Adopted: June 21, 1985.

By the Commission.

Released: July 1, 1985.

Introduction

1. The Commission has before it seven petitions for reconsideration of the *Second Report and Order* ("Second Report") in this proceeding, 49 FR 45431, published November 16, 1984.[1] Comments in response to the petitions were filed by six parties with replies submitted by two parties.[2]

Background

2. The primary goal in this proceeding has been to determine the best way to protect aeronautical navigation and communications radio services from potentially harmful interference emanating from cable television systems. It is the Commission's desire to promote this goal without unduly constraining the development and utilization of new cable technologies. Consistent with these considerations, the record supported limiting cable operation on the frequencies used by aeronautical radio services given the potential for interference from cable systems that radiate or "leak" cable signals. The record further supported requiring those cable systems operating in the aeronautical bands to be well maintained and well monitored in order

[1] The petitioners are as follows: Aeronautical Radio, Inc., jointly with Air Transport Association of America ("ARINC"); Cable Investments, Inc., Capital Cities Cable, Inc., Cole, Raywid & Braverman, the National Cable Television Association ("NCTA"); Pepper & Corrazini; and Star CATV Investment Company jointly with Galaxy Cablevision Investors and Galaxy Cablevision Partners. In addition to the petitions for reconsideration, a request for clarification was filed by Blooston and Mordkofsky and a request for immediate relief was filed by Dow, Lohnes and Albertson. These pleadings raised questions regarding the effective date of the new rules, interim procedures to be followed by cable systems wishing to utilize new aeronautical frequencies and grandfathering provisions. These issues have been resolved by the Commission's *Public Notice* of January 30, 1985 (See para. e, *infra*), and this Memorandum Opinion and Order.

[2] Comments were filed by: American Radio Relay League, Archer S. Taylor, Capital Cities Cable, Inc., Heritage Communications, Inc., Jones Intercable, Inc., and NCTA. In a motion filed January 30, 1985, ARINC and NCTA requested an extension of time for the filing of oppositions. As no Commission action has been taken on this motion, we will consider it a request for acceptance of late-filed pleadings. Since the public interest is served by consideration of the late-filed comments (those of NCTA and Jones Intercable), and no opposition to this request was indicated, the comments are accepted. Reply comments submitted by ARINC and NCTA, were also filed late. These pleadings are also accepted as there has been no opposition to their consideration and their acceptance will foster a full and complete record. Finally, a letter offered on behalf of Crawfordsville Community Cable Corporation will be considered an informal comment.

to prevent, detect and repair leaks. In this regard, the Commission adopted rules in the *Second Report* which allowed cable systems to operate in the aeronautical radio bands if they met uniform aeronautical channel frequency offset requirements, annual basic signal leakage performance criteria, and routine monitoring requirements.

3. After publications of the *Second Report*, the Commission released a *Public Notice* on January 30, 1985, (No. 2275) which clarified the grandfather rights conferred by the decision, and which established interim procedures for use until the new rules were fully effectuated. As the new rules could not become effective until their review by the Office of Management and Budget, it was decided that, in the interim, each request to use new aeronautical frequencies would be considered on an individual basis.[3] During this period (January 30, 1985, to March 11, 1985) the Commission conditionally permitted the use of new aeronautical frequencies upon a showing that their use was consistent with the criteria set forth in the *Second Report*. On March 11, 1985, the rules concerning frequency offsets became effective; however, the rules concerning routine system monitoring did not take effect because of an OMB request for public clarification. In addition to resolving the petitions for reconsideration, this action provides the requested OMB clarifications.

Issue Analysis

4. The issues, as raised in the petitions for reconsideration, are as follows:

1. Uniform Frequency Offset Requirement
2. Basic Signal Leakage Criteria
3. Routine Monitoring Requirements
4. Grandfathering
5. Cable Signal Threshold Power Level
6. Notification Requirements
7. Leakage Limit

Each issue will be developed separately.

Issue 1: Uniform Frequency Offset Requirement

5. In the *Second Report*, the Commission held that in the aeronautical *communications* bands (118–136 MHz, 225–328.6 MHz, and 335.4–400 MHz), cable carriers must be offset from aeronautical channel center frequencies by 12.5 kHz ±5 kHz.[4] The aeronautical *communications* channel center frequencies are spaced at 25 kHz increments, beginning at the lower band edges. Similarly in the aeronautical *navigation* bands (108–118 MHz and 328.6–335.4 MHz) cable carriers must be offset from aeronautical channels center frequencies by the 25 kHz ±5 kHz.[5] The aeronautical radionavigation channels center frequencies are spaced at 50 kHz increments, beginning at the lower band edges.[6] These offsets were adopted to prevent interference to the aeronautical services should a cable system improperly leak signals.

6. In their joint petition for reconsideration Aeronautical Radio, Inc., and Air Transport Association of America, challenge these requirements, insofar as they allow cable carriers to be offset only 12.5 kHz, with a frequency tolerance of ±5 kHz, in the aeronautical communication bands. ARINC believes that the new provisions should require cable carriers to be maintained with an offset of at least 25 kHz from local aeronautical stations, and with a frequency tolerance of ±5 kHz. ARINC claims that the 12.5 kHz offset will not provide adequate protection to aeronautical communications. They also argue that the aeronautical industry might require additional frequencies and thereby split their current channels.

7. The National Cable Television Association, in its reply comments, submits that offsets of 25 kHz, as suggested by ARINC, would not work without a return to area-distance frequency coordination procedures because cable carrier frequencies would be on the same carrier frequencies as the aeronautical channels. NCTA further notes that the military and the Federal Aviation Administration ("FAA") support the 12.5 kHz offsets and have not indicated any plans to split their aeronautical channels in the near term. A petition from the firm of Cole, Raywid and Braverman, on behalf of several cable TV operators, requests that the old frequency offset rules be reinstituted. It argues that the old procedures were routine and feasible; whereas, the new requirements will cause wholesale disruptions and create the need for reeducation of the industry. Also, Capital Cities, Inc., argues that in reviewing existing station assignments in the aeronautical band, it found limited use of the channels by aeronautical licensees. Thus, they maintain that mandatory offsets are not justified.

8. Because many cable television systems radiate or leak signals, there is a potential for interference to aircraft navigation or communications when identical frequencies are used. Slight frequency offsets of the cable signals can prevent such interference. Unfortunately, while frequency offsets should eliminate current problems, such offsets can be viewed only as an interim solution. As observed by ARINC, the aeronautical channels may be split at some time in the future, which would place the offset cable carriers directly on the newly split aeronautical channels. Current aeronautical channels are a result of a relatively recent frequency split and it is anticipated that another channel division will not occur until after January 1, 1995, the date set by the International Civil Aeronautics Organization (ICAO).[7] Therefore, we expect that uniform frequency offsets of 12.5 kHz from aeronautical communication channels and 25 kHz from navigation channels (both with ±5 kHz tolerance), can be used for ten years to provide interference protection to aeronautical communications and navigation radio services. This offset procedure provides a high degree of interference protection and can remain in place until either: 1) the FAA splits the 25 kHz channels, or 2) the cable industry can fully bring leakage problems under control. In the interim, it provides flexibility for cable operations throughout the aeronautical bands.

9. In response to ARINC's specific assertion that the 12.5 kHz ±5 kHz offset is insufficient, we note that ARINC's main objection appears based on the fact that one cable television "midband" channel from 126 MHz to 132 MHz is potentially in conflict with its operations.[8] However, under the

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[3] The Office of Management and Budget (OMB), upon further Commission clarification of the monitoring requirements, approved the new rules with the exception of the cable television annual Basic Signal Leakage Performance Criteria. (OMB Nos. 3060–0331 and 3060–0332) Approval of such criteria by OMB awaits resolution of the petitions for reconsideration.

[4] The *Second Report* inadvertently omitted reference to the expansion of the aeronautical band 118–136 MHz to 118–137 MHz. This extension is a result of frequency allocation of the 1979 WARC, and becomes effective January 1, 1990. Thus, the new cable restrictions will apply to the extended part of the aeronautical band on January 1, 1990. This amendment will be reflected in our rules.

[5] The *Second Report* also inadvertently omitted special offset requirements (100 kHz from the frequency 121.5 mHz and 50 kHz from the two frequencies 156.8 mHz and 243.0 mHz) for CATV operation near certain aeronautical and marine emergency radio frequencies. These requirements were formerly in the Rules and designated as § 76.611. We did not intend to make changes to those requirements, and therefore, will reinsert them under a new reference section number.

[6] The radionavigation glide path channels, in the 328.6 MHz to 335.4 MHz band, are listed in FCC Rule § 87.501.

[7] The last time the FAA split channels, both the cable industry and the FCC were given several years lead time to adjust to the new channel plan. We anticipate that this also would be the case for future channel splits.

[8] ARINC is permitted to operate its own set of offset frequency carrier networks in the band 128.825–132.0 MHz.

frequency usage plan now generally adopted by the industry, the nearest potential cable interfering frequency is the audio carrier for the cited cable television channel. We agree with NCTA that because the cable audio carrier power level is normally operated about fifteen decibels below the power level of the video carrier, interference to ARINC channels can be expected to be minimal or non-existent. We further agree with NCTA that a 25 kHz ±5 kHz offset would place CATV carriers back onto the exact frequencies of the current aeronautical channels, thereby necessitating the reinstitution of frequency coordination procedures. This procedure is not only time-consuming, but also is not as effective as uniform offsets given rapid changes in FAA frequency assignments that can bring cable channels into conflict with aviation frequencies.

10. In response to Capital Cities' observations, we note that the FAA has begun planning and contracting for an extensive up-grade of communication and navigation facilities throughout the United States. Therefore, channels that may have been relatively silent are likely to become more active in the near future. Increased use of these channels by the FAA can reasonably be expected to result in more conflicts with cable television systems, and thus limit cable operators' uses of the mid-band frequencies. Further, we do not agree with petitioners that the old rules are working. Because of continual changes in FAA assignments and "drop-ins" of new aeronautical frequencies, a significant number of cable operators, as shown in recent random sampling, may not now be in compliance with the coordinated offset criteria for one or more frequencies. Absent a waiver, cable operators must vacate such conflicting channels within 30 days when so notified.[9] Additionally, the Commission recently completed a computer program that is capable of finding such conflicts and generating eviction notices. Once this program becomes fully operational, the number of documented conflicts can be expected to increase, causing numerous directed frequency changes in the cable industry. The uniform offset criteria eliminates the uncertainty associated with the old procedures.

11. Finally, in the frequency offset requirements, the *Second Report* provided for cable operators utilizing the HRC (Harmonically Related Carrier) system to set the fundamental frequency, from which the visual carriers are derived, by integer multiples of precisely 6.0003 MHz with a tolerance of ±1 Hz. Those cable operators utilizing IRC (Incrementally Related Carriers) systems were expected to meet the separation requirements by merely offsetting the nominal frequency of the video carrier component generator by an additional 12.5 kHz. As noted by Archer S. Taylor of the firm of Malarkey-Taylor Associates, Inc. the visual carrier frequencies for IRC systems may be phased-locked to a comb generator with reference set at (6n + 1.250 ± 0.0125) MHz. With these generator reference frequencies, neither HRC nor IRC meet the offset requirements of 25 kHz ±5 kHz in the navigation band 108–118 MHz. Thus, they may only operate in this band at power levels below 10^{-4} watts threshold.[10] However, the HRC system, as described will be 33.5 kHz offset from the nearest affected channel in the navigation glide path band 328.6–335.4 MHz, thereby meeting the 25 kHz offset requirement. The IRC system may also meet this offset requirement by setting its generator reference to certain odd multiple equal to or greater than 3 times the 0.0125 MHz (12.5 kHz) communication band offset requirement, e.g. (6n + 1.250 ± 0.0375) MHz.

Issue 2: Basic Signal Leakage Criteria

12. In the *Second Report*, the Commission concluded that cable systems must annually show compliance with basic signal leakage performance standards. Thus, as a prerequisite for operation in the aeronautical radio bands, cable systems must use ground-based or airspace measurements to indicate compliance with a Cumulative Leakage Index (CLI). The details and methodology of this requirement were based on the joint government-industry findings in the *Final Report of the Advisory Committee on Cable Signal Leakage*.

13. NCTA, in its petition, argues that such an annual CLI measurement requirement is superfluous in conjunction with mandated frequency offsets. It submits that only the offset requirements are needed to ensure against interference well into the future. NCTA, as well as Crawfordsville Community Cable, states that the CLI requirement is too rigid, immensely burdensome, and valueless. Capital Cities adds that the Advisory Committee did not consider the impact of frequency offsets in formulating the CLI procedures. Furthermore, Capital Cities maintains that the CLI is fundamentally flawed and requests the Commission to allow alternative annual test methods.

14. While NCTA argues that the CLI is superfluous if imposed along with the frequency offset criteria, we emphasize that *minimal signal leakage is the primary long-term objective* of this proceeding. The basic signal leakage criteria is key to demonstrating that fundamental objective. In other words, the CLI is a necessary periodic test to demonstrate safe levels of signal leakage. On the other hand, the offset criteria is only a secondary, as well as temporary, safeguard to assure protection to aeronautical frequencies. At some future time we hope to remove the offset frequency use restrictions to allow cable systems maximum flexibility. But, such restrictions cannot be removed before the record indicates that leakage has been brought under control.

15. In the absence of any significant evidence to the contrary, we continue to believe that the CLI is a valid measurement technique. It was developed as a consequence of an extensive scientific study by the Advisory Committee on Cable Signal Leakage. Further, we note that the cable industry, including NCTA, was well represented on the Advisory Committee and raised no objections to the procedure at the time. The work of the committee represents the best efforts of the industry and government experts. We must therefore reject Capital Cities' assertion that the technique is fundamentally flawed. However, as noted in the *Second Report*, we are receptive to submissions for consideration of alternative test methodologies. Capital Cities has submitted preliminary documentation of its on-going study for such an alternative signal leakage test method. When such new techniques have been refined, they may receive Commission acceptance. Until that time, the CLI will be considered the only authoritative work in the area. However, in order to allow cable operators as much flexibility as possible in performing the CLI, we will allow the use of any frequency that can be correlated to the frequencies within the VHF aeronautical band.

16. In view of the quarterly monitoring (see issue 3) and uniform offset requirements, we are persuaded, however, to provide cable operators with a longer transition period within which to comply with the CLI obligation. Therefore, we are delaying the CLI requirement for a period of five years. This will give the cable industry

[9] See § 76.619(e) (formerly § 76.610(e)) of the Commission's Rules.

[10] Independently, Commission staff will work with the FAA staff looking toward further HRC and IRC use of the navigation bands.

adequate time to develop the necessary resources and expertise to comply with the CLI requirements and to depreciate fully existing cable plants. We also believe that this delay will encourage cable operators to commence operations under the new uniform offset procedures as rapidly as possible, thus further assuring the prevention of harmful interference to aeronautical services. We do, however, expect cable operators to begin working immediately to assure compliance with the CLI within the five year time period.

Issue 3: Monitoring Requirements

17. The *Second Report* required that cable TV operators using aeronautical frequencies under the *new rules* provide a method for regular monitoring for signal leakage. This monitoring is required to cover all portions of the cable system at least once every three months. Monitoring equipment and procedures had to be adequate to detect a leakage source of 20 μV/m or greater at a distance of 3 meters. During regular monitoring, any leakage source of 20 μV/m or greater in the aeronautical radio frequency bands was to be noted, and any such leakage source was to be eliminated within a reasonable period of time.[1]

18. Several parties petitioned the Commission to reconsider the quarterly monitoring requirement, stating their preference for only an annual monitoring obligation. For instance, NCTA asserts that the new rule implies a requirement for a rigid, four times per year inspection of the cable plant by personnel and equipment, dedicated exclusively to that purpose. A number of cable companies, such as Cable Investments, Inc., submit that the quarterly monitoring requirement will be especially burdensome to multiple system operators. Furthermore, they assert that there is no evidence in the record to suggest that annual monitoring is inadequate. They also argue that in view of the offset and frequency stability requirement, an annual monitoring rule would adequately assure that aeronautical radio systems do not receive harmful interference. Some of the other petitioners, like Capital Cities, merely request us to state that the requirements can be satisfied by a program of continuous monitoring which reasonably can be expected to cover all portions of a system every three months.

19. In response to the above concerns, the *Second Report* outlined what the Commission envisioned as the quarterly monitoring requirement. Specifically, at paragraph 63, the Commission stated, "such monitoring can be done by service personnel while conducting service calls, installations, etc. The only extra effort on the part of cable operators comes when leaks are found and must be repaired." Clearly, it was not the Commission's desire to impose a burdensome quarterly requirement on cable operators. The quarterly requirement was merely to assure continued vigilance for new leaks. Such signal leakage repair programs should be part of the cable system's preventive maintenance plans that are, or should be, already in place. The petitioners read our previous rule to require that specific measurements be made at every point in the cable plant every three months. That clearly was not intended. The rules are therefore being modified to more accurately reflect what was envisioned for the quarterly monitoring, *i.e.*, a regular maintenance function to be performed by existing personnel in the discharge of their normal duties.

Issue 4: Grandfathering

20. The Commission limited grandfathering privileges for cable usage of aeronautical radio frequencies under the old method (case-by-case authorization) to those requests received or authorized prior to the adoption of the *Second Report*. Further, should usage of any of the authorized frequencies by the aeronautical radio service arise in the vicinity of the cable system, absent a waiver of the grandfathering rules, the system would forfeit its grandfathering privileges to those frequencies. Also, the system would not be permitted to substitute a different frequency not previously approved by the Commission. In any event, all grandfathering privileges would disappear in five years.

21. A number of petitioners, as well as commenters, have raised questions regarding the effective date and the scope of the grandfathering rights conferred by the *Second Report*. Such parties as Pepper & Corrazini and Cable Investments, Inc., ask whether the effective grandfathering date is the document's adoption date (October 26, 1984), the date appearing in its ordering clause (December 17, 1984), the date appearing in Section 76.618 of the new rules (January 1, 1985), or the date of approval by the Office of Management and Budget (March 11, 1985). In this context Jones Intercable, Inc. ("Jones"), requests that we reconsider the grandfathering date (November 30, 1984) announced in the *Public Notice*. Jones alleges that it is difficult if not impossible to attain compliance for all signal processors operating in the aeronautical bands using current circuit designs. Therefore, Jones asserts, manufacturers cannot and will not ship equipment to meet the new rules at this time. Jones submits that the November 30, 1984, grandfathering date thus will work a hardship on the industry and the public, in that an operator, absent a *de minimis* extension of a system's radius, will be unable to add frequencies or activate additional cable plant if not authorized by November 30, 1984. In response to this point, NCTA urges the Commission to grant waivers of the rules where necessary.

22. A few petitioners request that the Commission provide cable system operators with additional "lead time," of from three to six months. This would give cable operators time to plan for the expansion of existing systems or the construction of new systems. They argue that the unanticipated costs in providing new channels will delay the provision of new services to the public. During this time period, petitioners suggest that cable operators be given a window to file for clearance of frequencies under the former rules. Cable Investments, Inc., further requests that systems which timely file for clearance should be permitted to commence use of the authorized frequencies any time prior to January 1, 1990. However, to allay any concerns over frequency "warehousing" by cable operators, Cable Investments suggests that a second cut-off date could be established by which cleared frequencies would have to be placed into operation or any grandfathered right to those frequencies would be forfeited.

23. The petitioners also request clarification as to what is actually grandfathered. Cole, Raywid & Braverman asks whether existing systems, or only existing uses of existing systems, are grandfathered. Others, such as Capital Cities Cable, Inc., request clarification on whether cable operators are permitted to operate under a *hybrid system* during the transition period. In other words, should operators be permitted to offset frequencies under the new rules while continuing to use frequencies that are grandfathered under existing regulations? If not, it is submitted, in order to add additional channels an operator would be required to offset frequencies on the entire system which, in effect, would render

[1] For clarification, we note the distinction of the basic cable signal leakage (CLI) performance test from monitoring requirements. The CLI is intended to determine the overall interference potential of a cable system to aeronautical radio services. On the other hand, routine monitoring is a maintenance function of regularly checking for excessive leaks and making repairs.

the five year transition period meaningless. Pepper and Corrazzini request clarification as to whether once clearance has been requested for a frequency, the Commission will consider an application for waiver to use that frequency at any time during the transition period.

24. The comments of Archer S. Taylor question whether later extensions to grandfathered systems are considered part of the system. He submits that extensions which do not increase the system radius to the most remote point of the system, existing or planned, which already have been declared in notifications (under old § 76.610(b)), should not invalidate grandfathering rights. Mr. Taylor futher notes that where the system radius would be increased by an extension, a new notification under the old rules would provide adequate information to determine the existence of any conflict.

25. Many of the questions raised by petitioners and commenters in regard to grandfathering privileges have been answered by the *Public Notice*. As indicated in that release, it was the Commission's intention to stop processing individual requests to add new aeronautical frequencies under the old rules on October 26, 1984, the adoption date of the *Second Report*. However, OMB's approval notwithstanding, in view of the fact that the *Second Report* was not released by the Commission until November 9, 1984, nor published in the **Federal Register** until November 16, 1984, and for purposes of administrative efficiency, it was decided that the Commission would process all requests to add aeronautical frequencies under the old rules received as of November 30, 1984.

26. We do not believe it is advisable to modify the November 30, 1984, grandfathering date. It is the Commission's responsibility to ensure the safe operation of radio services vital to the protection of life. We have provided cable operators considerable time (5 years) within which to adjust to the changes under the new rules. Changing the effective grandfathering date for any significant time, as requested by some petitioners, will only delay the effective control of signal leakage. In those instances where cable operators might have defficulty in obtaining equipment capable of meeting the new rules after having made a diligent good-faith effort to do so, we will consider waiver requests.

27. In the *Second Report*, the Commission intended to extend grandfathering rights to cable operators only on a frequency basis. That intention was clarified by the Commission's *Public Notice*. The *Second Report* required system operators adding new aeronautical frequencies to existing plants or extending their authorized service radii to follow the new aeronautical offset criteria. In essence, what the *Second Report* permitted was a *hybrid system* for five years, or a complete transition to the new procedures.

28. In response to a request by Pepper & Corrazzini, we are clarifying the point that if usage of any of the authorized frequencies by an aeronautical radio service arises in the vicinity of the cable system, and consequently the system forfeits its grandfathering privileges to that frequency, application for waiver under the former rules for continued use of the existing fequency will be considered. Applications for waiver will not be considered, however, for new frequencies to replace existing ones that have come into conflict with aeronautical channels.

29. Further, we have reconsidered whether to allow an operator to increase the system radius and continue to operate under the grandfathering rules. We now believe that an extension of service area would be beneficial to the public so that a segment of the community or an adjacent community not yet served by the cable system would not be deprived of service for a period perhaps as long as five years. The operator, however, must notify the Commission of such extensions, obtain clearance for the extension and comply with the grandfathering requirements.

Issue 5: Cable Signal Threshold Power Level

30. In the *Second Report*, the Commission changed the cable system peak power levels, at which the aeronautical restrictions apply, from 10^{-5} watts to 10^{-4} watts in a 25 kHz bandwidth (except for operation on the emergency frequencies). NCTA requests that we modify our rules to reflect that *average* power rather the *peak* power is to be used as the threshold. NCTA alleges that an average power level over a specified time period, rather than peak power as now required, is the better measure of potential cable interference. This is due primarily to the long integration time in airborne indicating devices, making power over time more critical than instantaneous power.[12] We agree with NCTA in this regard. Therefore, we are adopting NCTA's recommendation to modify references in the rules from 10^{-4} watts "peak in a 25 kHz bandwidth" to 10^{-4} watts "with an average power level across a 25 kHz bandwidth in any 160 microsecond period."

Issue 6: Notification Requirements

31. In the *Second Report*, the Commission raised the cable system permitted power levels in the aeronautical radio bands because low power carriers (10^{-5} watts or less) have a very low probability of causing interference even under "worst case" conditions of signal leakage. The threshold power level of 10^{-5} watts, however, was retained for FCC notification purposes. This has caused considerable confusion in the industry and consequently has led us to reconsider this notification requirement. Since it can be expected that cable systems, when routinely monitored, will not cause interference to aeronautical services when using carrier signals with power levels below 10^{-4} watts, no purpose is served by requiring cable television operators using carrier signals of power levels less then 10^{-4} watts to meet Commission notification requirements. Therefore, 10^{-4} watts is adopted as the universal trigger level for FCC notification for new frequencies under § 76.615 of the Rules.[13]

32. In response to a request by Cable Investments, Inc., we will clarify which notification provisions apply to grandfathered systems. The petitioner specifically asks whether grandfathered systems need to provide additional notification to the Commission before commencing use of pre-cleared frequencies or whether the new notification requirements are intended only for use of non-grandfathered frequencies. Although systems are not required to give the Commission notification under the new rules as to grandfathered frequencies, they must continue to comply with the previous requirements for carrier signals equal to or greater than 10^{-5} watts for their *grandfathered frequencies* inasmuch as quarterly monitoring and uniform offsets do not apply to these frequencies. The rules in the appendix are modified to reflect the above changes and clarifications (see Appendix A).

Issue 7: Leakage Limit

33. Several of the cable interests suggested relaxing the signal leakage limits now contained in § 76.605(a)(12) of the Rules. Petitioners cite the

[12] This finding was related to the FAA by FCC staff by letter on November 29, 1984, for over-the-air services and it has not been disputed by the FAA.

[13] Measurement of the power levels for notification purposes on the coaxial distribution system, as opposed to measurement of internal levels in amplifiers, headend equipment, etc.

Advisory Committee's recommendation of 100 uV/m at 3 meters from the cable and the more relaxed limits in other rule parts as the basis for the relaxation. The Commission agrees with the need to examine the current limit and has issued a separate docket that reviews leakage and several other technical issues (MM Docket No. 85–38, 50 FR 7801) (February 26, 1985). Therefore, we will not reconsider the matter in this proceeding, but will issue a decision in the above referenced proceeding.

Ordering Clauses

34. Accordingly, it is ordered, That the Petitions for Reconsideration are granted as specified above and are denied in all other respects.

35. it is further ordered, That the request for clarification filed by Blooston and Mordkofsky and the motion for extension of time filed by ARINC and NCTA are granted.[14]

36. Authority for this action is contained in sections 4, 301, 302, 303, 304, 307, 308, 309 and 405 of the Communications Act of 1934, as amended, and the Cable Communications Policy Act of 1984.

37. It is further ordered, That the rule amendments, pertaining to the monitoring of cable equipment and the CLI, as set forth in Appendix A, become effective 30 days after publication in the **Federal Register**, except as otherwise noted.

38. The Secretary shall cause a copy of this *Memorandum Opinion and Order* with the attached Regulatory Flexibility Analysis (Appendix B) to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (Supp. 1984).

39. It is further ordered, That the Secretary shall cause a copy of this Memorandum Opinion and Order to be published in the FCC Reports.

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

41. For further information concerning this proceeding, contact Freda Lippert Thyden, Mass Media Bureau, (202) 632–7792, on legal concerns or Bernard Gorden, Mass Media Bureau, (202) 632–9680, on technical concerns.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

PART 76—[AMENDED]

47 CFR Part 76 is amended as follows:

[14] The request for immediate relief filed by Dow, Lohnes & Albertson, in effect, was granted by the *Public Notice* of January 30, 1985.

1. The authority citation for Part 76 continues to read as follows:

Authority: Secs. 4 and 303, 48 Stat. 1066 and 1082 (47 U.S.C. 154 and 303).

2. 47 CFR 76.610 is revised in its entirety to read as follows:

§ 76.610 Operation in the frequency bands 108–137 and 225–400 MHz—Scope of application.

The provisions of §§ 76.611 (effective July 1, 1990), 76.612, 76.613, 76.614 and 76.615 are applicable to all cable television systems transmitting carriers or other signal components carried at an average power level equal to or greater than 10^{-4} watts across a 25 kHz bandwidth in any 160 microsecond period, at any point in the cable distribution system in the frequency bands 108–137 and 225–400 MHz for any purpose. For grandfathered systems, refer to §§ 76.618 and 76.619.

Note 1.—See the provisions of § 76.616 for cable operation near certain aeronautical and marine emergency radio frequencies.

Note 2.—Until January 1, 1990, the band 136–137 MHz is allocated as an alternative allocation to the space operation, meteorological-satellite service and the space research service on a primary basis. After January 1, 1990, the space service will become secondary to aeronautical mobile service radio. Until January 1, 1990, the band 136 to 137 MHz is excluded from the rule sections regarding protection of aeronautical frequencies.

§ 76.611 [Removed]

3. 47 CFR 76.611 is removed effective July 19, 1985.

4. A new § 76.611 is added effective July 1, 1990, to read as follows:

§ 76.611 Cable television basic signal leakage performance criteria.

(a) No cable television system shall commence or provide service in the frequency bands 108–137 and 225–400 MHz unless such systems is in compliance with one of the following cable television basic signal leakage performance criteria:

(1) prior to carriage of signals in the aeronautical radio bands and at least once each calendar year, with no more than 12 months between successive tests thereafter, based on a sampling of at least 75% of the cable strand, and including any portion of the cable system which are known to have or can reasonably be expected to have less leakage integrity than the average of the system, the cable operator demonstrates compliance with a cumulative signal leakage index by showing either that (i) 10 log I_{3000} is equal to or less than -7 or (ii) 10 log I_{∞} is equal to or less than 64, using one of the following formula:

$$I_{3000} = \frac{1}{\theta} \sum_{i=1}^{n} \frac{E_i^2}{R_i^2},$$

$$I_{\infty} = \frac{1}{\theta} \sum_{i=1}^{n} E_i^2,$$

where:

$$R_i^2 = r_i^2 + (3000)^2$$

r_i is the distance (in meters) between the leakage source and the center of the cable television system;

θ is the fraction of the system cable length actually examined for leakage sources and is equal to the strand miles of plant tested divided by the total strand miles in the plant;

R_i is the slant height distance (in meters) from leakage source i to a point 3000 meters above the center of the cable television system;

E_i is the electric field strength in microvolts per meter (μV/m) measured pursuant to § 76.609(h) 3 meters from the leak i; and

n is the number of leaks found of field strength equal to or greater than 50 μV/m pursuant to Section 76.609(h).

The sum is carried over all leaks i detected in the cable examined; or

(2) prior to carriage of signals in the aeronautical radio bands and at least once each calendar year, with no more than 12 months between successive tests thereafter, the cable operator demonstrates by measurement in the airspace that at no point does the field strength generated by the cable system exceed 10 microvolts per meter (μV/m) RMS at an altitude of 450 meters above the average terrain of the cable system. The measurement system (including the receiving antenna) shall be calibrated against a known field of 10 μV/m RMS produced by a well characterized antenna consisting of orthogonal resonant dipoles, both parallel to and one quarter wavelength above the ground plane of a diameter of two meters or more at ground level. The dipoles shall have centers collocated and be excited 90 degrees apart. The half-power bandwidth of the detector shall be 25 kHz. If an aeronautical receiver is used for this purpose it shall meet the standards of the Radio Technical Commission for Aeronautics (RCTA) for aeronautical communications receivers. The aircraft antenna shall be horizontally polarized. Calibration shall be made in the community unit or, if more than one, in

any of the community units of the physical system within a reasonable time period to performing the measurements. If data is recorded digitally the 90th percentile level of points recorded over the cable system shall not exceed 10 μV/m RMS; if analog recordings is used the peak values of the curves, when smoothed according to good engineering practices, shall not exceed 10 μV/m RMS.

(b) In paragraphs (a)(1) and (a)(2) of this section the unmodulated test signal used on the cable plant shall: (1) Be within the VHF aeronautical band 108–137 MHz or any other frequency in which the results can be correlated to the VHF aeronautical band and (2) have an average power level equal to the average power level of the strongest cable television carrier on the system.

(c) In paragraph (a)(1) and (2) of this section, if a modulated test signal is used, the test signal and detector technique must, when considered together, yield the same result as though an unmodulated test signal were used in conjunction with a detection technique which would yield the RMS value of said unmodulated carrier.

(d) If a sampling of at least 75% of the cable strand (and including any portions of the cable system which are known to have or can reasonably be expected to have less leakage integrity than the average of the system) as described in paragraph (a)(1) cannot be obtained by the cable operator or is otherwise not reasonably feasible, the cable operator shall perform the airspace measurements described in paragraph (a)(2).

(e) Prior to providing service to any subscriber on a new section of cable plant, the operator shall show compliance with either: (1) The basic signal leakage criteria in accordance with paragraph (a)(1) or (a)(2) of this section for the entire plant in operation or (2) a showing shall be made indicating that no individual leak in the new section of the plant exceeds 20 μV/m at 3 meters in accordance with § 76.609 fo the Rules.

(f) Notwithstanding paragraph (a) of this section, a cable operator shall be permitted to operate on any frequency which is offset pursuant to § 76.612 in the frequency band 108–137 MHz for the purpose of demonstrating compliance with the cable television basic signal leakage performance criteria.

5. 47 CFR 76.612 is revised in its entirety to read as follows:

§ 76.612 Cable television frequency separation standards.

All cable television systems which operate in the frequency bands 108–137 and 225–400 MHz shall comply with the following frequency separation standards:

(a) In the aeronautical radiocommunication bands 118–137, 225–328.6 and 335.4–400 MHz, the frequency of all carrier signals or signal components carried at an average power level equal to or greater than 10^{-4} watts in a 25 kHz bandwidth in any 160 microsecond period must operate at frequencies offset from certain frequencies which may be used by aeronautical radio services operated by Commission licensees or by the United States Government or its Agencies. The aeronautical frequencies from which offsets must be maintained are those frequencies which are within one of the aeronautical bands defined in this subparagraph, and when expressed in MHz and divided by 0.025 yield an integer. The offset must meet one of the following two criteria:

(1) All such cable carriers or signal components shall be offset by 12.5 kHz with a frequency tolerance of ±5 kHz; or

(2) The fundamental frequency from which the visual carrier frequencies are derived by multiplication by an integer number which shall be 6.0003 MHz with a tolerance of ±1 Hz (Harmonically Related Carrier (HRC) comb generators only).

(b) In the aeronautical radionavigation bands 108–118 and 328.6–335.4 MHz, the frequency of all carrier signals or signal components carrier at an average power level equal to or greater than 10^{-4} watts in a 25 kHz bandwidth in any 160 microsecond period shall be offset by 25 kHz with a tolerance of ±5 kHz. The aeronautical radionavigation frequencies from which offsets must be maintained are defined as follows:

(1) Within the aeronautical band 108–118 MHz when expressed in MHz and divided by 0.025 yield an even integer.

(2) Within the band 328.6–335.4 MHz, the radionavigation glide path channels are listed in Section 87.501 of the Rules.

Note.—The HRC system, as described above, will meet this requirement in the 328.6–335.4 MHz navigation glide path band. Those Incrementally Related Carriers (IRC) systems, with comb generator reference frequencies set at certain odd multiples equal to or greater than 3 times the 0.0125 MHz aeronautical communications band offset, e.g. (6n + 1.250 ± 0.0375) MHz, may also meet the 25 kHz offset requirement in the navigation glide path band.

6. 47 CFR 76.614 is revised in its entirety to read as follows:

§ 76.614 Cable television system regular monitoring.

Cable television operators transmitting carriers in the frequency bands 108–137 and 225–400 MHz shall provide for a program of regular monitoring for signal leakage by substantially covering the plant every three months. The incorporation of this monitoring program into the daily activities of existing service personnel in the discharge of their normal duties will generally cover all portions of the system and will therefore meet this requirement. Monitoring equipment and procedures utilized by a cable operator shall be adequate to detect a leakage source which produces a field strength in these bands of 20 μV/m or greater at a distance of 3 meters. During regular monitoring, any leakage source which produces a field strength of 20 μV/m or greater at a distance of 3 meters in the aeronautical radio frequency bands shall be noted and such leakage sources shall be repaired within a reasonable period of time. The operator shall maintain a log showing the date and location of each leakage source identified, the date on which the leakage was repaired, and the probable cause of the leakage. The log shall be kept on file for a period of two (2) years and shall be made available to authorized representatives of the Commission upon request.

7. 47 CFR 76.615 is revised in its entirety to read as follows:

§ 76.615 Notification requirements.

All cable television operators shall comply with each of the following notification requirements:

(a) The operator of the cable system shall notify the Commission annually of all signals carried in the aeronautical radio frequency bands, noting the type of information carried by the signal (television picture, aural, pilot carrier, or system control, etc.) The timely filing of FCC Form 325, Schedule 2, will meet this requirement.

(b) The operator of a cable system shall notify the Commission before transmitting any carrier or other signal component with an average power level across a 25 kHz bandwidth in any 160 microsecond time period equal to or greater than 10^{-4} watts at any point in the cable distribution system on any new frequency or frequencies in the aeronautical radio frequency bands. Such notification shall include:

(1) Legal name and local address of the cable television operator;

(2) The names and FCC identifiers (e.g. CA0001) of the system communities affected;

(3) The names and telephone numbers of local system officials who are responsible for compliance with §§ 76.610, 76.611 (effective July 1, 1990), and 76.612 through 76.616 of the Rules;

(4) Carrier and subcarrier frequencies and tolerance, types of modulation and the maximum average power levels of all carriers and subcarriers occurring at any location in the cable distribution system.

(5) The geographical coordinates of a point near the center of the cable system, together with the distance (in kilometers) from the designated point to the most remote point of the cable plant, existing or planned, which defines a circle enclosing the entire cable plant;

(6) A description of the routine monitoring procedure to be used; and

(7) For cable operators subject to § 76.611 (effective July 1, 1990), the cumulative signal leakage index derived under § 76.611(a)(1) (effective July 1, 1990) or the results of airspace measurements derived under § 76.611(a)(2) (effective July 1, 1990), including a description of the method by which compliance with basic signal leakage criteria is achieved and the method of calibrating the measurement equipment. This information shall be provided to the Commission prior to July 1, 1990 and each calendar year thereafter.

8. New 47 CFR 76.616 is added to Subpart K, Part 76, to read as follows:

§ 76.616 Operation near certain aeronautical and marine emergency radio frequencies.

The transmission of carriers or other signal components capable of delivering peak power levels equal to or greater than 10^{-5} watts at any point in a cable television system is prohibited within 100 kHz of the frequency 121.5 MHz, and is prohibited withn 50 kHz of the two frequencies 156.8 MHz and 243.0 MHz.

9. 47 CFR 76.618 is revised in its entirety to read as follows:

§ 76.618 Grandfathering.

Cable television systems are permitted to use aeronautical frequencies which were requested or granted for use by November 30, 1984, under Section 76.619 of the Rules unitl July 1, 1990.

10. New 47 CFR 76.619 is added to Subpart K, Part 76, to read as follows:

§ 76.619 Grandfathered Operation in the frequency bands 108–136 and 225–400 MHz.

All cable television systems operating in a grandfathered status under § 76.618 of the Rules and transmitting carriers or other signal components capable of delivering peak power equal to or greater than 10^{-5} watts at any point in the cable system in the frequency bands 108–136 and 225–400 MHz for any purpose are subject to the following requirements:

(a) The operator of the cable system shall notify the Commission annually of all signals carried in these bands, noting the type of information carried by the signal (television, aural, or pilot carrier and system control, etc.). The timely filing of FCC Form 325, Schedule 2, will meet this requirement.

(b) The operator of the cable system shall notify the Commission of the proposed extension of the system radius in these bands. Notification shall include carrier and subcarrier frequencies, types of modulation, the previously notified geographical coordinates, the new system radius and the maximum peak power occurring at any location in the cable distribution system. No system shall extend its radius in these bands without prior Commission authorization.

(c) The operator of the cable system shall maintain at its local office a current listing of all signals carried in these bands, noting carrier and subcarrier frequencies, types of modulation, and maximum peak power which occurs at any location within the cable distribution system.

(d) The operator of the system shall provide for regular monitoring of the cable system for signal leakage covering all portions of the cable system at least once each calendar year. Monitoring equipment and procedures shall be adequate to detect leakage sources which produce field strengths in these bands of 20 microvolts per meter at a distance of 3 meters. The operator shall maintain a log showing the date and location of each leakage source identified, the date on which the leakage was eliminated, and the probable cause of the leakage. The log shall be kept on file for a period of two (2) years, and shall be made to authorized representatives of the Commission on request.

(e) All carrier signals or signal components capable of delivering peak power equal to or greater than 10^{-5} watts must be operated at frequencies offset from aeronautical radio services operated by Commission licensees or by the United States Government or its agencies within 111 km (60 nautical miles) of any portion of the cable system as given in paragraph (f) of this section. (The limit of 111 km may be increased by the Commission in cases of "extended service volumes" as defined by the Federal Aviation Administration or other federal government agency for low altitude radio navigation or communication services). If an operator of a cable system is notified by the Commission that a change in operation of an aeronautical radio service will place the cable system in conflict with any of the offset criteria, the cable system operator is responsible for eliminating such conflict within 30 days of notification.

(f) A minimum frequency offset between the nominal carrier frequency of an aeronautical radio service qualifying under paragraph (d) of this Section and the nominal frequency of any cable system carrier or signal component capable of delivering peak power equal to or greater than 10^{-5} watts shall be maintained or exceeded at all times. The minimum frequency offsets are as follows:

Frequencies	Minimum frequency offsets
108–118 MHz	(50 + T) kHz
328.6–335.4 MHz	
108–136 MHz	
225–328.6 MHz	(100 + T) kHz
335.4–400 MHz	

In this table, T is the absolute value of the frequency tolerance of the cable television signal. The actual frequency tolerance will depend on the equipment and operating procedures of the cable system, but in no case shall the frequency tolerance T exceed ±25 kHz in the bands 108–136 and 225–400 MHz.

Appendix B.—Regulatory Flexibility Analysis

I. Need for and Purpose of Rule

1. The Commission has reaffirmed that to assure the protection of aeronautical communications from harmful interference, cable systems should not be permitted to operate on the same frequencies used by aeronautical radio services. It reaffirmed, however, that it is in the public interest for cable systems to operate in the aeronautical radio bands if they comply with frequency offset, monitoring and cumulative signal leakage requirements.

II. Summary of Issues Raised by Public Comment in Response to the Final Regulatory Flexibility Analysis, Commission Assessment, and Changes Made as a Result

A. Issues Raised

2. A private aviation group suggested that the frequency offsets adopted were insufficient to protect aeronautical radio services. On the other hand, certain cable interests suggested that uniform offsets are adequate in and of themselves to assure the protection of

aeronautical communications. Thus, these petitioners request the elimination of the signal leakage performance criteria and a return to an annual, rather than a quarterly, monitoring requirement. Some petitioners also request clarifications on grandfather rights and notification obligations.

B. Assessment

3. Although the uniform offsets were challenged, we believe as does the FAA, that they provide adequate protection to aeronautical services. Because uniform frequency offsets are only a temporary solution, however, they cannot be relied upon to protect aeronautical channels from harmful interference in the long term. But, in view of the interim effectiveness of uniform offsets and quarterly leakage monitoring requirements, the Commission delayed the implementation of the cumulative signal leakage requirement for a period of five years. This will provide the cable industry with adequate time to develop the necessary resources and expertise to comply with this requirement and to fully depreciate existing equipment. In regard to the monitoring requirement, cable maintenance must be on-going, not just a quick, once-per-year status report. The quarterly requirement will assure the regular attention to problems, and thus prevent harmful interference.

C. Changes Made as a Result of this Proceeding

4. For the next five years cable television systems may operate in the aeronautical radio bands if they meet uniform channel frequency offset and monitoring requirements. After that time, cable systems must comply with the basic leakage performance criteria as well as the uniform offset and monitoring requirements.

5. The Commission clarified the monitoring requirement noting its intention to assure that the operator checks the system regularly for excessive leaks and makes proper repairs. These requirements do not require close-proximity inspection of every linear mile of cable in the system on a quarterly basis. Rather, cable service personnel can simply make spot checks throughout the entire system, either while on service calls or while performing installations.

6. On reconsideration, the Commission decided to allow a cable operator to extend the system radius under the old aeronautical rules so that a segment of the community, or an adjacent community not yet served by the cable system, would not be deprived of service for a period of perhaps as long as five years.

7. Since average power, over time, provides a better indicator of interference potential, cable operators may now use average rather than peak power as the cable signal threshold.

8. The cable system power levels, at which notification requirements apply, were relaxed because low level signals on a cable system have a very minimal potential to interfere with aeronautical radio services.

III. Significant Alternatives Considered and Rejected

9. We considered allowing cable usage of non-emergency aeronautical radio frequencies without frequency offsets, cumulative signal leakage index requirements (CLI) or quarterly monitoring obligations. These rules are necessary, however, to ensure that cable systems do not cause harmful interference to aeronautical radio services. The uniform offsets, although temporary, are necessary under current conditions, whereas, the CLI as well as the monitoring obligations are long-term tools for minimizing CATV signal leakage in the aeronautical bands.

[FR Doc. 85-16737 Filed 7-18-85; 8:45 am]
BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 552

[APD 2800.12 CHGE15]

General Services Administration Acquisition Regulation; Identification of Provisions and Clauses

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) Chapter 5, is amended to revise section 552.103, 552.252-5, and 552.252-6 in order to provide a method of identifying provisions and clauses that the FAR and GSAR prescribe for use on a "substantially the same as" or "substantially as follows" basis. Variations of such provisions and clauses are not deviations and are not labeled as such. Therefore, the reader is not alerted to the fact that the provision or clause is not worded exactly the same as the FAR or GSAR provision or clause. In addition, minor editorial changes are made in section 552.100 and 552.101. The intended effect is to improve the regulatory coverage and to provide uniform procedures for contracting under the regulatory system.

EFFECTIVE DATE: July 11, 1985.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Scott, Office of GSA Acquisition Policy and Regulations (VP), (202) 523-3782.

SUPPLEMENTARY INFORMATION: On April 23, 1985, the General Services Administration published in the **Federal Register** (50 FR 15943) GSAR Notice No. 5-85 inviting comments from interested parties on these proposed changes to the regulation and provided a 30 day comment period. Comments received from the National Security Industrial Association and various GSA offices have been reviewed, reconciled, and incorporated, when appropriate, into this final rule.

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule. The General Services Administration (GSA) certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.). The regulation will benefit prospective contractors by making it easier for them to identify variations in standard FAR and GSAR provisions and clauses when reviewing solicitations and contracts. Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et. seq.

List of Subjects in 48 CFR Part 552

Government procurement.

1. The authority for 48 CFR Part 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. The table of contents for Part 552 is amended by revising the entries for section 552.252-5 and 552.252-6 as set forth below:

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Sec.

Subpart 552.2—Text of Provisions and Clauses

* * * * *

552.252-5 Authorized Deviations or Variations in Provisions.

552.252-6 Authorized Deviations or Variations in Clauses.

* * * * *

Authority: 40 U.S.C. 486(c).

3. Section 552.100 is revised to read as follows:

552.100 Scope of subpart.

This subpart explains the numbering system used in Subpart 552.2 and prescribes procedures for incorporating and identifying provisions and clauses in solicitations and contracts.

4. Section 552.101 is amended by revising paragraph (b) to read as follows:

552.101 Using Part 552.

* * * * *

(b) *Numbering.* When a provision or clause in this Part has the same title as a similar provision or clause contained in the FAR, that provision or clause is preceded by the number 5 and is included under the same subsection number and caption as in the FAR. Provisions or clauses numbered in this manner represent: (1) Provisions or clauses which are "substantially" the same as FAR provisions or clauses, and (2) provisions and clauses which are to be used instead of FAR provisions. All supplemental provisions and clauses are numbered in the same manner as the FAR, except that the number is preceded by the chapter number and the subsection numbers begin with 70 and are sequentially numbered; e.g., 552.232-70, 552.232-71, etc.

* * * * *

5. Section 552.103 is amended by adding paragraphs (d) and (e) to read as follows:

552.103 Identification of provisions and clauses.

* * * * *

(d) When a "substantially the same as" provision or clause is used that varies from a FAR or GSAR clause, the word "(VARIATION)," the date of the variation, and the staff office/service/contracting activity and/or contracting office originating the variation, shall be included as a part of the title of the provision or clause, along with the FAR or GSAR citation. If there is more than one variation of a provision or clause, the variations are titled (VARIATION I), (VARIATION II), (VARIATION III) (552.232-70—PAYMENT DUE DATE (APR 1985)—(VARIATION I—OIRM (KESAO)). The contracting officer shall show the provision or clause citation in the solicitation or contract. Identification of variations of provisions or clauses which occur during negotiations is not required unless an amendment to the solicitation is issued.

(e) Variations of FAR or GSAR provisions or clauses should generally be used for individual cases. A copy of provision or clause variations developed for repeated use shall be furnished to the Office of GSA Acquisition Policy and Regulations (VP) for potential inclusion in the GSAR.

6. Section 552.107 is revised to read as follows:

552.107 Provisions and clauses prescribed in Subpart 552.1.

(a) The contracting officer shall insert the provision at GSAR 552.252-5, Authorized Deviations or Variations in Provisions, in solicitations that include any FAR or GSAR provision with an authorized deviation or variation. This provision shall be used in lieu of the FAR provision at 52.252-5.

(b) The contracting officer shall insert the provision at GSAR 552.252-6, Authorized Deviations or Variations in Clauses, in solicitations and contracts that include any FAR or GSAR provision with an authorized deviation or variation. This clause shall be used in lieu of the FAR provision at 52.252-6.

7. Sections 552.252-5 and 552.252-6 are revised to read as follows:

552.252-5 Authorized Deviations or Variations in Provisions.

As prescribed in GSAR 552.107(a), insert the following provision:

Authorized Deviations or Variations in Provisions (Deviation FAR 52.252-5) (July 1985)

(a) The use in this solicitation of any Federal Acquisition Regulation (48 CFR Chapter 1) provision with an authorized deviation or variation is indicated by the addition of "(DEVIATION)" or "(VARIATION)" after the date of the provision, if the provision is not published in the General Services Administration Acquisition Regulation (48 CFR Chapter 5). The use in this solicitation of any Federal Acquisition Regulation (FAR) provision with an authorized deviation or variation that is published in the General Services Administration Acquisition Regulation is indicated by the addition of "(DEVIATION (FAR provision no.))" or "(VARIATION (FAR provision no.))" after the date of the provision.

(b) The use in this solicitation of any General Services Administration Acquisition Regulation provision with an authorized deviation or variation is indicated by the addition of "(DEVIATION)" or "(VARIATION)" after the date of the provision.

(c) Changes in wording of provisions that are prescribed for use on a "substantially the same as" basis are not considered deviations. Therefore, when such provisions are not worded exactly the same as the FAR or GSAR provision, they are identified by the word "(VARIATION)."

(End of Provision)

552.252-6 Authorized Deviations or Variations in Clauses.

As prescribed in GSAR 552.107(b), insert the following clause:

Authorized Deviations or Variations in Clauses (Deviation FAR 52.252-6) (July 1985)

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation or variation is indicated by the addition of "(DEVIATION)" or "(VARIATION)" after the date of the clause, if the clause is not published in the General Services Administration Acquisition Regulation (48 CFR Chapter 5). The use in this solicitation of any Federal Acquisition Regulation (FAR) clause with an authorized deviation or variation that is published in the General Services Administration Acquisition Regulation is indicated by the addition of "(DEVIATION (FAR clause no.))" or "(VARIATION (FAR clause no.))" after the date of the clause.

(b) The use in this solicitation of any General Services Administration Acquisition Regulation clause with an authorized deviation or variation is indicated by the addition of "(DEVIATION)" or "(VARIATION)" after the date of the clause.

(c) Changes in wording of provisions that are prescribed for use on a "substantially the same as" basis are not considered deviations. Therefore, when such provisions are not worded exactly the same as the FAR or GSAR provision, they are identified by the word "(VARIATION)."

(End of Clause)

Dated: July 11, 1985.

Allan W. Beres,

Assistant Administrator for Acquisition Policy.

[FR Doc. 85-17222 Filed 7-18-85; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 31012-199]

Atlantic Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: NOAA issues this notice to close the fishery for Atlantic bluefin tuna conducted by vessels permitted in the incidental longline category in the regulatory area. Closure of this fishery is necessary because the annual catch quota of 145 short tons (st) will be attained by the effective date. The intent of this action is to prevent exceeding the annual quota established for this segment of the fishery and thereby maintain the U.S. obligations under the International Commission for the Conservation of Atlantic Tunas.

EFFECTIVE DATES: 0001 hours Eastern Daylight Time (EDT) July 19, 1985, through December 31, 1985.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr., 617–281–3600, ext. 325, or David S. Crestin, 617–281–3600, ext. 253.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971–971h) regulating the take of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction were published in the **Federal Register** on June 17, 1983 (48 FR 27755).

Section 285.22(f)(1) of the regulations provides for an annual quota of 145 short tons (st) of Atlantic bluefin tuna to be taken by vessels permitted in the Incidental longline category in the regulatory area. The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is required under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator, further, is required under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by the type of vessels subject to the quotas. The Assistant Administrator has determined, based on the reported catch of Atlantic bluefin tuna of 135 st and the recent catch rate, that the annual quota of Atlantic bluefin tuna allocated to vessels permitted in the incidental longline category will be attained by the effective date. Fishing for and retention of any Atlantic bluefin tuna by longline vessels must cease at 0001 hours EDT on July 19, 1985.

NOAA closed the fishery for Atlantic bluefin tuna conducted by vessels permitted in the incidental longline category in the area south of 36°00′ N. latitude on May 14, 1985 (50 FR 20420, May 16, 1985). This action completes the closure of the total regulatory area for vessels permitted in the incidental longline fishery.

Notice of this action has been mailed to all Atlantic bluefin tuna dealers and vessel owners holding a valid vessel permit for this fishery.

Other Matters

This action is taken under the authority of 50 CFR 285.20, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

(16 U.S.C. 971 *et seq.*)

Dated: July 16, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 85–17170 Filed 7–18–85; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 50, No. 139
Friday, July 19, 1985

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 907 and 908

Navel Oranges Grown in Arizona and Designated Part of California; Valencia Oranges Grown in Arizona and Designated Part of California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rules.

SUMMARY: The following proposed administrative rules and changes in the regulations governing the handling of California-Arizona navel and Valencia oranges would implement recent amendments to the marketing orders for these commodities. The proposals include: provisions for an interest charge and a late payment charge on late assessments; provisions for reporting to the marketing order administrative committees and recordkeeping; requirements for petitioning the committees to recommend to the Secretary that a continuance referendum be held; and a standardized definition of the term "field box".

DATE: Comments due: August 19, 1985.

ADDRESS: Interested persons are invited to submit written comments in duplicate to: Docket Clerk, Room 2069–S, F&V, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Comments should reference the date and page number of the **Federal Register** and will be made available for public inspection in 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: These proposed actions have been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and have been designated "non-major" rules. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that these actions will not have a significant economic impact on a substantial number of small entities.

These proposals are made under Marketing Order No. 907, as amended (7 CFR Part 907, 50 FR 1429), regulating the handling of navel oranges grown in Arizona and designated part of California, and Marketing Order No. 908, as amended (7 CFR Part 908, 50 FR 1429), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as "the act". These proposals are based upon the recommendations of and information submitted by the Navel and Valencia Orange Administrative Committees and upon other available information.

Marketing Order Nos. 907 and 908 were amended effective January 11, 1985. Amendments to the orders authorized the committees, which administer the marketing orders locally, to recommend to the Secretary such rules as would be necessary to implement the provisions of the amendments. All of the proposals herein are administrative in nature.

The first proposal would set an interest charge of 1–½ percent per month on any assessment not received by the appropriate committee within 30 days of the date such assessment was first invoiced to the handler. In addition, a late payment charge of 5 percent would be levied on any assessment not received by the appropriate committee within 60 days of the date such assessment was first invoiced to the handler. This proposal recognizes that nonpayment of assessments can have an adverse impact on the operation of the committees and could require them to borrow money and pay interest to continue operating. The proposed charges for late payment and nonpayment should serve to encourage handlers to pay their assessment obligations promptly. By paying the obligations when due, handlers would not be subject to either the interest or late payment charge. This proposal would add a new § 907.104 to the rules and regulations under the navel orange marketing order and a new § 908.104 to the rules and regulations under the Valencia orange marketing order. These rules would implement the recently amended §§ 907.41 and 908.41 of the orders.

The second proposal would implement the new §§ 907.73 and 908.73 which require that handlers maintain specific records for three years. Sections 907.173 and 908.173, respectively, would be added to the rules and regulations of the marketing orders under a new center heading "Records." The following records would be specified as those required to be maintained by handlers for the required three-year period:

(a) Details of all oranges received, including quantity, origin (including grove location), and date of receipt at packinghouse;

(b) An inventory of oranges in storage held at the beginning of each prorate week;

(c) Daily orange packout records by lot or grower;

(d) Signed trucks manifests, car manifests, bills of lading, or other documents reflecting orange shipment details;

(e) Copies of invoices or billings to customers for oranges sold;

(f) Cash sales tickets or other documents reflecting the sale of oranges for cash;

(g) Shipping register or equivalent form of information, pool statements, and records of accounting made to growers for oranges handled;

(h) Records showing the disposition of oranges to by-products plants; and

(i) Records showing the disposition of all other oranges.

These recordkeeping requirements would permit the committees to verify compliance with regulation under the orders and are consistent with § 8d of the act. In carrying out this proposed provision, the committees, through their designated employees, would have access to premises and records of handlers to verify the information submitted in the form of reports. If implemented, this provision would add to the ability of the committees to investigate and report violations of the orders in a timely fashion.

Although there is clear authority for this recordkeeping rule and the records specified for retention appear to be necessary support documents for the information submitted to the committees, the Department would be interested in learning if the specified records are among those which would be retained by handlers in their normal

course of business and whether more or fewer information items for retention should be specified.

The third proposal would amend §§ 907.142 and 908.142 by clarifying the particular report form to be used by handlers when responding to committee requests for written information regarding acreage, tree crop estimates, annual clean picks partial picks, and fruit remaining to be picked. The fourth proposal would define "field box" as used in this and other reports to mean field boxes having a volume of 3,115 cubic inches. Both of these proposals would contribute to the accuracy of the computation of prorate bases. Sections 907.53 and 907.72 and 908.53 and 908.72 authorize these changes in the rules and regulations of the orders. The changes are designed to improve crop estimation by handlers and consequently provide more accurate handler prorate bases. Approval by the Office of Management and Budget (OMB) of the information collection will be requested at the time the final rule is developed.

The final proposal would add new §§ 907.183 and 908.183, respectively, under a new heading "Referenda." This action is authorized under §§ 907.83(d) and 908.83(d), respectively, which specify that continuance referenda be conducted when recommended by the committee. These paragraphs further specify that the committees should develop "such rules and regulations as are necessary to establish the basis for the recommendation" to hold a referendum. The committees therefore recommended to the Secretary the basis for the new §§ 907.183 and 908.183 that are proposed herein.

It is proposed that the NOAC or VOAC shall recommend to the Secretary that a referendum be held to ascertain whether continuance of the marketing order is favored by growers whenever the committee is petitioned, in writing, by at least one fourth of the producers who produced navel or Valencia oranges for market within the production area during the previous fiscal year. The petitioning producers must have produced for market at least 22 percent of the volume of oranges produced during that fiscal year within the production areas. Further, on the navel orange petition, all signatures shall have been inscribed on the petition during the period November 1 and December 14 of an even-numbered year, and the petition must be presented to the NOAC on or before December 15 of such even-numbered year. For Valencia oranges, the signatures shall have been inscribed between June 1 and July 14 of an odd-numbered year, and the petition must be submitted to VOAC on or before July 15 of such odd-numbered year.

All petitions would be required to be presented on a form approved and provided by the respective committee. The forms have not yet been developed. As soon as they have been developed, they will be submitted to OMB, and they will not be used until OMB approval has been obtained.

Several aspects of this proposed rule merit discussion. Is the requirement that 25 percent of the producers must sign the petition too high or too low a percentage? Is there another percentage that would be more appropriate? Should the petition be submitted to the administrative committee or directly to the Department of Agriculture? To provide a means by which producer eligibility and production can be determined, what kinds of information should be requested on the petition: name? address? telephone number? total production in field boxes? total number of acres of groves? location of groves? packinghouses which handle the producer's fruit? status of legal entity (partnership, cooperative, or other)? information on whether the producer resides on the property which produces the fruit? for cooperatives—a certification by the Board of Directors? the number of producers for which the cooperative is signing? Along these lines, should a cooperative be permitted to sign the petition on behalf of its producers? Also, is six weeks an appropriate period during which the signatures shall be inscribed?

In addition to answers to the questions posed above, the Department invites relevant comments on other aspects of all of the proposed rules. The public will be provided 30 days to comment upon these proposals.

List of subjects in 7 CFR Parts 907 and 908

Marketing agreements and orders, California, Arizona, Oranges (Navel and Valencia).

1. The authority citation for 7 CFR Parts 907 and 908 continues to read as follows:

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

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

2. Section 907.100 would be amended by adding a new paragraph (i) to read as follows:

§ 907.100 Definitions.

* * * * *

(i) Unless otherwise specified in a particular report form, when information is requested to be reported in the unit of measure "field box," such field box shall be deemed to have a volume of 3,115 cubic inches.

3. A new § 907.104 would be added to read as follows:

§ 907.104 Interest and late payment charges.

(a) There shall be an interest charge of 1½ percent per month on any assessment not received at the committee's office within 30 days of the date such assessment was first involved to the handler; and

(b) In addition to the interest charge specified in paragraph (a) above, there shall be a late payment charge of 5 percent on any assessment not received at the committee's office within 60 days of the date such assessment was first invoiced to the handlers.

4. Section 907.142 would be amended by adding a new sentence at the end of paragraph (a). Paragraph (a) as revised would read as follows:

§ 907.142 Other reports.

(a) Each handler shall make available to the committee's field department representative, upon request, information as to the quantity of oranges which has been harvested from all groves or portions thereof under such handler's control. When requested, the information shall be supplied in writing on Handler Report of Picks and Estimates (Base Estimate Form No. 1), requiring information on designated individual blocks as to acreage, original tree crop estimate by the handler, actual clean picks, partial picks to date, and oranges remaining to be picked.

* * * * *

5. A new § 907.173 would be added, under a new center heading "Records", to read as follows:

Records

§ 907.173 Records to be maintained.

The following records are specified for maintenance by all handlers pursuant to § 907.73:

(a) Details of all oranges received, including quantity, origin (including grove location), and date of receipt at packinghouse;

(b) An inventory of oranges in storage held at the beginning of each prorate week;

(c) Daily orange packout records by lot or grower;

(d) Signed truck manifests, car manifests, bills of lading, or other documents reflecting orange shipment details;

(e) Copies of invoices or billings to customers for oranges sold;

(f) Cash sales tickets or other documents reflecting the sale of oranges for cash;

(g) Shipping register or equivalent form of information, pool statements, and records of accounting made to growers for oranges handled;

(h) Records showing the disposition of oranges to byproducts plants; and

(i) Records showing the disposition of all other oranges.

6. A new § 907.183 would be added under a new heading "Referenda" to read as follows:

Referenda

§ 907.183 Petitions.

The committee shall recommend to the Secretary that a referendum be held to ascertain whether continuance of this part is favored by growers whenever the committee is petitioned, in writing, to do so by at least one fourth of the producers who produced navel oranges for market within the production area in the previous fiscal year, *Provided that:*

(a) The petitioning producers produced for market at least 22 percent of the volume of navel oranges produced within the production area during said fiscal year; and

(b) All signatures shall have been inscribed on the petition during the period between November 1 and December 14 of an even-numbered year; and

(c) The petition is presented to the committee on or before December 15 of such even-numbered year; and

(d) The petition is presented on a form approved and provided by the committee.

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

7. Section 908.100 would be amended by adding a new paragraph (i) to read as follows:

§ 908.100 Definitions.

* * * * *

(i) Unless otherwise specified in a particular report, when information is required to be reported in the unit of measure "field box," such field box shall be deemed to have a volume of 3,115 cubic inches.

8. A new § 908.104 would be added to read as follows:

§ 908.104 Interest and late payment charges.

(a) There shall be an interest charge of 1½ percent per month on any assessment not received at the committee's office within 30 days of the date such assessment was first invoiced to the handler; and

(b) In addition to the interest charge specified in paragraph (a) above, there shall be a late payment charge of 5 percent on any assessment not received at the committee's office within 60 days of the date such assessment was first invoiced to the handler.

9. Section 908.142 would be amended by adding a new sentence at the end of paragraph (a). Paragraph (a) as revised would read as follows:

§ 908.142 Other reports

(a) Each handler shall make available to the committee's field department representative, upon request, information as to the quantity of oranges which has been harvested from all groves or portions thereof under such handler's control. When requested, the information shall be supplied in writing on Handler Report of Picks and Estimates (Base Estimate Form No. 1), requiring information on designated individual blocks as to acreage, original tree crop estimate by the handler, actual clean picks, partial picks to date, and oranges remaining to be picked.

* * * * *

10. A new § 908.173 would be added, under a new center heading "Records," to read as follows:

Records

§ 908.173 Records to be maintained.

The following records are specified for maintenance by all handlers pursuant to § 908.73:

(a) Details of all oranges received, including quantity, origin (including grove location), and date of receipt at packinghouse;

(b) An inventory of oranges in storage held at the beginning of each prorate week;

(c) Daily orange packout records by lot or grower;

(d) Signed truck manifests, car manifests, bills of lading, or other documents reflecting orange shipment details;

(e) Copies of invoices or billings to customers for oranges sold;

(f) Cash sales tickets or other documents reflecting the sale of oranges for cash;

(g) Shipping register or equivalent form of information, pool statements, and records of accounting made to growers for oranges handled;

(h) Records showing the disposition of oranges to by-products plants; and

(i) Records showing the disposition of all other oranges.

11. A new § 908.183 would be added under a new heading "Referenda" to read as follows:

Referenda

§ 908.183 Petitions.

The Committee shall recommend to the Secretary that a referendum be held to ascertain whether continuance of this part is favored by growers whenever the Committee is petitioned, in writing, to do so by at least one fourth of the producers who produced Valencia oranges for market within the production area in the previous fiscal year, provided that:

(a) The petitioning producers produced for market at least 22 percent of the volume of Valencia oranges produced within the production area during said fiscal year; and

(b) All signatures shall have been inscribed on the petition in the period between June 1 and July 14 of an odd-numbered year; and

(c) The petition is presented to the committee on or before July 15 of such odd-numbered year; and

(d) The petition is presented on a form approved and provided by the committee.

Dated: July 16, 1985.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc. 85-17234 Filed 7-18-85; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85-AWA-20]

Proposed Alteration of the Massachusetts Transition Area and the North Atlantic Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Massachusetts Transition Area and the North Atlantic Control Area to provide additional domestic airspace for air traffic in the vicinity of Nantucket Airport, MA.

DATES: Comments must be received on or before September 3, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, New England Region, Attention: Manager, Air Traffic Division, Docket No. 85-AWA-20, Federal Aviation

Administration, 12 New England Executive Park, Burlington, MA 01803.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Robert G. Burns, Airspace and Air Traffic Rules Branch (ATO–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Coments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85–AWA–20." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering amendments to § 71.163 and § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Massachusetts Transition Area and the North Atlantic Control Area to provide additional domestic airspace for approach control service in the vicinity of Nantucket Airport, Nantucket, MA. To allow for safe and efficient approach control service into Nantucket Airport, MA, additional domestic airspace is necessary for vectoring for approaches to Runway 6 and departures from Runway 24. Sections 71.163 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6A dated January 2, 1985.

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

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Operations Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consisent with the adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Aviation safety, Additional control areas and transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g)-(Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

2. Section 71.163 is amended as follows:

North Atlantic, MA [Amended]

In the title by removing "North Atlantic, MA" and substituting "North Atlantic" and in the text after "shoreline" insert "to lat. 41°08'30"N., long. 71°04'45"W.; to lat. 41°00'00"N., long. 70°51'00"W.; to lat.

41°00'00"N., long. 70°00'00"W.; to lat. 41°09'00"N., long. 70°00'00"W.; to lat. 41°20'00"N., long. 69°45'10"W.; to lat. 41°38'00"N., long. 69°45'10"W.; to lat. 41°40'00"N., long. 69°46'30"W.; to lat. 41°40'00"N., long. 67°00'00"W.;"

3. Section 71.181 is amended as follows:

Massachusetts, MA [Amended]

In the title by removing "Massachusetts, MA" and substituting "Massachusetts" and in the test by removing the words "to lat. 41°10'25"N., long. 70°12'50"W.; to lat. 41°04'00"N., long. 70°42'30"W.; to lat. 41°12'45"N., long. 70°42'30"W." and substituting the words "to lat. 41°00'00"N., long. 70°00'00"W.; to lat. 41°00'00"N., long. 70°51'00"W.; to lat. 41°08'30"N., long. 71°04'45"W.;"

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

John Watterson,

Acting Manager, Airspace, Rules and Aeronautical Information Division.

[FR Doc. 85-17163 Filed 7-18-85; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210, 229, 239, 240 and 270

[Release Nos. 33-6592; 34-22195; 35-23752; IC-14608; File No. S7-31-85]

Proxy Rules—Comprehensive Review

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission is publishing for comment proposals to update and simplify the proxy rules. The proposed revisions result from a comprehensive review of the proxy rules undertaken as part of the Commission's Proxy Review Program. The principal substantive revisions would streamline proxy disclosure and enhance investor protection by applying the principles of the integrated disclosure system to proxy and information statements and by requiring additional disclosure related to independent public accountants in proxy statements and other filings containing audited financial statements.

DATE: Comments should be received on or before September 17, 1985.

ADDRESS: Comments should be submitted in triplicate to John Wheeler, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comment letters should refer to File No. S7-31-85. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Sarah A. Miller or Leslie Murphy, (202) 272-2589, Office of Disclosure Policy, Division of Corporation Finance, or (with respect to accounting issues) Robert Burns or Leland Graul, (202) 272-2130, Office of Chief Accountant, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") is publishing for comment proposed revisions to the proxy and information statement rules [1] under the Securities Exchange Act of 1934 ("Exchange Act").[2] The Commission is proposing revisions to Regulation 14A,[3] including Schedules 14A [4] and 14B;[5] Regulation 14C,[6] including Schedule 14C;[7] Regulation S-K;[8] and Form S-18.[9] In addition, corresponding amendments to a number of other rules, regulations, forms and schedules are proposed in order to revise or correct references to Regulations and Schedules 14A and 14C.[10]

I. Executive Summary

The proposals, which are part of the Commission's Proxy Review Program,[11] are intended to: (1) update the proxy rules to comport with present practice, staff administration, new laws and changes in other Commission rules; (2) clarify and simplify the rules; and (3) enhance investor protection. In addition to various technical changes and changes to the procedural rules, the proposals also encompass changes in disclosure requirements. The principal proposed disclosure changes relate to: (1) the application of the integrated disclosure system to proxy and information statements involving business combinations or the authorization, issuance, modification or exchange of securities; and (2) independent public accountants.

A. Application of Integrated Disclosure System

The proposed revisions to Schedule 14A would apply the principles of the integrated disclosure system to proxy statement disclosure. Thus, to the extent certain proxy statement disclosure requirements call for information which has been previously reported in other filings with the Commission, that information may be incorporated by reference, and not reiterated in the proxy statement, to the same extent as is permitted when a company registers securities under the Securities Act of 1933 ("Securities Act").[12] In newly adopted Form S-4, company-oriented information regarding the registrant and the other person involved in the transaction may be "tiered;" *i.e.*, the extent to which incorporation by reference is permissible depends upon whether the company meets the requirements of Form S-2 or S-3 or must use Form S-1.[13] Similarly, tiering would be permitted for company-oriented information primarily in proposed Item 13, "Mergers, consolidations, acquisitions and similar matters" and proposed Item 14, "Financial information."[14] The latter is required in proxy statements for business combination plans as well as for the authorization, issuance, modification or exchange of securities.[15]

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[1] 17 CFR 240.14a-1 through 240.14c-101.

[2] 15 U.S.C. 78a—78kk (1982), *as amended by* Act of June 6, 1983, Pub. L. No. 98-38, 97 Stat. 205 (1983).

[3] 17 CFR 240.14a-1 through 240.14b-1

[4] 17 CFR 240.14a-101.

[5] 17 CFR 240.14a-102.

[6] 17 CFR 240.14c-1 through 240.14c-101.

[7] 17 CFR 240.14c-101.

[8] 17 CFR Part 229.

[9] 17 CFR 239.28.

[10] The corresponding amendments would affect: Rule 3-05(b) of Regulation S-X [17 CFR 210.3-05(b)], Rule 14f-1 [17 CFR 240.14f-1], Rule 13e-3 [17 CFR 240.13e-3] and Schedule 13E-3 [17 CFR 240.13e-100] under the Exchange Act; Forms S-4 and F-4 [17 CFR 239.25 and 239.34] under the Securities Act of 1933; and Rule 20a-3 [17 CFR 270.20a-3] under the Investment Company Act of 1940.

[11] The amendments proposed today are the sixth rule-making initiative in the Commission's program. *See:* Release No. 33-6441 (December 2, 1982) [47 FR 55661], new uniform Regulation S-K item relating to the disclosure of certain relationships and transactions involving management; Release No. 34-20021 (July 25, 1983) [47 FR 35082], amendments designed to facilitate shareholder communications and Release No. 34-21901 (April 5, 1985) [50 FR 13612], proposal of further amendments; Release No. 34-20091 (August 16, 1983) [48 FR 36218], amendments to the shareholder proposal rule, Rule 14a-8; Release No. 33-6486 (September 23, 1983) [48 FR 44467], amendments to the uniform Regulation S-K item governing the disclosure of executive compensation. The most recent initiative was the adoption of Forms S-4 and F-4, new registration forms to be used in connection with business combination transactions (Release Nos. 33-6578 and 6579 (April 23, 1985) [50 FR 18990]). The remaining initiative, the regulation of proxy contests, will be the subject of a separate project. In addition, before the Commission's electronic filing system ("Edgar") becomes fully operational, there will be further changes in the rules to accommodate electronic filing and dissemination.

[12] 15 U.S.C. 77a-77aa (1982).

[13] 17 CFR 239.12, 239.13 and 239.11, respectively.

[14] Proposed Items 13 and 14 are based upon current Items 14 and 15.

[15] In addition to the tiered system, proposed Schedule 14A would permit incorporation by reference of the company-oriented information from an annual report to security holders furnished in connection with the same meeting or solicitation, unlike the present proxy rules, which only permit incorporation by reference of financial statements.

In addition to the use of incorporation by reference, the proposals reflect several improvements in disclosure requirements which also build upon the integrated disclosure system. First, Item 13 would revise and update transaction information to comport with and reflect improvements made to transaction disclosure in Form S–4. Second, Item 13 as well as proposed Items 11 and 12, which are applicable to the authorization, issuance, modification or exchange of securities, would require the inclusion of the information regarding the market price of securities and other security holder matters called for by Item 201 of Regulation S–K.[16] This item is part of the "basic information package" which is the cornerstone of the integrated disclosure system, containing the information which is necessary for all investment decisions and must be included in the annual report to security holders, in Exchange Act periodic reports and in Securities Act registration statements. The Item 201 information, like the other company-oriented information in Item 13 and the financial information in Item 14, could be incorporated by reference according to the tiered system. The Commission believes that building upon the foundation laid by Form S–4 by updating and improving disclosure and by applying incorporation by reference to the proxy statement context would enhance investor protection and result in a substantial reduction of burdens on reporting companies.

B. Independent Public Accountants

In light of the importance of the public accountant's role in the disclosure system under the federal securities laws, the Commission proposes to increase the disclosure concerning the registrant's accounting firm. The proposed changes would enhance investor protection by requiring additional disclosure related to independent accountants in two areas. These areas are: (1) self-regulation, and (2) changes of accountants and any disagreements accompanying or preceding such changes. The requirement in the first area would apply only to proxy statements, but the requirement in the second area would apply to registration statements and Exchange Act periodic reports as well as to proxies.[17] Where auditors are proposed for election, approval, or ratification by the security holders, such information is material to the security holder's decision to approve or disapprove the nominated accounting firm. When the auditor is selected by the Board of Directors, this information is material where security holders are voting to elect the directors. It is also material to the security holder's evaluation of the financial statements.

Proposed Item 9 to Schedule 14A, "Independent public accountants," would require registrants to disclose whether or not their independent auditors are members of a voluntary self-regulatory organization which has both a peer review program and an independent oversight function, both of which are subject to review by the Commission. If the auditor is a member of such an organization, a statement must be made as to whether the auditor has had such a review, and, if so, the date of the most recent peer review report.

The second proposed change to Item 9 would relate to the requirement to disclose whether a disagreement with the prior accountant over accounting principles has occurred in connection with a change of accountants. This change would not affect existing requirements for registrants who had an Exchange Act reporting requirement at the time the change in accountants occurred. The proposal would revise Item 9, Item 304 of Regulation S–K [18] and Form S–18 so that disclosure would be required in annual reports to security holders filed pursuant to Rule 14a–3 or Rule 14c–3 of the Exchange Act, proxy statements, registration statements, and periodic reports about changes in accountants which have not been previously reported.[19] These revisions will enhance investor protection by requiring initial public offerings, and filings by Exchange Act reporting registrants who were not subject to Form 8–K filing requirements at the time the change occurred, to include the same disclosure that is presently required only if there is a Form 8–K obligation at the time of the change.

In addition to the proposed changes, the Commission's concerns about the manner and circumstances in which companies change accountants, the impact such changes may have on the integrity of the financial statements, and the adequacy of disclosure about "opinion shopping" are reflected in the issuance today of a concept release on "opinion shopping." [20]

C. Additional Changes

Among the other significant changes proposed are: (1) a revised Schedule 14A item concerning compensation plans being voted on which would combine and simplify three existing items, eliminate the disparities in disclosure requirements between different types of plans, and reduce from five to three years the period for which information regarding plans previously in effect would be required;[21] (2) an amendment to Rule 14a–3(b) that would clarify the circumstances under which an annual report to security holders must be furnished in connection with a special meeting; and (3) clarification throughout the proxy rules of their application to written consents or authorizations for actions to be taken without a meeting of security holders.

A number of other proposed changes will codify staff practice, clarify requirements, reposition items more logically for ease of compliance, and make the proxy rules consistent with other rules under both the Securities Act and the Exchange Act. The term "issuer" would be redesignated "registrant," though keeping the same definition. This would simplify compliance with the proxy rules and Regulation S–K, since the same term will be applied in both.[22] Other technical revisions would be made throughout the proxy rules to make the language consistent with language changes adopted as part of the integrated disclosure system.[23]

Part II of the release provides a synopsis of the proposed changes. It is divided into six sections: (A) Regulation 14A; (B) Schedule 14A (includes changes also proposed to Regulation S–K and Form S–18); (C) Schedule 14B; (D) Regulation 14C; (E) Schedule 14C; and (F) Corresponding amendments.

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[16] 17 CFR 229.201. Market price of and dividends on the registrant's common equity and related stockholder matters.

[17] For investment companies, this proposal would require disclosure only in proxy statements and annual reports to security holders.

[18] 17 CFR 229.304. Disagreements with accountants on accounting and financial disclosure. This item is proposed to be retitled, "Changes in and disagreements with accountants on accounting and financial disclosure."

[19] The term "previously reported" is defined in Rule 12b–2 (17 CFR 240.12b–2). Such information may have been reported, *e.g.*, on Forms 8–K (Item 4) (17 CFR 249.308), 10–Q (Item 5 of Part II) (17 CFR 249.308a), or N-SAR (Items 77K and 102)] (17 CFR 274.101).

[20] *See* Release No. 33–6594 (July 1, 1985) [50 FR 28219, July 11, 1985].

[21] This is proposed Item 10, a combination of existing Items 9, 10 and 11.

[22] Although the definitions of "registrant" as proposed in Regulation 14A and 14C vary from the definitions of the same term in Rule 405 under the Securities Act (17 CFR 230.405) and Rule 12b–2 under the Exchange Act, disclosure required by Regulation S–K with respect to the registrant would be required for the appropriate entity regardless of the type of filing involved.

[23] Release No. 33–6383 (March 3, 1982) [47 FR 11380].

Attention is directed to the text of the proposed changes, which appears at the end of the release, for a more complete understanding.

II. Discussion of the Proposals

A. Regulation 14A

Regulation 14A is applicable to the solicitation of proxies, defined in Rule 14a–1 as including any proxies, consents or authorizations with respect to securities registered pursuant to Section 12 of the Exchange Act. Rules adopted under the Public Utility Holding Company Act of 1935 [24] and the Investment Company Act of 1940 [25] make the regulation applicable as well to the solicitation of proxies, consents and authorizations with respect to the securities of certain companies subject to those statutes. In addition to technical revisions made throughout the proxy rules (such as the redesignation of the term "issuer" as "registrant" and the term "officer" as "executive officer" [26] whenever applicable in order to be consistent with the terms as used in Regulation S–K, as well as the substitution of "security holder" for "shareholder"), the Commission proposes the revisions to Regulation 14A rules described below.[27]

One change that is made generally throughout is that the proposals specifically address consents and authorizations in order to clarify certain disclosure requirements. Despite the fact that the general term "proxy" is defined in Rule 14a–1 to include consents and authorizations,[28] questions frequently arise concerning the applicability of the proxy rules to such solicitations. Accordingly, the proposals adapt the proxy solicitation rules to deal explicitly with solicitations of written consents or authorizations when the circumstances warrant separate treatment.

Rule 14a–1, Definitions. Rule 14a–1 contains several proposed revisions. The first proposal would add to Rule 14a–1 a new defined term, "record date," because the term is used elsewhere in the proxy rules and currently is not defined. The proposed definition refers to a registrant's record date as set in accordance with state law. In addition, the term "registrant" is substituted for "issuer," and the definition of "last fiscal year" is revised to clarify the applicability of the definition to consent solicitations. A registrant's last fiscal year will not only be defined in terms of the date of the meeting, as at present, but also, if there is no meeting, in terms of the earliest date on which the consents or authorizations may be used to effect corporate action. Similar language referring to consent solicitations now appears in Regulation 14C and new Form S–4.[29]

Further, the proposed revision to the definition of "solicitation" would conform with case law by including communications "which reasonably could be expected to affect" the procurement, withholding, or revocation of a proxy, as well as those communications actually calculated to produce such a result.[30] In determining whether communications could reasonably be expected to cause such an effect, consideration should be given to the length of time between the making of the communication and the taking of the vote. The shorter the time, the more likely the communication would be expected to affect the proxy process. The Commission believes that this definitional change better describes the types of solicitations that are regulated.[31] The change is intended to protect security holders and give improved notice that any communications affecting the proxy process of registrants subject to section 14 in the manner specified are required to comply with the proxy rules.

In addition, a technical amendment to the first paragraph of Rule 14a–1 would replace the phrase "terms used in §§ 240.14a–1 to 240.14a–10 and in Schedule 14A" by "terms used in this regulation" to clarify that the definitions are intended to apply to Regulation 14A in its entirely. Similar changes would be made to the first paragraph of Rule 14a–7.

Rule 14a–2, Solicitations to which § 240.14a–3 to § 240.14a–13 apply. The only substantive change proposed to Rule 14a–2, which exempts certain solicitations from compliance with the proxy rules, concerns solicitations with respect to a plan of reorganization under the bankruptcy laws. Such solicitations are exempt from proxy rules pursuant to current Rule 14a–2. When the bankruptcy laws changed with the Bankruptcy Reform Act of 1978,[32] Rule 14a–2 was not changed accordingly. The proposed revisions would amend paragraph (a)(4) of the Rule 14a–2 to exempt solicitations pursuant to Chapter 11 of the Bankruptcy Reform Act [33], which contains the reorganization provisions. When a company files for reorganization under Chapter 11, it must submit for court approval a written disclosure statement concerning its plan for reorganization. The proposed revision to paragraph (a)(4) would exempt a solicitation in such instance, if made after court approval of the disclosure statement and after, or concurrently with, the transmittal of the disclosure statement.

Rule 14a–3, Information to be furnished to security holders. Rule 14a–3 sets forth the requirements that security holders be provided a proxy statement and, in connection with the annual election of directors, an annual report to security holders. The proposed revisions are as follows:

1. In accordance with staff interpretation, the Commission proposes to amend paragraph (b) to provide that if a special meeting is convened to elect directors in lieu of an annual meeting, an annual report must be furnished to security holders in connection with such special meeting. In addition, paragraph (b) would be revised to clarify that the annual report to security holders is required whether the registrant is soliciting proxies or consents in connection with the annual election of directors. Rule 14c–3(a), which imposes an analogous requirement with regard to information statements, would be revised similarly.

The proposed revisions would retain the present requirements that the annual report to security holders be furnished at least once in each fiscal year, at the time of the annual election of directors.[34] The Commission, however, is aware of some circumstances under which companies have had more than one election of directors in a fiscal year. Comment is solicited on whether Rule 14a–3(b) should be modified to take into account elections of directors that take

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[24] 15 U.S.C. 79–79z–6 (1982); *see* 17 CFR 250.61.

[25] 15 U.S.C. 80a–1 through 80a–64, *as amended by* Act of October 21, 1980, Pub. L. No. 96–477, 94 Stat. 2275 (1980); *see* 17 CFR 270.20a–1.

[26] The terms "officer" and "executive officer" are defined in Rules 3b–2 and 3b–7, respectively (17 CFR 240.3b–2, 240.3b–7).

[27] In addition to Rule 14a–11 and 12, the separate project concerning proxy contest will address the other aspects of the proxy rules that are only relevant to or operate in the context of proxy contests. Accordingly, no substantive changes on such matters are being proposed at this time.

[28] This definition is based upon the coverage of section 14(a) of the Exchange Act, which applies to ". . . any proxy or consent or authorization. . ."

[29] *See* Rule 14c–2(b) and General Instruction A.2. of Form S–4.

[30] *See, e.g., Dyer v. S.E.C.*, 291 F.2d 774 (8th Cir. 1961); *S.E.C. v. Okin*, 132 F.2d 784 (2d Cir. 1943).

[31] Registrants should be aware, in addition, that certain oral communications are solicitations if they fit the definition.

[32] 11 U.S.C. 101–151326, *as amended by* Act of November 6, 1978, Pub. L. No. 95–598, 92 Stat. 2549 (1978).

[33] 11 U.S.C. 1101–1174.

[34] Apart from the Rule 14a–3(b) or 14c–3(a) requirement to furnish the annual report to security holders, registrants may choose to furnish the report along with the proxy statement in order to satisfy Schedule 14A by incorporating information by reference where permitted.

place either before or after the annual election in a given fiscal year.

2. The entire note following paragraph (b)(7) would be deleted because it is duplicative of other provisions.

3. Paragraph (b)(10) currently requires the proxy statement to contain an undertaking that the registrant provide, upon written request, a copy of its annual report on Form 10–K [35] if such report has been filed with the Commission at the time of the request. The proposed revision to paragraph (b)(10) would require that any information contained in other documents filed pursuant to Section 13(a) of the Exchange Act (including amendments to such documents) subsequent to the Form 10–K, through the date of responding to the request, also shall be provided. This requirement is proposed because the periodic and current Exchange Act reports will update the Form 10–K information.[36] Particularly when a security holder requests information late in a fiscal year, the registrant should have the obligation to furnish more up-to-date information than the most recent Form 10–K.

4. As part of its recent proposals to refine the rule for communications with beneficial owners, the Commission proposed to move paragraph (d) to new Rule 14a–13.[37] As proposed, paragraph (d) of Rule 14a–3 would become paragraph (a) of proposed new Rule 14a–13 and would reflect additional changes as a result of this proposal.

Rule 14a–4, Requirements as to proxy. The substantive changes being proposed to Rule 14a–4 are intended to clarify: (1) the staff's position that a proxy may not confer authority to vote at more than one meeting or consent solicitation; and (2) the applicability of paragraph (d) to consent solicitations.

The Commission specifically requests comment as to whether the current proxy card requirements are sufficient with respect to telegraphic proxies, which are equivalent to proxy cards and should comply with the requirements of the rule. The validity of such proxies generally is a matter of state law.

Rule 14a–5, Presentation of information in proxy statement. Rule 14a–5(b) contains the standard to be applied when information required in the proxy statement is not known to the persons making a solicitation. This standard differs from the standards applied to Exchange Act reports [38] and Securities Act registration statements.[39] The Rule 14a–5(b) standard relates to whether or not it is reasonably within the power of the person to determine the required information whereas Rules 12b–21 and 409 go to the level of effort and expense required and whether the information rests with an unaffiliated party. The Commission requests specific comment as to whether the standard in Rule 14a–5, as well as the similar language in Rule 14c–4(b), should be revised to be consistent with the others.

Paragraph (e) of this rule contains specific disclosure requirements for proxy statements, and the Commission believes such requirements should more appropriately be located in Schedule 14A. Accordingly, this paragraph is proposed to be moved from this rule to new Item 1 of Schedule 14A.

Rule 14a–6, Filing requirements.[40] Five substantive revisions are proposed to Rule 14a–6.

1. Paragraph (a) would be clarified by means of an additional note to explain that the filing of revised preliminary material does not recommence the ten day time period during which material must be on file with the Commission, unless the revised material contains such revisions or new proposals as to constitute a fundamental change in the material.[41] In connection with this change, the note to paragraph (c) would be deleted. This change will update the rule to make it more closely comport with present practice, under which revised material generally is submitted in preliminary form and thus the definitive material does not reflect new material changes. This paragraph also clarifies that the ten day period refers to calendar days; similar changes clarifying the time periods are proposed in other places as well.

2. Current paragraph (e) would be separated into two paragraphs. New paragraph (e) would require the furnishing of information about when the registrant intends to release certain materials to security holders. New paragraph (f), concerning the public availability of information filed with the Commission, would be updated to accord with staff practice when material has been released or abandoned.

3. Proposed paragraph (h) would be revised to clarify that it applies to material filed pursuant to Rule 14a–12(b) as welll as to material filed pursuant to other rules.

4. Proposed paragraph (j) would contain provisions regarding filing fees. This paragraph is unchanged except that paragraph (j)(3) would be amended to refer to proposed Rule 0–11,[42] which would implement the provisions of section 14(g) of the Exchange Act relating to statutory filing fees for proxy solicitation materials involving certain business combinations.

5. New paragraph (*l*) would provide clarifying information for computing time periods specified in Regulation 14A.

Rule 14a–7, Mailing communications for security holders. The first paragraph of this rule would be revised to make it clear that it applies to Regulation 14A in its entirety, as would be the case with proposed Rule 14a–1.

Rule 14a–8, Proposals of security holders. Rule 14a–8(a)(1) would be revised to make it clear that securities owned by the proponent must be entitled to be voted "on the proposal." These words, which appeared in earlier versions of the rule, are proposed to be restored in order to make clear the staff's interpretation of the operation of the rule.

In addition, paragraph (d) would be amended to require the registrant to submit six instead of five copies of security holder proposals, no-action requests and all related materials. Such a requirement would reduce staff time spent photocopying and allow more time for resolution of substantive issues involved.

Rule 14a–13, Obligations of registrants in communicating with beneficial owners. This proposed rule is taken from the Commission's recent release on shareholder communications. As described under Rule 14a–3 above, this Rule is a relocation of Rule 14a–3(d). This proposal further amends the language of Rule 14a–13 as proposed

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[35] 17 CFR 249.310.

[36] When the Commission adopted the existing requirement to furnish the Form 10–K on request, in 1974, it stated that: "It is the Commission's position that an issuer, upon receipt of an appropriate written request at any time prior to the record date for the next annual meeting of security holders, must furnish a copy of its annual report on Form 10–K . . . *including all amendments*, if any, which have been filed to that date" [emphasis added]. *See* Release No. 34–11079 (October 31, 1974) [39 FR 40768].

[37] Release No. 34–21901.

[38] 17 CFR 240.12b–21.

[39] 17 CFR 229.409.

[40] The proposed revisions to Rule 14a–6 would retitle the rule *"Filing requirements"* because that title would describe the contents of the rule more accurately than *"Material to be filed."* In addition, the proposed revisions would add captions to clarify the rule and make it easer to read.

[41] This would apply the standard of "fundamental change" used in the Securities Act context for determining when a post-effective amendment is required under Rule 415 and Item 512(a) of Regulation S–K [17 CFR 230.415 and 229.512(a). Undertakings).

[42] The Commission is also publishing today a proposal to adopt new Rule 0–11 to codify the administration of the 1983 legislation requiring payment of a filing fee calculated on a percentage of the transaction's value for cash tender offers, mergers and certain other business combinations. Release No. 33–6593 (July 1, 1985) [50 FR 28404, July 12, 1985].

previously to address the specific circumstances of consent solicitations and the election of directors at special meetings in lieu of annual meetings.[43]

B. Schedule 14A, Information Required in Proxy Statement

The three existing notes to Schedule 14A are not proposed to be substantially changed. Note A as revised would provide a new example which will have more frequent applicability to Schedule 14A then the existing one.

The proposed revisions to Schedule 14A apply the approach of the integrated disclosure system to provide for incorporation by reference in certain instances. Therefore, the Commission proposes a new "Note D" to Schedule 14A to provide rules for incorporation by reference. Proposed Note D is similar to the provisions of Rule 411 [44] under the Securities Act and Item 502(c) of Regulation S-K,[45] as well as General Instruction A.2. and Item 22 of Form S-4. This note provides that incorporation by reference may be made only in the manner and to the extent specifically provided by items of Schedule 14A, and sets forth general requirements applicable whenever incorporation by reference is used. Schedule 14A currently permits incorporation by reference only of the required financial statements, and then only when such statements are in an annual report to security holders furnished in connection with the same meeting or solicitation.[46] Proposed Items 11, 12, 13, and 14 of Schedule 14A would permit incorporation by reference of part or all of the required information, either pursuant to the tiered S-1-2-3 approach (Item 14(a)) or from an annual report to security holders furnished in connection with the same meeting (Item 14(b)). The information permitted to be incorporated by reference, in addition to the currently permitted financial statements, would be: the business description and the other uniform disclosure items which comprise the basic information package. In addition, in the case of S-3 companies, incorporation by reference would no longer be tied to a concurrently delivered annual report.

The first paragraph of proposed Note D contains requirements applicable to any incorporation by reference permitted by Schedule 14A. The second paragraph requires that, when information is incorporated by reference but not delivered with the proxy statement, the proxy statement contain an undertaking to furnish the incorporated documents to security holders upon request. This undertaking is similar to that required in connection with a Form S-4 registration statement. In the case of S-3 level incorporation by reference, which includes incorporation by reference of subsequently filed documents, the undertaking would require the furnishing of any documents incorporated by reference which were filed up to the date of responding to the request.

The last paragraph of proposed Note D would provide that when incorporation by reference is being used pursuant to the tiered S-1-2-3 approach (Item 14(a)), the proxy statement must be sent to security holders no later than 20 business days prior to the date of the meeting or, if there is no meeting, the date on which the proposed corporate action may be effected. This time period is the same requirement as in General Instruction A.2. of Form S-4 and is designed to address the need for documents incorporated by reference at either the S-2 or S-3 level to be delivered to security holders on a timely basis. The requirement would not be applicable when the only incorporation by reference is pursuant to Item 14(b), which permits incorporation of any information from an annual report to security holders furnished in connection with the same solicitation.

Proposed Note E would define S-2 and S-3 companies for purposes of those items of Schedule 14A which provide different levels of disclosure and incorporation by reference for such companies. The provisions are similar to those used in General Instruction B of Form S-4, except that the "investment grade securities" transaction requirement is adapted to relate to proxy material rather than an offering of securities. A registrant which meets the requirements of General Instruction I.A. of Form S-3 would meet the definition of "S-3 company," provided that the proxy material relates to action being taken on a matter involving investment grade non-convertible debt or preferred securities. The securities would have to be assigned an investment grade security rating before definitive proxy material is sent or given to security holders, not before the effectiveness of the registration statement, as is the case in Form S-4.

Item 1, Date, time and place information. The Commission proposes to add to Schedule 14A a new item similar to that presently required by Item 3 of Schedule 14C, "Date, time and place of meeting." Proposed new Item 1 would require a proxy statement to specify either the date, time and place of meeting if a meeting is to be convened or, if the proposed action is to be taken by written consent, the date, time and place the consents will be counted if applicable. In addition, the information now required by Rule 14a-5(e) would be moved to this item. The last paragraph of this item would require that the information called for by current Rule 14a-5(f), redesignated Rule 14a-5(e), be provided.[47] Thus, the disclosure requirements will all be located in or referred to in Schedule 14A, except for the information that may be required by Rule 14a-8 regarding proposals of security holders. Because of the proposed addition of this item, as well as the other proposed revisions to Schedule 14A, Items 2-22 would be would be renumbered as follows:[48]

Old item No.	Proposed item No.	Title of proposed item
	1	Date, time and place information.
1	2	Revocability of proxy.
2	3	Dissenters' rights of appraisal.
3	4	Persons making the solicitation.
4	5	Interest of certain persons in matters to be acted upon.
5	6	Voting securities and principal holders thereof.
6	7	Directors and executive officers.
7	8	Compensation of directors and executive officers.
8	9	Independent public accountants.
9, 10, 11	10	Compensation plans.
12	11	Authorization or issuance of securities otherwise than for exchange.
13	12	Modification or exchange of securities.
14	13	Mergers, consolidations, acquisitions and similar matters.
15	14	Financial information.
16	15	Acquisition or disposition of property.
17	16	Restatement of accounts.
18	17	Action with respect to reports.
19	18	Matters not required to be submitted.
20	19	Amendment of charter, bylaws or other documents.
21	20	Other proposed action.
22	21	Vote required for approval.

Item 2, Revocability of proxy. The Commission seeks specific comment as to whether a specific note concerning revocability of written consents is necessary. The revocability of written consents is determined by state law and, therefore, Item 2 is applicable to written consents when state law provides for revocation.[49]

[43] The Commission anticipates that the amendments proposed herein to Rule 14a-13 will be adopted at the same time as the adoption of the other proposed shareholder communications revisions. See Release No. 34-21901.

[44] 17 CFR 230.411.

[45] 17 CFR 229.502(c). Incorporation by reference.

[46] See current Item 15(e).

[47] Current Rule 14a-5(f) is not being moved to Schedule 14A because it contains other provisions in addition to proxy statement disclosure requirements.

[48] Hereinafter the Schedule 14A items will be referred to by their proposed new numbers, except where otherwise indicated.

[49] *See Pabst Brewing Co. v. Jacobs*, 540 F. Supp. 1068 (D. Del.), aff'd., 707 F.2d 1394 (3d Cir. 1982).

Item 6, Voting securities and principal holders thereof; Item 403 of Regulation S–K. The proposed revisions combine paragraphs (d), (e) and (g) to simplify the language of Item 6. All three paragraphs currently refer to Item 403 of Regulation S–K, "Security ownership of certain benefical owners and management."[50]

In a related proposal, Item 403 is proposed to be amended to permit a beneficial owner of 5% of a registrant's voting securities to list his business or mailing address as his address. This would codify the staff's practice of accepting such addresses in light of concerns of security holders, who for reasons of privacy and security, do not wish their home addresses made public.

Specific comment is requested as to the most meaningful presentation of management's ownership of the registrant's voting securities in Item 403. For example, comment is solicited as to whether Item 403, which refers to "directors and officers of the registrant as a group," should be amended to read "directors and executive officers of the registrant as a group." While this would conform with Items 401, 402 and 404 of Regulation S–K,[51] the disclosure items may serve different purposes. For purposes of compensation and transactions, focus on those persons in policy-making positions is appropriate; for purposes of determining security ownership which management is in a postion to influence or control, however, the Commission believes it may be appropriate to continue to include all officers.

Item 7, Directors and executive officers. The Commission proposes to move the information required by Instruction 4 to Item 103 of Regulation S–K [52] from Item 8, "Compensation of directors and executive officers," to Item 7. The information required concerns legal proceedings involving directors and executive officers, rather than compensation. In addition, paragraphs (b) and (c) would be combined into one paragraph (c) because they both refer to parts of Item 404 of Regulation S–K.

Instruction 2 to relettered paragraph (h) would be amended to provide that the information specified in paragraph (h) (regarding directors whom 5% or more of the vote was cast against or withheld from) is required to be given for only those nominees who trigger the five percent voting requirement, not for all directors. Consistent with this change, Instruction 3 would be similarly clarified. Instruction 3 also would be amended to provide that, when the information is required to be disclosed for a director on a classified board, it must only be disclosed the first time that director is renominated, and not with respect to intervening elections for which that director is not a nominee. Comment is solicited as to whether the disclosure required by this paragraph should be further revised, or should be retained as providing information useful for assessing the credentials of the directors or the adequacy of the nominating process.

Although no other substantive changes are proposed to this item, the Commission solicits comment as to whether the disclosure called for by the paragraphs to be redesignated (e) and (f) (committees of the Board of Directors; number of meetings and director attendance) should be revised. These paragraphs were adopted in 1978 as part of a general re-examination of the rules relating to security holder communications and participation in the corporate electoral process and corporate governance generally.[53] Having had several years of experience with these requirements, the Commission wishes to solicit the commentator views on whether they have furthered the ability of security holders to evaluate the credentials of the directors and the manner in which the Board of Directors functions. The Commission is not, however, considering changes in the required disclosures concerning audit committees. In view of the current concerns regarding disclosure about independent accountants, which are discussed in connection with Item 9, the Commission believes the present requirements concerning audit committees should be retained.

Item 8, Compensation of directors and executive officers. As noted above, the Commission proposes moving the Item 103 information to Item 7 because it does not concern compensation. In addition, Item 8 would be retitled to reflect the change in terms from remuneration to compensation in Item 402 of Regulation S–K.[54]

Item 9, Independent public accountants; Item 304 of Regulation S–K; Form S–18. The Commission is proposing two significant additions to the disclosure required pursuant to proposed Item 9, which would be provided when the solicitation relates to: (1) the annual election of directors,[55] (2) the election, approval or ratification of the auditors,[56] or (3) an action requiring the furnishing of financial statements.[57] The proposed additions are as follows:

1. Self-Regulation. Proposed amendments include new paragraph (b), which would require that a registrant disclose whether or not its independent accountants participate in a professional organization which has both a peer review program and an independent oversight function, both of which are subject to review by the Commission.[58] The Commission has previously outlined the objectives for such a self-regulatory organization in its Reports to Congress.[59] The proposal would also require disclosure of whether the auditor, if a member of such an organization, has

[50] 17 CFR 229.403.

[51] 17 CFR 229.401, 229.402 and 229.404, Directors and executive officers, promoters and control persons; Executive compensation; and Certain relationships and related transactions, respectively.

[52] 17 CFR 229.103, Legal proceedings.

[53] Release No. 34–15384 (December 6, 1978) [43 FR 58522].

[54] Release No. 33–6486.

[55] The reference to the election of directors would be modified to read similarly to Rule 14a–3(b) so that Item 9 disclosure will be required at the same time an annual report to security holders is required.

[56] A security holder vote upon the auditors is not currently an action that triggers the requirements of this item. In most cases, such a vote would be taken at the annual meeting, so the item would be triggered by the election of directors. The Commission believes, however, that the Item 9 information would be relevant to a vote upon the auditors whether or not such a vote coincided with the election of directors or a corporate action requiring the inclusion of financial statements. The first paragraph of Item 9 is proposed to be amended accordingly.

[57] In addition to the substantive changes in proposed Item 9, a technical amendment is proposed which would eliminate the instructions concerning accounting fees at the end of the item. The instructions related to disclosure rescinded in 1982 concerning nonaudit services performed by independent accountants (*see* Release 33–6379, January 28, 1982 [47 FR 5404]). The instructions inadvertently were not deleted at the same time as the related disclosure requirement.

[58] This disclosure only would be required when directors are being elected or the auditors are being recommended to security holders for election, approval or ratification.

[59] *See, e.g.*, Securities Exchange Commission Report to Senate Committee on Governmental Affairs, 96th Cong., 2d Sess., Report to Congress on the Accounting Profession and the Commission's Oversight Role 18 (Comm. Print 1980). In addition, on March 6, 1985 before the House Subcommittee on Oversight and Investigation of the Committee on Energy and Commerce, Chairman Shad further discussed the accounting profession's self-regulatory effort and the Commission's oversight thereof. Such a self-regulatory Organization (1) is capable of addressing and solving accounting and professional issues neded to assure quality performance, (2) maintains quality control standards and requires peer reviews on a regular basis with initiatives to upgrade the practice of those who are not in compliance with its professional standards, (3) provides for oversight of its peer review process by representatives of the public interest, and (4) provides for Commission oversight.

undergone a peer review, and if so the date of the review.

Disclosure of membership in such a professional organization and whether or not the firm has had such a review would be relevant to an investor's understanding of the auditor's commitment to quality of practice. The Commission recognizes that since peer reviewers examine only a sample of the firm's engagements, an unqualified peer review report cannot be construed as a guarantee that the firm has performed all engagements, and will perform all future engagements, in accordance with professional standards. However, the Commission believes that the peer review function is an important element of a voluntary self-regulatory program.

The SEC Practice Section ("SECPS") of the AICPA's Division for Firms and the Public Oversight Board ("POB") is an example of such a voluntary self-regulatory organization. The Commission staff oversees the activities of the SECPS through frequent contact with the POB and members of the executive and peer review committees of the SECPS. The staff also reviews POB files and selected working papers of the peer reviewers.

While proposed paragraph (b) would require disclosure of whether the auditor had undergone a peer review, it would not specifically address the results of the review. If the results of a peer review were other than unqualified, however, registrants would need to consider whether they should disclose the nature of any qualifications and the status of the principal accountant's efforts to correct deficiencies which were the basis for such qualifications. Such disclosure might be material to an informed voting decision, where, for example, the deficiencies uncovered were of a significant or pervasive nature and have not yet been corrected.[60]

2. Disagreements with Accountants. Currently paragraph (c) of Item 8, "Relationship to independent public accountants," requires disclosure in connection with a change in accountants due to a disagreement between the accountant and the registrant which occurred within the 24 months prior to the date of the most recent proxy statement if such disagreement was required to be reported on Form 8-K under the Exchange Act. The requirement to provide the disclosure in Item 304 of Regulation S-K is similarly triggered by Form 8-K disclosure. Item 4 of Form 8-K and Item 304 of Regulation S-K were originally drafted to provide a two step disclosure system. The first step, the filing of a Form 8-K, is taken when the change in accountants occurs; and the second step, Item 304 disclosure, it taken when transactions or events occur subsequent to the change in accountants which are similar to the transactions or events which were the subject of a disagreement reported in the Form 8-K filing.

The proposals would improve these current requirements in two respects. First, the current Item 8 requirements fail to refer to Forms 10-Q or N-SAR, in which such information also may be reported.[61] Second, by tying this disclosure to registrants who have been reporting under the Exchange Act for the past two years, the requirement does not address the circumstance of a new registrant having an initial public offering or others without an Exchange Act reporting requirement at the time the change of accountants occurred. Since the information is material to investors in both a proxy and prospectus context, it would be required disclosure whether or not the registrant had an Exchange Act reporting requirement at the time of the change.

The Commission is proposing amendments to paragraph (b) of Item 9, to Item 304 of Regulation S-K and to Item 21 of Form S-18 intended to close these gaps that currently exist in the disclosure system. The amendments to proposed Item 9 of the proxy rules would require disclosure, whether or not a registrant was subject to section 13(a) or 15(d) of the Exchange Act when a change in accountants occurred, if in connection with such change there was a disagreement between the accountant and the registrant. Under revised Item 304 and Form S-18, the registrant would disclose the information required in Item 4 of Form 8-K, unless such disclosure had previously been made. This would assure compliance with the first step of the two step disclosure system mentioned above. Also, the pre-existing filing requirement for Form 8-K would be removed as a trigger for both proxy disclosure of the disagreement and disclosure of the recurrence of transactions or events which were the subject of a disagreement with a previous accountant, thus assuring that the second step would be similarly applied to all registrants. (In the case of investment companies, the Item 304 disclosure would only be required in proxy statements and annual reports to security holders.)

As is currently the case under Item 4 of Form 8-K, under revised Item 304 the former accountant also will be asked by the registrant to furnish a letter stating whether it agrees with the statements made by the registrant, and if not, the reasons the accountant does not agree. When the letter is required, it will be filed as an exhibit to the registration statement or report which requires the Item 304 disclosure. However, when the Item 304 information is required in connection with a proxy or information statement, the disclosure must be obtained by different means, as such documents do not provide for exhibits to be filed separately from the document sent to shareholders. Accordingly, when Item 304 disclosure is required in a proxy or information statement, or an annual report to security holders filed pursuant to Rule 14a-3 or Rule 14c-3 of the Exchange Act, in lieu of furnishing a letter the accountant would be given the opportunity to include a 200-word statement in the proxy or information statement, as provided in Item 9 of Schedule 14A.

An instruction will be added to Item 304 to state that this item is not applicable to disclosure concerning a non-reporting company being acquired by a reporting company.[62] This will comport with the present requirements of Item 2 of Form 8-K, "Acquisition or Disposition of Assets," which calls for disclosure concerning material acquisitions.

The Commission recognizes that the proposed changes would not resolve all issues concerning changes in accountants and related disclosure. In particular, the difficulty in defining and ascertaining when a disagreement has occurred in connection with a change in accountants may result in a lack of appropriate disclosure. The Commission's concerns regarding these issues are reflected in the separate concept release the Commission is issuing today, which invites comments on "opinion shopping."[63] In addition to

[60] *See* Rule 14a-9(a), which prohibits, *inter alia*, the use of proxy material that "omits to state any material fact necessary in order to make the statements therein not false or misleading . . ."

[61] In Release No. 34-17524 (February 9, 1981) [46 FR 12485] both Forms 8-K and 10-Q were amended with complementary provisions enabling the registrant under Item 5 of the Form 10-Q to report on information that otherwise would be reported upon in a Form 8-K.

[62] As defined, "non-reporting company" means a company not subject to the filing requirements of sections 13(a) or 15(d) of the Exchange Act. Entities filing reports pursuant to section 12(i) of the Exchange Act would not fall within the definition because they are reporting companies, even though their reports are not filed with the Commission. Accordingly, Item 304 disclosure would have to be provided with respect to such entities.

[63] Release No. 33-6594.

the comments on "opinion shopping" which will be directed to the concept release, the Commission invites commentators on proposed Item 9 to express any other suggestions for additional disclosure relating to independent public accountants.

Item 10, Compensation Plans. Proposed new Item 10 is a combination of existing Items 9, 10 and 11, all of which involve compensation plans.[64] In addition to simplifying the language of the items, the proposal contains several substantive revisions to streamline the disclosure required and eliminate inconsistencies between disclosure for different types of plans. The proposed item is divided into two parts, with instructions. The first part sets out the general information that must be provided for all plans being voted on. The second details the information that must be disclosed for specified types of plans being voted on.

The information required with respect to plans previously in effect would be required only for plans in effect within the last three years, rather than five years. The information currently required by the last two sentences of Instruction 3(c) of present Item 9, concerning the purchase and sale of securities pursuant to options, is not included in the proposed item. This information currently is not required for other security ownership plans. Comment is requested as to whether this disclosure is useful to a voting decision concerning compensation plans and, if so, whether such disclosure should be required with respect to all plans.

In order to prevent duplication, proposed paragraph (a)(3) provides that the information called for by that paragraph may be provided in lieu of certain similar information called for by Item 402(b) of Regulation S–K pursuant to Item 8 of Schedule 14A.

Instruction 2 of the proposed item clarifies that, when an amendment to an existing plan is being voted on, Item 10 in its entirety need be complied with only if the change is material. The Commission believes it is appropriate that the initial determination as to materiality be made by the registrant and its counsel, given their particular knowledge of the plan and proposed amendment. Materiality in this context should be defined in relation to the plan and to what security holders need to know to make an informed vote. Even if Item 10 information is not required in its entirety, however, information about the amendment being voted on which is necessary for an informed voting decision should be given.

Comment is specifically solicited on whether Item 10 also should be amended to require disclosure of the accounting treatment which will be accorded the plan being voted on, such as whether there will be a charge to income upon the occurrence of certain events.

Item 11, Authorization or issuance of securities otherwise than for exchange, and Item 12, Modification or exchange of securities. Two revisions are proposed to these items. The first would ease compliance by eliminating the need to refer to Form 10[65] or 8A,[66] which in turn merely cross-reference to Item 202 of Regulation S–K,[67] by referring directly to Item 202.

Under the second proposed revision, both items (as well as Item 13) would require the disclosure concerning market price, dividends and related matters called for by Item 201 of Regulation S–K, provided such disclosure is applicable to a class of securities materially affected by the corporate action being voted on.

This information was classified in 1980 as part of the basic information package which should be furnished to investors for all investment decisions.[68] In the context of a voting decision on the authorization, issuance, modification, or exchange of securities, shareholders are provided the other components of the basic information package. The Commission believes that the Item 201 information should be included when the Item 201 information relates to the new class of securities or a class of securities to be affected by the transaction. Comment is solicited, however, on whether the requirement to include Item 201 information should be limited to certain types of transactions, and if so, which ones.

The Item 201 disclosure would be permitted to be incorporated by reference as provided in Item 14. This treatment would be the same as for the other basic information package material, such as the financial information requirements of Item 14.

Item 13, Mergers, consolidations, acquisitions and similar matters. Proposed Item 13, together with Item 14, "Financial information," is designed to elicit substantially the same disclosure found in Form S–4, when appropriate in the proxy context, such as for cash mergers and other business combinations where voting security holders do not receive registered securities as a result of the contemplated corporate action.[69]

Proposed Items 13 and 14 would extend the principles of the integrated disclosure system in the same manner as Form S–4.[70] Under Forms S–1, S–2 and S–3, company oriented information may be, respectively, presented in, delivered with or incorporated by reference from previously filed public documents. The use of the S–1–2–3 approach in the proxy statement reflects the premise that the information necessary for decisions made in the context of the transactions being proposed to security holders under proposed Item 13 and these made otherwise in the purchase of a security in the primary or trading market is substantially similar.[71]

Just as Form S–4 requires certain transactional information to be

[64] Bonus, profit sharing and other compensation plans; pension and retirement plans; and options, warrants, or rights, respectively.

[65] 17 CFR 240.21.

[66] 17 CFR 240.208a.

[67] 17 CFR 229.202. Description of registrant's securities.

[68] Release No. 33–6231 [September 2, 1980] [45 FR 63630]. The components of the basic information package were identified to be: Item 201 information; Management's discussion and analysis of financial condition and results of operations (Item 303 of Regulation S–K); Selected financial data (Item 301 of Regulation S–K); and uniform financial statement requirements.

[69] Item 13 is applicable to a wider variety of transactions than Form S–4, *i.e.*, acquisitions of securities, businesses or assets, dispositions of assets, and liquidations, as well as mergers and consolidations.

[70] For extensive discussion of the development of those principles, see Release No. 33–6534 (May 9, 1984 [49 FR 20833], proposing Form S–4; Release No. 33–6578, adopting the form; and comment letters and staff summary contained in File No. S7–20–84, which is available for public inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549.

[71] Application of the Form S–3 level includes the forward incorporation feature of that Form, *i.e.*, the incorporation by reference of all Exchange Act reports filed subsequent to the filing of the proxy statement in definitive form and prior to the date the action is taken. As the Commission noted in proposing Form S–3 and in adopting Form S–4, however: Despite the fact that subsequently filed periodic reports under the Exchange Act are incorporated by reference into a Form S–3 prospectus, registrants should be aware that they may be required to amend the prospectus if the information actually presented therein has become materially false and misleading by reason of subsequent events that are reported in the incorporated Exchange Act documents. [*See* Release No. 33–6331 [August 6, 1981] [46 FR 41902] at fn. 64.]

Similarly, registrants using the S–3 level for either entity for proposed Schedule 14A should be aware that, while the updating information could be provided by subsequently filed documents, it may not eliminate the need for additional soliciting material or for a resolicitation, particularly in the case where the annual report to security holders was furnished pursuant to Rule 14a–3(b) and contained information that became incomplete or materially misleading based on the occurrence of subsequent events.

presented in the prospectus rather than incorporated by reference. Item 13(a) would contain similar requirements. In contrast, Items 13(b) and 14 permit certain company oriented information (relating to the registrant and, if applicable, to the other person) to be incorporated by reference in the same manner as in Form S–4. Such information includes information relating to the business of the company, industry segments, property, market prices and other security holder information (Item 13(b)), and financial information (Item 14). Item 13(b), like Items 11 and 12, requires the disclosure called for by Item 201 of Regulation S–K. This s consistent with the requirements of Form S–4, and somewhat more extensive than the market price information required at present by current Item 14(c).

One difference in disclosure between the proposed item and Form S–4 is that Item 13(b)(1)(iv) would permit the description of business to be the same as that provided in the annual report to security holders for all companies, rather than requiring that the more extensive information called for by Item 101 of Regulation S–K[72] be included for S–1 level companies. This is consistent with the requirements of the present Item 14(b)(1) and with the significant role played by the annual report to security holders in proxy solicitation.

Appropriate modifications to the Form S–4 requirements have been made to reflect the fact that, in most cases, voting security holders will not be receiving new securities.[73] Because the need for disclosure regarding another person involved in the transaction may be significantly reduced in such a situation, proposed Item 13 provides that, when the registrant is being acquired by another person, disclosure regarding the other person will only be required when the registrant or the solicited security holders will become or remain security holders of the other person, or otherwise, if such disclosure is material under the circumstances. This language in proposed Item 13 (Instruction 1) codifies present staff practice by permitting less disclosure concerning the other person in cash mergers and certain other transactions covered by Item 13 than in Form S–4 context.[74] The effect of this codification, however, is not to be construed as meaning that disclosure about the other person need not be furnished if required by other Commission rules, such as Rule 13e–3, or if material to the voting decision.[75] The Commission requests specific comments as to whether the statement that the information concerning the other person is only required to the extent material is sufficient to elicit the pertinent disclosure or whether greater guidance should be given.

Proposed Instruction 2 of Item 13 would revise Instruction 3 of the current Item 14. This instruction now indicates that certain information need not be provided if the transaction involves only the registrant and one or more of its totally-held subsidiaries. The instruction would be revised to clarify the staff's position that this instruction does not apply to a transaction such as a liquidation or a spin-off. The intent of the instruction is to permit the omission of information when the transaction involves a technical restructuring of a registrant and its subsidiaries and the financial position of the registrant and the rights of the shareholders will be generally unaffected. In addition, the instruction would be amended to state specifically which Item 13 information may be omitted.

Item 14. Financial information. Proposed Item 14 would replace existing Item 15, which requires financial statements in connection with action taken with respect to authorization or issuance of securities, modification or exchange of securities, mergers, consolidations, acquisitions or similar matters (Items 11, 12 and 13). The proposed item makes no change in the required financial information, but allows the financal statements and related information to be provided in the same manner as is allowed by Form S–4. Thus, depending on the level of the company involved (S–1–2–3), the financial statements may be presented in the proxy statement or incorporated by reference. In addition, for the same reasons set forth above, Instruction 3 of proposed Item 14 states that financial statement disclosure regarding the other person need be provided only to the extent material when the registrant is being acquired and the contemplated transaction provides that the registrant and its voting security holders will not receive securities.

Several paragraphs of the current item would be moved to instructions. The statement in paragraph (a) that one copy of the definitive proxy statement shall include a copy of the accountant's certificate would be moved to Instruction 1. In addition, Instruction 1 would be expanded to state that where the accountant's report is incorporated by reference and therefore will not be in the proxy material, a statement should be included in the proxy material to the effect that the accountant is aware that the report will be made of the proxy material. When the definitive proxy material is filed, in lieu of the manually signed copy of the accountant's report that would otherwise be provided, one copy of the definitive material should contain a copy of that statement signed and dated by the accounting firm.

Paragraph (b) of the present item, which describes circumstances under which financial statements are not material, would be clarified and moved to Instruction 2. Paragraph (c) of the present item would be moved to Instruction 4 and would be changed in the same manner as the comparable Instruction 2 to Item 13. Paragraph (d) of the present item would be retained as Instruction 5, with additional language clarifying the requirements applicable to investment companies.[76] Paragraph (e), regarding incorporation by reference to an annual report sent to security holders in connection with the same meeting, would be moved to paragraph (b) of the revised item and would permit the incorporation in this manner of any information permitted by Schedule 14A to be incorporated by reference, not just financial statements. Finally, paragraph (f), relating to the financial statements of a non-reporting acquired company, would be modified to remove references to Form S–14 and revised consistent with changes made in Forms S–4, and would be moved to paragraph (a)(3)(ii) of the item.

Item 19. Amendment of charter, bylaws or other documents. Although the subject of anti-takeover proposals is not specifically addressed in this review of the proxy rules, an instruction to this item is proposed that directs the

[72] 17 CFR 229.101, Description of business.

[73] In the event that a transaction being voted on involves the issuance of securities exempt from registration, information material to the voting decision would include a description of the new securities as compared with the security to be exchanged by the voting security holders, as well as business and financial information concerning the issuer of the securities.

[74] If the registrant is acquiring the other person, this instruction would not be applicable; accordingly, the information regarding the person would be required, consistent with current practice.

[75] For example, in the context of a cash merger, it may be material to the voting security holder's evaluation of the proposed transaction to know whether the acquiring other person has the requisite financial ability to satisfy the terms of its offer. Similarly, it may be material to a voting securitiy holder's decision to approve or disapprove the proposed action to know whether a situation involving potential conflicts of interest between the managements of the registrant and the other person exist.

[76] A new Instruction 6 also would set forth specific requirements for investment companies.

registrant's attention to Release No. 34–15230,[77] regarding disclosure in proxy and information statements of defensive corporate charter and bylaw amendments.

C. Schedule 14B

The Commission does not propose any substantive changes to Schedule 14B; the only proposed changes are the issuer/registrant redesignation, and language permitting the use of a business or mailing address instead of a residence address. This schedule will be further considered in connection with the separate proxy contest project.

D. Regulation 14C

Regulation 14C provides disclosure obligations for those situations in which a registrant chooses not to solicit proxies. The information required to be disclosed is basically the same as that required in a proxy solicitation pursuant to Regulation 14A, including an annual report to security holders if directors are to be elected. The proposed revisions to Regulation 14C, detailed below, are consistent with the proposed revisions to Regulation 14A.

Rule 14c-1, Definitions. "Record date" would be added as a defined term and the definition of "last fiscal year" would be expanded, as proposed in Rule 14a-1. The term "issuer" would be redefined as "registrant," and the term would be redesignated wherever applicable in Regulation 14C.

Rule 14c-2, Distribution of information statement. Paragraph (a) of this rule describes the circumstances under which an information statement must be furnished. The proposed revision would clarify the Commission's position that an information statement must be furnished to every holder of a class of securities registered under section 12 of the Exchange Act that is entitled to vote or give consents or authorizations, if a proxy is not solicited from the security holder. The revision would make it clear that if consents are solicited from a few security holders who have enough shares to approve the transaction, the remaining security holders must be furnished with information statements as required by Rule 14c-2.

Rule 14c-3, Annual report to be furnished security holders. Revisions are proposed to Rule 14c-3 consistent with those proposed to Rule 14a-3. In addition, to avoid needless repetition, the proposed revisions would delete paragraphs (a)(1) through (a)(11), which set forth the required annual report to security holders disclosure, and instead require that the information specified in Rule 14a-3 be provided in the annual report.

Rule 14c-5, Filing requirements. Changes would be made in this rule consistent with those proposed for Rule 14a-6.

Rule 14c-7, Providing copies of material for certain beneficial owners. The proposed revisions to Rule 14c-7 are those which were included in Release No. 34–21901 and those necessary to reflect the specific treatment of consents. They will be adopted along with the other proposals in that release.

E. Schedule 14C, Information required in Information Statement

No substantive changes are proposed to Schedule 14C itself because it refers to Schedule 14A which, as discussed above, is the subject of extensive changes. In addition, the item are renumbered to reflect the deletion of Item 3, which now forms part of new Item 1 in Schedule 14A. The list of Schedule 14A items which are not required in information statements is revised to reflect the new numbering of Schedule 14A items. In addition, Item 1(c) of Schedule 14A is added to the list of Schedule 14A items excluded from Schedule 14C, since this item would consist of a reference to a shareholder proposal requirement which is now part of a Regulation 14A rule and was not intended to be part of Regulation 14C. Finally, Item 1 of the schedule would add a reminder that the notes at the beginning of Schedule 14A are also applicable to Schedule 14C.

F. Corresponding Amendments

The proposed amendments, which are enumerated in Footnote 10 above, either correct typographical errors or are necessitated by other proposed amendments to the proxy rules, such as the renumbering of items. If item 304 of Regulation S–K is adopted as proposed, amendments will also be adopted to all forms referring to Item 304, in order to substitute the new title for the present title.

III. Request for Comment

Any interested persons wishing to submit written comments on the proposed revisions to the proxy rules, or to suggest additional changes, or to submit comments on other matters that might have an impact on the proposals contained herein, are requested to do so.

The Commission also requests comment on whether the proposed revisions, if adopted, would have an adverse effect on competition or would impose a burden on competition that is neither necessary nor appropriate in furthering the purposes of the Exchange Act. Comments on this inquiry will be considered by the Commission in complying with its responsibilities under section 23(a)(2) of the Exchange Act.

IV. Initial Regulatory Flexibility Act Analysis

This initial regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 603.

Reasons for Proposed Action

The proposed revisions to the proxy rules are part of the Commission's ongoing Proxy Review Program. Many of the changes are designed to conform the proxy rules to other disclosure rules, to reflect recent rule amendments and the adoption of Form S–4, and to clarify the proxy rules' application to solicitations of consents and authorizations. The reasons for these changes are to update the rules. Other changes, such as specifying when an annual report to security holders must accompany a proxy or information statement and defining "solicitation" to include communications which may reasonably be expected to affect the proxy process, are meant to amend the proxy rules by bringing them into compliance with current staff or court interpretations. Still others would add new disclosure for investor protection or streamline existing disclosure to improve the readibility of the proxy materials. One of the proposed revisions would enhance investor protection by requiring additional disclosure related to independent public accountants in all filings containing financial statements. Another revision would expand the availability of incorporation by reference in proxy statements. At present, the rules do not permit incorporation by reference from other filings except under narrowly drawn circumstances. These circumstances would be considerably expanded and, in particular, would follow the Form S–4 approach of permitting differing amounts of incorporation by reference for S–1–2–3 companies.

Objective

The basic objectives of the proposed revisions are to update the proxy rules, codifying staff and court interpretations, and provide more relevant disclosure to improve security holder protection.

See Part I *supra.*

Legal Basis

See Part V *infra.*

Small Entities Subject to the Rule

For the purposes of this analysis, the Commission is using the definition of

[77] (October 13, 1978) [43 FR 49863].

"small business" in Rule 0–10 under the Exchange Act.[78] That rule provides that, when used in reference to a registrant pursuant to the Exchange Act, small business means a registrant that, on the last day of its most recent fiscal year, had total assets of three million dollars or less.

The information called for by the proxy rules applies to proxy solicitation or information statements for securities either listed on a national securities exchange pursuant to section 12(b) or registered pursuant to Section 12(g) of the Exchange Act. The Commission estimates that 23 percent, or 2,300, of the roughly 10,000 issuers reporting under sections 12 and 15(d) are companies having total assets not exceeding $3 million. While certain exchanges do permit such small-sized issuers to register their securities,[79] the Commission estimates that fewer than 50 small entities are listed on national securities exchanges and, thereby, subject to the section 12(b) reporting requirements and the proxy rules.

While companies whose total assets do not exceed $3 million are exempted from the reporting requirements of section 12(g) by Rule 12g–1,[80] a number of such registrants have elected to remain subject to those requirements. The Commission estimates that the number of such registrants is less than 1,750.

So, the number of small entities that may be directly affected by these rule changes is likely to be under 1,800.

The proposed change in Item 304 of Regulation S–K would require disclosure related to independent public accountants in all filings that currently reference Item 304 such as registration statements, annual, and quarterly reports. Therefore, in addition to the number of small entities that may be directly affected by the proxy rule changes, the revision to Item 304 may impact upon small entities that undertake initial public offerings. On the basis of the number of new issuer registration statements filed by small entities using Form S–18 in the last fiscal year ending September 30, 1984, it is estimated that under 600 small entities may be directly affected each year by this rule change in connection with initial public offerings. Further, the rule change would only require disclosure when a change in accountants occurs and if the change was due to a disagreement between the accountant and registrant.

Reporting, Recordkeeping and Other Compliance Requirements

The Commission expects that the changes it is proposing (see Part II *supra*) will not substantially change reporting and recordkeeping requirements.

Overlapping or Conflicting Federal Rules

The Commission does not believe that most of the proposed revisions to the proxy rules would duplicate, overlap or conflict with other rules or forms. However, Schedule 14B overlaps and duplicates to some extent Schedule 13D. This overlap and duplication will be addressed in a future proposal. Also, the annual report to security holders, as required by Rule 14a–3(b), overlaps and duplicates to some extent Form 10–K. But the Commission views this to be necessary and appropriate, in light of the differing functions served by these two documents.

Significant Alternatives

Pursuant to section 603 of the Regulatory Flexibility Act, the following types of alternatives wer considered:

(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;

(2) The clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;

(3) The use of performance rather than design standards; and

(4) An exemption from coverage of the rule, or any part thereof, for small entities.

The principal function of the proxy rules and Item 304 of Regulation S-K is to make information available to the securities markets. Proxy solicitations, opposition solicitations, and information statements containing the information specified in Schedules 14A, 14B, and 14C are used by security holders to make informed voting decisions. The information that revised Item 304 would provide is material to investors in the prospectus context. The information required to be filed with the Commission permits verification of compliance with securities law requirements and assures the public availability and dissemination of such information. The Commission does not believe that the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities or the use of performance rather than design standards would be consistent with the Commission's statutory mandate to protect investors. These proposals would, however, clarify, consolidate and simplify compliance and reporting requirements under these rules for such small entities, as well as large ones.

Further, the Commission believes that exempting small entities from all or part of the requirements of the proxy rules or Item 304 would harm the investors in those companies that are subject to them. Nonetheless, the Commission invites public comment on the appropriateness of extending such an exemption to small entities.

Solicitation of Comments

The Commission encourages the submission of written comments with respect to any aspect of this initial regulatory flexibility analysis. Such written comments will be considered in the preparation of the final regulatory flexibility analysis if the proxy rules are adopted. Persons wishing to submit written comments should file four copies thereof with John Wheeler, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. All submissions should refer to File No. S7–31–85 and will be available for public inspection at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549.

VI. Statutory Basis and Text of Proposed Amendments Authority

The amendments to Items 304 and 403 of Regulation S-K, Rule 3–05 of Regulation S-X, Forms S–4, F–4 and S–18, Rule 13e–3, Schedule 13E–3, Rule 14f–1, Rule 20a–3 of the Investment Company Act of 1940 and to the proxy and information statement rules are being proposed by the Commission pursuant to sections 6, 7, 8, 10, and 19(a) of the Securities Act of 1933, sections 3, 10, 12, 13, 14, 15(d), 17 and 23(a) of the Securities Exchange Act of 1934, and sections 20(a) and 38(a) of the Investment Company Act of 1940.

List of Subjects in 17 CFR Parts 210, 229, 239, 240 and 370

Reporting and recordkeeping requirements, securities.

Text of Proposals

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

[78] 17 CFR 240.0–10; *see also* Release No. 33–6380 (January 28, 1983) [47 FR 5215].

[79] For example, the Pacific Stock Exchange, the Midwest Stock Exchange, the Boston Stock Exchange, and the Philadelphia Stock Exchange permit a registrant whose tangible net worth is less than $3,000,000 to list securities. Pacific Stock Ex. Guide (CCH) ¶ 1897; Boston Stock Ex. Guide (CCH) ¶ 2260; Philadelphia Stock Ex. Guide (CCH) ¶ 2803.

[80] 17 CFR 240.12g–1.

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

1. The authority citation for Part 210 continues to read, in part, as follows:

Authority: Secs. 6, 7, 8, 10, 12, 13, 15, 19, 23, 48 Stat. 78, 79, amended, 81, as amended, 85, as amended, 892, as amended, 894, 895, as amended, 901, as amended, secs. 5, 14, 20, 49 Stat. 812, 827, 833, secs. 8, 30, 31, 36, 54 Stat. 803, 836, 838, 841; 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78l, 78m, 78o, 78w, 79e, 79n, 79t, 80a–8, 80a–29, 80a–30, 80a–37, * * * § 210.3–05 also issued under 15 U.S.C. 77aa, 78n and 80a–20 * * *

§ 210.3–05 [Amended]

2. In paragraph (b) of § 210.3–05 the reference to "Item 15" is removed and replaced with the words "Item 14"

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

3. The authority citation for Part 229 continues to read, in part, as follows:

Authority: Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 12, 13, 14, 15(d), 23(a), 48 Stat. 892, 894, 901; secs. 205, 209, 48 Stat. 906, 908; sec. 203(a), 49 Stat. 704; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 301, 54 Stat 857; secs. 8, 202, 68 Stat. 685, 686; secs. 3, 4, 5, 6, 78 Stat. 565–568, 569, 570–574; sec. 1, 79 Stat. 1051; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3–5, 28(c) 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 11, 89 Stat. 117, 118, 119, 155; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78l, 78m, 78n, 78l(d), 78w(a) * * *

4. By revising § 229.304 to read as follows:

§ 229.304 (Item 304) Changes in and disagreements with accountants on accounting and financial disclosure.

(a) If a change in accountants has taken place within 24 months prior to, or in any period subsequent to, the date of the most recent financial statements, the information called for by Item 4 of Form 8–K (§ 249.308 of this chapter) or, with respect to registered investment companies, Items 77K or 102J of Form N-SAR (§ 274.101 of this chapter) shall be disclosed.

(b) If in connection with paragraph (a) of this section there was any disagreement as described in Item 4(b) of Form 8–K or Item 77K or 102J of Form N-SAR and (1) during the fiscal year in which the change in accountants took place or during the subsequent fiscal year there have been any transactions or events similar to those which involved the disagreement; and (2) such transactions or events were material and were accounted for or disclosed in a manner different from that which the former accountants apparently would have concluded was required, state the existence and nature of the disagreement and also state the effect on the financial statements if the method had been followed which the former accountants apparently would have concluded was required. These disclosures need not be made if the method asserted by the former accountants ceases to be generally accepted because of authoritative standards or interpretations subsequently issued.

Instructions to Item 304: 1. The disclosure called for by paragraph (a) of this section need not be provided if it has been previously reported (as that term is defined in Rule 12b–2 under the Exchange Act (§ 240.12b–2 of this chapter); however, the disclosure called for by paragraph (b) of this section must be furnished, where appplicable, notwithstanding any prior disclosure about accountant changes or disagreements.

2. The accountant's letter referred to in Item 4(b) of Form 8–K of Item 77K or 102J of Form N-SAR, when required by paragraph (a) of this section, should be filed as an exhibit to the report or registration statement. When the document is an annual report to security holders pursuant to Rule 14a–3 (§ 240.14a–3 of this chapter) or Rule 14c–3 (§ 240.14c–3 of this chapter), or is a proxy or information statement filed pursuant to the requirements of Schedules 14A or 14C (§ 240.14a–101 and § 240.14c–101 of this chapter), no such exhibit shall be required, and in lieu of a letter pursuant to Item 4(d) of Form 8–K or Item 77K or 102J of Form N-SAR, the registrant, prior to filing such materials with or furnishing such materials to the Commission, shall furnish the disclosure required by this Item 304 of any former accountant engaged by the registrant during the period set forth in paragraph (a) of this section. If that accountant believes that the statements made in reponse to this Item are incorrect or incomplete, he may include a brief statement, ordinarily expected not to exceed 200 words, in the document presenting his views. This statement shall be submitted to the registrant within ten business days of the date the accountant receives the registrant's disclosure

3. The information required by this Item 304 need not be provided for non-reporting companies being acquired by the registrant. Non-reporting companies are those companies not subject to the filing requirements of either section 13(a) or 15(d) of the Exchange Act.

5. By amending paragraph (a) of § 229.403 by adding a sentence after the first complete sentence. The first complete sentence is published for the convenience of the reader.

§ 229.403 (Item 403) Security ownership of certain beneficial owners and management.

(a) *Security ownership of certain beneficial owners.* Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, with respect to any person (including any "group" as that term is used in section 13(d)(3) of the Exchange Act) who is known to the registrant to be the beneficial owner of more than five percent of any class of the registrant's voting securities. In column (2), the address may be a business, mailing or residence address.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

6. The authority citation for Part 239 continues to read, in part, as follows:

Authority: The Securities Exchange Act of 1933, 15 U.S.C. 77a, et seq., * * *

7. Section 239.28 is amended by revising Item 21 of Form S–18 (§ 239.28) to add new paragraph (k) to read as follows (Note that the text of Form S–18 does not appear in the Code of Federal Regulations):

§ 239.28 Form S–18, optional form for the registration of securities to be sold to the public by the issuer for an aggregate cash price not to exceed $7,500,000.

* * * * *

Form S–18

* * * * *

Item 21. Financial statements

* * * * *

(k) Furnish the information required by Item 304 of Regulation S–K [§ 229.304 of this chapter), changes in and disagreements with accountants on accounting and financial disclosure.

* * * * *

8. Section 239.25 is amended by revising paragraphs (a)(1)–(6) of Item 18 and paragraphs (a)(2), (3), and (5)–(7) of Item 19 of Form S–4 (§ 239.25) to read as follows (Note that the text of Form S–4 does not appear in the Code of Federal Regulations):

§ 239.25 Form S–4, for the registration of securities issued in business combination transactions.

* * * * *

Form S–4

* * * * *

D. Voting and Management Information

Item 18. Information if Proxies, Consents or Authorizations are to be Solicited.

(a) If proxies, consents or authorizations are to be solicited, furnish the following information, except as provided by paragraph (b) of this Item:

(1) The information required by Item 2 of Schedule 14A, revocability of proxy;

(2) The information required by Item 3 of Schedule 14A, dissenters' rights of appraisal;

(3) The information required by Item 4 of Schedule 14A, persons making the solicitation;

(4) With respect to both the registrant and the company being acquired, the information required by:

(i) Item 5 of Schedule 14A, interest of certain persons in matters to be acted upon; and

(ii) Item 5 of Schedule 14A, voting securities and principal holders thereof;

(5) The information required by Item 9 of Schedule 14A, independent public accountants;

(6) The information required by Item 21 of Schedule 14A, vote required for approval; and

* * * * *

Item 19. Information if Proxies, Consents or Authorizations are not to be Solicited or in an Exchange Offer.

(a) If the transaction is an exchange offer or if proxies, consents or authorizations are not to be solicited, furnish the following information, except as provided by paragraph (c) of this Item:

(1) The information required by Item 2 of Schedule 14C, statement that proxies are not to be solicited;

(2) The date, time and place of the meeting of security holders, unless such information is otherwise disclosed in material furnished to security holders with the prospectus.

(3) The information required by Item 3 of Schedule 14A, dissenters' rights of appraisal;

* * * * *

(5) With respect to both the registrant and the company being acquired, the information required by Item 6 of Schedule 14A, voting securities and principal holders thereof;

(6) The information required by Item 9 of Schedule 14A, independent public accountants;

(7) The information required by Item 21 of Schedule 14A, vote required for approval; and

* * * * *

9. Section 239.34 is amended by revising paragraphs (a)(1)–(6) including the Instruction following paragraph (a)(4) of Item 18 and paragraphs (a)(2), (3) and (5)–(7), including the Instruction following paragraph (a)(5) of Item 19 of Form F–4 (§ 239.34 of this chapter) to read as follows (Note that the text of Form F–4 does not appear in the Code of Federal Regulations):

§ 239.34 Form F–4, for registration of securities of certain foreign private issuers issued in certain business combination transactions.

* * * * *

Form F–4

* * * * *

D. Voting and Management Information Item 18. Information if Proxies, Consents or Authorizations Are To Be Solicited.

(a) If proxies, consents or authorizations are to be solicited, furnish the following information, except as provided by paragraph (b) of this Item:

(1) The information required by Item 2 of Schedule 14A, revocability of proxy;

(2) The information required by Item 3 of Schedule 14A, dissenters' rights of appraisal;

(3) The information required by Item 4 of Schedule 14A, persons making the solicitation;

(4) With respect to both the registrant and the company being acquired, the information required by:

(i) Item 5 of Schedule 14A, interests of certain persons in matters to be acted upon; and

(ii) Item 6 of Schedule 14A, voting securities and principal holders thereof.

Instruction

The information specified in Item 4 of Form 20–F may be provided in lieu of the information specified in Item 6(d) of Schedule 14A.

(5) The information required by Item 9 of Schedule 14A, independent public accountants;

(6) The information required by Item 21 of Schedule 14A, vote required for approval;

* * * * *

Item 19. Information if Proxies, Consents or Authorizations Are Not To Be Solicited in an Exchange Offer.

(a) If the transaction is an exchange offer or if proxies, consents or authorizations are not to be solicited, furnish the following information, except as provided by paragraph (b) of this Item:

(1) The information required by Item 2 of Schedule 14C statement that proxies are not to be solicited;

(2) The date, time and place of the meeting of security holders, unless such information is otherwise disclosed in material furnished to security holders with the prospectus.

(3) The information required by Item 3 of Schedule 14A, dissenters rights of appraisal;

* * * * *

(5) With respect to both the registrant and the company being acquired, the information required by Item 6 of Schedule 14A, voting securities and principal holders thereof.

Instruction

The information specified in Item 4 of 20–F may be provided in lieu of the information specified in Item 6(d) of Schedule 14A.

(6) The information required by Item 9 of Schedule 14A, independent public accountants;

(7) The information required by Item 21 of Schedule 14A, vote required for approval, and

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

10. The authority citation for Part 240 continues to read, in part, as follows:

Authority: Sec. 23, 48 Stat. 901, as amended; 15 U.S.C. 78w, unless otherwise noted. §§ 240.12b–1 to 240.12b–36 also issued under secs. 3, 12, 13, 15, 48 Stat. 892, as amended, 894, 895, as amended; 15 U.S.C. 78c, 78*l*, 78m, 78*o*. §§ 240.14c–1 to 240.14c–101 also issued under sec. 14, 48 Stat. 895; 15 U.S.C. 78n. §§ 240.15b10–1 to 240.15b10–9 also issued under secs. 15, 17, 48 Stat. 895, 897, sec. 203, 49 Stat. 704, secs. 4, 8, 49 Stat. 1379, sec. 5, 52 Stat. 1076, sec. 6, 78 Stat. 570; 15 U.S.C. 78*o*, 78q. 12 U.S.C. 241 nt.. * * * § 240.13e–3 continues to be also issued under 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77*l*, 77m, 77n, 77*o*(d), 78c(b), 78i(a), 78j(b), and 78m(e). § 240.13e–100 continues to be also issued under 15 U.S.C. 77g(a), 77s(a), 78c(b), 78j(b), 78m(e), 78n(a), 78n(c) and 78n(e). § 240.14a–1 to 14a–102 continues to be also issued under 15 U.S.C. 77b, 77d, 77e, 77f, 77g, 77h, 77j, 77s, 77sss(a), 78c, 78*l*, 78m, 78n, 78*o*(d), 78q, 80a–20, 80a–37, 80a–87, 79e, and 79t * * *

§ 240.13e–3 [Amended]

11. In § 240.13e–3 in paragraphs (a)(3)(i)(C), (c)(2) and (e)(1) the reference to " 240.14a–103" is removed and replaced with the reference "240.14b–1" and in paragraph (f)(1)(ii) the reference to "Rule 14a–3(d) [§ 240.14a–3(d)]" is removed and replaced with "Rule 14a–13(a) [§ 240.14a–13(a)]."

§ 240.13e–100 [Amended]

12. By amending § 240.13e–100 by removing the reference to "240.14a–103" and replacing it with "240.14b–1" in paragraph (a) and General Instructions F and G.

13. By revising § 240.14a–1 to read as follows:

§ 240.14a–1 Definitions.

Unless the context otherwise requires, all terms used in this regulation have the same meaning as in the Act or elsewhere in the general rules and regulations thereunder. In addition, the following definitions apply unless the context otherwise requires:

(a) *Associate.* The term "associate" used to indicate a relationship with any person, means (1) any corporation or organization (other than the registrant or a majority owned subsidiary of the registrant of which such person is an officer or partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities, (2) any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity; and (3) any relative of spouse of such person, or any relative of such spouse, who has the same home of such person or who is a director or officer of the registrant or any of its parents or subsidiaries.

(b) *Last fiscal year.* The term "last fiscal year" of the registrant means the last fiscal year of the registrant ending prior to the date of the meeting for which proxies are to be solicited or, if the solicitation involves written authorizations or consents in lieu of a meeting, the earliest date they may be used to effect corporate action.

(c) *Proxy.* The term "proxy" includes every proxy, consent or authorization within the meaning of section 14(a) of the Act. The consent or authorization may take the form of failure to object or to dissent.

(d) *Proxy statement.* The term "proxy statement" means the statement required by § 240.14a–3(a) whether or not contained in a single document.

(e) *Record date.* The term "record date" shall mean the date as of which the record holders of securities entitled to vote at a meeting or by written consent or authorization shall be determined.

(f) *Registrant.* The term "registrant" means the issuer of the securities in respect of which proxies are to be solicited.

(g) *Solicitation.* (1) The terms "solicit" and "solicitation" include but are not limited to the following:

(i) Any request for a proxy whether or not accompanied by or included in a form of proxy;

(ii) Any request to execute or not to execute, or to revoke, a proxy; or

(iii) The furnishing of a form of proxy or other communication to security holders under circumstances reasonably calculated to result in, or which reasonably could be expected to affect, the procurement, withholding or revocation of a proxy.

(2) The terms do not apply, however to the furnishing of a form of proxy to a security holder upon the unsolicited request of such security holder, the performance by the reistrant of acts required by § 240.14a–7, or the performance by any person of ministerial acts on behalf of a person soliciting a proxy.

14. Section 240.14a–2 is amended By revising the section heading, introductory paragraph, and paragraphs (a) introductory text, (a)(4)(a)(6), (b) introductory text, (b)(1) and (b)(2)(ii) to read as follows:

§ 240.14a–2 Solicitations to which § 240.14a–3 to § 240.14a–13 apply.

Sections 240.14a–3 to 240.14a–13 apply to every solicitation of a proxy with respect to securities registered pursuant to section 12 of the Act, whether or not trading in such securities has been suspended, except that:

(a) Sections 240.14a–3 to 240.14a–13 do not apply to the following:

* * * * *

(4) Any solicitation with respect to a plan of reorganization under Chapter 11 of the Bankruptcy Reform Act of 1978, as amended, if made after the entry of an order approving the written disclosure statement concerning a plan of reorganization pursuant to section 1125 of said Act and after, or concurrently with, the transmittal of such disclosure statement as required by section 1125 of said Act;

* * * * *

(6) Any solicitation through the medium of a newspaper advertisement which informs security holders of a source from which they may obtain copies of a proxy statement, form of proxy and any other soliciting material and does no more than (i) name the registrant, (ii) state the reason for the advertisement, and (iii) identify the proposal or proposals to be acted upon by security holders.

(b) Sections 240.14a–3 to 240.14a–8 and 240.14a–10 to 240.14a–13 do not apply to the following:

(1) Any solicitation made otherwise than on behalf of the registrant where the total number of persons solicited is not more than ten; and

(2) * * *

(ii) The advisor discloses to the recipient of the advice any significant relationship with the registrant or any of its affiliates, or a security holder proponent of the matter on which advice is given, as well as any material interest of the advisor in such matter:

15. Section 240.14a–3 is amended by revising paragraph (b) introductory text, revising the heading of "NOTE 1" after paragraph (b)(1) to read "NOTE," revising (b)(4), and (b)(6) through (b)(10), and Notes after (b) (10) and (b)(11), revising (b)(13), (c), and the Note following paragraph (c), deleting the Note after paragraph (b)(7), removing paragraph (d) and redesignating and revising paragraphs (e) and (f) as paragraphs (d) and (e) to read as follows:

§ 240.14a–3 Information to be furnished to security holders.

* * * * *

(b) If the solicitation is made on behalf of the registrant and relates to an annual (or special in lieu of the annual) meeting of security holders, or written consent in lieu of such meeting, at which directors are to be elected, each proxy statement furnished pursuant to paragraph (a) of this section shall be accompanied or preceded by an annual report to security holders as follows:

* * * * *

(4) The report shall contain information concerning changes in and disagreements with accountants on accounting and financial disclosure required by Item 304 of Regulation S–K (§ 229.304 of this chapter).

* * * * *

(6) The report shall contain a brief description of the business done by the registrant and its subsidiaries during the most recent fiscal year which will, in the opinion of management, indicate the general nature and scope of the business of the and its subsidiaries.

(7) The report shall contain information relating to the registrant's industry segments, classes of similar products or services, foreign and domestic operations and export sales required by paragraphs (b), (c)(1)(i) and (d) of Item 101 of Regulation S–K (§ 229.101 of this chapter).

(8) The report shall identify each of the registrant's directors and executive officers, and shall indicate the principal occupation or employment of each such person and the name and principal business of any organization by which such person is employed.

(9) The report shall contain the market price of and dividends on the registrant's common equity and related security holder matters required by Item 201 of Regulation S–K (§ 229.201 of this chapter).

(10) The registrant's proxy statement, or the report, shall contain an undertaking in bold face or otherwise reasonably prominent type to provide without charge to each person solicited, upon the written request of any such person, a copy of the registrant's annual report on Form 10–K, including the financial statements and the financial statement schedules, required to be filed with the Commission pursuant to Rule 13a-1 under the Act for the registrant's most recent fiscal year, and a copy of any information contained in reports filed by the registrant subsequent to the Form 10–K pursuant to section 13(a) of the Act through the date of responding to the request, and shall indicate the name and address (including title or department) of the person to whom such a written request is to be directed. In the discretion of management, a registrant need not undertake to furnish without charge copies of all exhibits to its Form 10–K provided that the copy of the annual report on Form 10–K furnished without charge to requesting security holders is accompanied by a list briefly describing all the exhibits not contained

therein and indicating that the registrant will furnish any exhibit upon the payment of a specified reasonable fee which fee shall be limited to the registrant's reasonable expenses in furnishing such exhibit. If the registrant's annual report to security holders complies with all of the disclosure requirements of Form 10–K and is filed with the Commission in satisfaction of its Form 10–K filing requirements, such registrant need not furnish a separate Form 10–K to security holders who receive a copy of such annual report.

Note.—Pursuant to the undertaking required by paragraph (b)(10) of this section, a registrant shall furnish a copy of its annual report on Form 10–K (§ 249.310 of this chapter) and the subsequently filed information required by paragraph (b)(10) of this section to a beneficial owner of its securities upon receipt of a written request from such person. Each request must set forth a good faith representation that, as of the record date for the solicitation requiring the furnishing of the annual report to security holders pursuant to paragraph (b) of this section, the person making the request was a beneficial owner of securities entitled to vote.

(11) * * *

Note.—Registrants are encouraged to utilize tables, schedules, charts, and graphic illustrations to present financial information in an understandable manner. Any presentation of financial information must be consistent with the data in the financial statements contained in the report and, if appropriate, should refer to relevant portions of the financial statements and notes thereto.

* * * * *

(13) Paragraph (b) of this section shall not apply, however, to solicitations made on behalf of the registrant before the financial statements are available if a solicitation is being made at the same time in opposition to the registrant and if the registrant's proxy statement includes an undertaking in bold face type to furnish such annual report to all persons being solicited at least 20 calendar days before the date of the meeting or, if the solicitation refers to a written consent or authorization in lieu of a meeting, at least 20 calendar days prior to the earliest date on which they may be used to effect corporate action.

(c) Seven copies of the report sent to security holders pursuant to this rule shall be mailed to the Commission, solely for its information, not later than the date on which such report is first sent or given to security holders or the date on which preliminary copies of solicitation material are filed with the Commission pursuant to Rule 14a–6(a), whichever date is later. The report is not deemed to be "soliciting material" or to be "filed" with the Commission or subject to this regulation otherwise than as provided in this Rule, or to the liabilities of section 18 of the Act, except to the extent that the registrant specifically requests that it be treated as a part of the proxy soliciting material or incorporates it in the proxy statement or other filed report be reference.

Note.—To assist the staff, managements of registrants are requested to indicate in a letter transmitting to the Commission copies of their annual reports to security holders or in a separate letter at or about the time the annual report is furnished to the Commission, whether the financial statements in the report reflect a change from the preceding year in any accounting principles or practices or in the method of applying any such principles or practices.

(d) An annual report to security holders prepared on an integrated basis pursuant to General Instruction H to Form 10–K (§ 249.310) may also be submitted in satisfaction of this rule. When filed as the annual report on Form 10–K, responses to the Items of that form are subject to section 18 of the Act notwithstanding paragraph (c).

(e) Notwithstanding paragraphs (a) and (b) of this section.

(1) A registrant is not required to send an annual report to a security holder of record having the same address as another security holder of record, provided that (i) such security holders are not holding such registrant's securities in nominee name, (ii) at least one report is sent to a holder of record at that address and (iii) the holders of record to whom a report is not sent agree thereto in writing; and

(2) Unless state law requires otherwise, and a registrant is not required to send an annual report or proxy statement to a security holder if (i) an annual report and a proxy statement for two consecutive annual meetings or (ii) all and at least two, checks (if sent by first class mail) in payment of dividends or interest on securities during a twelve month period have been mailed to such security holder's address and have been returned undeliverable. However, a registrant obligation to deliver an annual report or a proxy statement under this section is reinstated once it has such security holder's current address.

16. Section 240.14a–4 is amended by removing the words "issuer's" and "issuer" and replacing them with the words "registrant's" and "registrant" in paragraph (a) and in Instruction 2 after paragraph (b)(2)(iv), by removing the word "shareholder" and replacing it with the words "security holder" in paragraphs (b)(2) (iii) and (iv), by revising paragraphs (c)(4) and (d) to read as follows:

§240.14a–4 Requirements as to proxy.

* * * * *

(c) * * *

(4) Any proposal omitted from the proxy statement and form of proxy pursuant to § 240.14a–8 or § 240.14a–9 of this chapter.

* * * * *

(d) No proxy shall confer authority (1) to vote for the election of any person to any office for which a bona fide nominee is not named in the proxy statement, (2) to vote at any annual meeting other than the next annual meeting (or any adjournment thereof) to be held after the date on which the proxy statement and form of proxy are first sent or given to security holders (3) to vote with respect to more than one meeting (and any adjournment thereof) or one consent solicitation or (4) to consent to or authorize any action other than the action proposed to be taken in the proxy statement. A person shall not be deemed to be a bona fide nominee and he shall not be named as such unless he has consented to being named in the proxy statement and to serve if elected.

* * * * *

17. Section 240.14a–5 is amended by revising paragraph (c), removing the word "leading" and replacing it with "leaded" in paragraph (d), removing paragraph (e), removing the words "issuer" and "issuer's" and replacing them with "registrant" and "registrant's" in paragraph (f) and redesignating paragraph (f) as paragraph (e) to read as follows:

§ 240.14a–5 Presentation of information in proxy statement.

* * * * *

(c) Any information contained in any other proxy soliciting material which has been furnished to each person solicited in connection with the same meeting or subject matter may be omitted from the proxy statement, if a clear reference is made to the particular document containing such information.

* * * * *

18. Section 240.14a–6 is amended by revising the section heading, paragraph (a)(1), adding new NOTE 1 after paragraph (a), revising "NOTE:" after (a) to read "NOTE 2:" and revising the word "company" to read "registrant" in Note 2, revising paragraphs (b), (c), and (d), removing the Note after paragraph (c), by redesignating paragraphs (e) through (j) as (f) through (k) and adding a new paragraph (e) revising newly redesignated paragraphs (f), (h), (j) and (k), by adding paragraph headings to newly redesignated paragraphs (g)

"Communications not required to be filed" and (i) *"Revised material"* and adding new paragraph (l) to read as follows:

§ 240.14a–6 Filing requirements

(a) *Preliminary proxy statement.* (1) Five preliminary copies of the proxy statement and form of proxy and any other soliciting material to be furnished to security holders concurrently therewith shall be filed with the Commission at least 10 calendar days prior to the date definitive copies of such material are first sent or given to security holders, or such shorter period prior to that date as the Commission may authorize upon a showing of good cause therefor;

Note 1.—When revised material is filed it does not recommence the ten day time period unless the revised material contains such material revisions or material new proposal(s) that it constitutes a fundamental change in the proxy material.

* * * * *

(b) *Preliminary additional materials.* Five preliminary copies of any additional soliciting material, relating to the same meeting or subject matter, furnished to security holders subsequent to the proxy statement shall be filed with the Commission at least 2 business days prior to the date copies of such material are first sent or given to security holders, or such shorter period prior to such date as the Commission may authorize upon a showing of good cause therefor.

(c) *Definitive proxy statement.* Eight definitive copies of the proxy statement, form of proxy and all other soliciting material, in the form in which such material is furnished to security holders, shall be filed with, or mailed for filing to, the Commission not later than the date such material is first sent or given to any security holders. Three copies of such material shall at the same time be filed with, or mailed for filing to, each national securities exchange upon which any class of securities of the registrant is listed and registered.

(d) *Personal solicitation materials.* If the solicitation is to be made in whole or in part by personal solicitation, three copies of all written instructions or other material which discusses or reviews, or comments upon the merits of, any matter to be acted upon and which is furnished to the individuals making the actual solicitation for their use directly or indirectly in connection with the solicitation shall be filed with the Commission by the person on whose behalf the solicitation is made a least five calendar days prior to the date copies of such material are first sent or given to such individuals, or such shorter period prior to that date as the Commission may authorize upon a showing of good cause therefor.

(e) *Release dates.* All preliminary material filed pursuant to paragraph (a) or (b) of this section shall be accompanied by a statement of the date on which definitive copies therefor filed pursuant to paragraph (c) of this section are intended to be released to security holders. All definitive material filed pursuant to paragraph (c) of this section shall be accompanied by a statement of the date on which copies of such material have been released to security holders, or, if not released, the date on which copies thereof are intended to be released. All material filed pursuant to paragraph (d) of this section shall be accompanied by a statement of the date on which copies thereof are intended to be released to the individual who will make the actual solicitation.

(f) *Public availability of information.* All copies of preliminary material filed pursuant to this Regulation shall be clearly marked "Preliminary Copies," shall be for the information of the Commission only and shall not be deemed available for public inspection intil definitive material has been filed with the Commission except that (1) such material may be disclosed to any department or agency of the United States Government and to the Congress, and the Commission may make such inquiries or investigation in regard to the material as may be necessary for an adequate review thereof by the Commission, and (2) such material may be deemed available for public inspection when the staff determines that the registrant has released the proxy material to security holders or has abandoned the intention of releasing the proxy material.

* * * * *

(h) *Speeches, press releases and scripts.* Notwithstanding the provisions of paragraphs (a) and (b) of this section, of § 240.14a–11(e) and of § 240.14a–12(b) copies of soliciting material in the form of speeches, press releases and radio or television scripts may, but need not, be filed with the Commission prior to use or publication. Definitive copies, however, shall be filed with or mailed for filing to the Commission as required by paragraph (c) of this section not later than the date such material is used or published. The provisions of paragraphs (a) and (b) of this section and of § 240.14a–11(e) and of § 240.14a–12(b) shall apply, however, to any reprints or reproductions of all or any part of such material.

* * * * *

(j) *Fees.* At the time of filing the preliminary proxy solicition material, the persons upon whose behalf the solicitation is made, other than companies registered under the Investment Company Act of 1940, or where an application or declaration under the Public Utility Holding Company Act of 1935 is involved, shall pay to the Commission the following applicable fee: (1) For preliminary proxy material which solicits proxies for election of directors or other business for which a stockholder vote is necessary, but apparently no controversy is involved, a fee of $125; (2) for proxy material where a contest as set forth in Rule 14a–11 is involved, a fee of $500 from each party to the controversy; and (3) for proxy material involving acquisitions, mergers, spin-offs, consolidations or proposed sales or other dispositions of substantially all the assets of the company, a fee established in accordance with Rule 0–11, (§ 240.0–11 of this chapter), shall be paid. No refund shall be given.

(k) *Merger proxies.* Notwithstanding the foregoing provisions of this section, any proxy statement, form of proxy or other soliciting material included in a registration statement filed under the Securities Act of 1933 on Form S–14, S–4 or F–4 (§ 239.23, 25 or 34 of this chapter) shall be deemed filed both for the purposes of that Act and for the purposes of this section, but separate copies of such material need not be furnished pursuant to this section nor shall any fee be required under paragraph (j) of this section. However, any additional soliciting material used after the effective date of the registration statement on Form S–14, S–4 or F–4 shall be filed in accordance with this section, unless separate copies of such material are required to be filed as an amendment of such registration statement.

(l) *Computing time periods.* In computing time periods beginning with the filing date specified in Regulation 14A (§§ 240,14a–1 to 240.14b–1 of this chapter), the filing date shall be counted as the first day of the time period and midnight of the last day shall constitute the end of the specified time period.

19. Section 240.14a–7 is amended by revising the introductory text, in paragraphs (a) through (c) removing the word "issuer" and replacing it with the word "registrant," and in paragraph (b)(2) removing the work "solicited" and replacing it with the word "soliciting" to read as follows:

§ 240.14a-7 Mailing communications for security holders.

If the registrant has made or intends to make any solicitation subject to this regulation, the registrant shall perform such of the following acts as may be duly requested in writing with respect to the same subject matter or meeting by any security holder who is entitled to vote on such matter or to vote at such meeting and who shall defray the reasonable expenses to be incurred by the registrant in the performance of the act or acts requested.

* * * * *

20. Section 240.14a-8 is amended by revising paragraph (a)(1)(i), (a)(3)(i), (c)(3), and (d), and in the following paragraphs of § 240.14a-8 removing the words "an issuer," "issuer's" and "issuer" and replacing them with the words "a registrant," "registrant's" and "registrant" in paragraphs: (a) introductory text, (a)(1)(ii), (a)(2), (a)(3), the Note following (a)(3)(ii), (a)(4), (b)(1), (b)(2), (c) introductory text, the Note to (c)(1), (c)(2), (c)(4) through (c)(12), (e), and the last paragraph.

§ 240.14a-8 Proposals of security holders.

(a) * * *

(1) *Eligibility.* (i) At the time he submits the proposal, the proponent shall be a record or beneficial owner of at least 1% of $1000 in market value of securities entitled to be voted on the proposal at the meeting and have held such securities for at least one year, and he shall continue to own such securities through the date on which the meeting is held. If the registrant requests documentary support for a proponent's claim that he is the beneficial owner of at least $1000 in market value of such voting securities of the registrant or that he has been a beneficial owner of the securities for one or more years, the proponent shall furnish appropriate documentation within 14 calendar days after receiving the request. In the event the registrant includes the proponent's proposal in its proxy soliciting material for the meeting and the proponent fails to comply with the requirement that he continuously hold such securities through the meeting date, the registrant shall not be required to include any proposals submitted by the proponent in its proxy material for any meeting held in the following two calendar years.

* * * * *

(3) * * *

(i) *Annual Meetings.* A proposal to be presented at an annual meeting shall be received at the registrant's principal executive offices not less than 120 calendar days in advance of the date of the registrant's proxy statement released to security holders in connection with the previous year's annual meeting of security holders except that if no annual meeting was held in the previous year or the date of the annual meeting has been changed by more than 30 calendar days from the date contemplated at the time of the previous year's proxy statement, a proposal shall be received by the registrant a reasonable time before the solicitation is made.

* * * * *

(c) * * *

(3) If the proposal or the supporting statement is contrary to any of the Commission's proxy rules and regulations, including Rule 14a-9 [§ 240.14a-9 of this chapter], which prohibits false or misleading statements in proxy soliciting materials;

(d) Whenever the registrant asserts, for any reason, that a proposal and any statement in support thereof received from a proponent may properly be omitted from its proxy statement and form of proxy, it shall file with the Commission, not later than 60 calendar days prior to the date the preliminary copies of the proxy statement and form of proxy are filed pursuant to Rule 14a-6(a) [§ 240.14a-6(a) of this chapter], or such shorter period prior to such date as the Commission or its staff may permit, six copies of the following items: (1) The proposal; (2) any statement in support thereof as received from the proponent; (3) a statement of the reasons why the registrant deems such omission to be proper in the particular case; and (4) where such reasons are based on matters of law, a supporting opinion of counsel. The registrant shall at the same time, if it has not already done so, notify the proponent of its intention to omit the proposal from its proxy statement and form of proxy and shall forward to him a copy of the statement of reasons why the registrant deems the omission of the proposal to be proper and a copy of such supporting opinion of counsel.

* * * * *

§ 240.14a-11 [Amended]

21. Section 240.14a-11 is amended by removing the word "issuer" and replacing it with the word "registrant" in paragraphs (b)(1), (b)(2), (b)(6), (c)(1), through (c)(3).

22. Section 240.14a-13 is amended by revising paragraph (a) introductory text and paragraphs (a)(1) and (a)(2) as proposed to be added at 50 FR 13615, April 5, 1985 to read as follows:

§ 240.14a-13 Obligation of registrants in communicating with beneficial owners.

(a) If the registrant knows that securities of any class entitled to vote at a meeting (or by written consents or authorizations if no meeting is held) with respect to which the registrant intends to solicit proxies, consents or authorizations are held of record by a broker, dealer, bank or voting trustee, or their nominees, the registrant shall:

(1) By first class mail or other equally prompt means, inquire of such record holder whether other persons are the beneficial owners of such securities and, if so, the number of copies of the proxy and other soliciting material necessary to supply such material to beneficial owners; and, in the case of an annual (or special in lieu of the annual) meeting, or written consent in lieu of such meeting, at which directors are to be elected, the number of copies of the annual report to security holders necessary to supply such material to beneficial owners if such reports are to be distributed by the broker, dealer, bank, voting trustee or their nominees;

(2) Make the inquiry at least 20 calendar days prior to the record date of the meeting of security holders, or (i) if such inquiry is impracticable 20 calendar days prior to the record date of a special meeting, as many days before such meeting as is practicable, or (ii) if, consents or authorizations are solicited, and such inquiry is impracticable 20 calendar days before the earliest date on which they may be used to effect corporate action, as many days as is practicable, or (iii) at such later time as the rules of a national securities exchange on which the class of securities in question is listed may permit for good cause shown; and

* * * * *

23. By revising § 240.14a-101 as follows:

§ 240.14a-101 Schedule 14A. Information required in proxy statement.

Notes.—A. Where any item calls for information with respect to any matter to be acted upon and such matter involves other matters with respect to which information is called for by other items of this schedule, the information called for by such other items also shall be given. For example, where a solicitation of security holders is for the purpose of approving the authorization of additional securities which are to be used to acquire another specified company, and the registrants' security holders will not have a separate opportunity to vote upon the transaction, the solicitation to authorize the securities is also a solicitation with respect to the acquisition. In such case, information required by Items 13 and 14 shall be furnished.

B. Where any item calls for information with respect to any matter to be acted upon at the meeting, such item need be answered in the registrant's soliciting material only

with respect to proposals to be made by or on behalf of the registrant.

C. Except as otherwise specifically provided, where any item calls for information for a specified period with regard to directors, executive officers, officers or other persons holding specified positions or relationships, the information shall be given with regard to any person who held any of the specified positions or relationships at any time during the period. Information need not be included for any portion of the period during which such person did not hold any such position or relationship, provided a statement to that effect is made.

D. Information may be incorporated by reference only in the manner and to the extent specifically permitted in the items of this schedule. Where incorporation by reference is used, the following shall apply:

1. Any incorporation by reference of information pursuant to the provisions of this schedule shall be subject to the provisions of Rule 24 of the Commission's Rules of Practice (§ 201.24 of this chapter) restricting incorporation by reference of documents which incorporate by reference other information. Information incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. Where only certain pages of a document are incorporated by reference, the document from which the information is taken shall be clearly identified in the reference. An express statement that the specified information is incorporated by reference shall be made at the particular place in the statement where the information is required. Information shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

2. If a document is incorporated by reference but not delivered to security holders, include an undertaking to provide, without charge to each person to whom a proxy statement is delivered, upon written or oral request of such person and by first class mail or other equally prompt means within one business day of receipt of such request, a copy of any and all of the information that has been incorporated by reference in the proxy statement (not including exhibits to the information that is incorporated by reference unless such exhibits are specifically incorporated by reference into the information that the proxy statement incorporates), and the address (including title or department) and telephone numbers to which such a request is to be directed. This includes information contained in documents filed subsequent to the date on which definitive copies of the proxy statement are sent or given to security holders, up to the date of responding to the request.

3. If a document is incorporated by reference in the manner permitted by Item 14(a) of this schedule, the proxy statement must be sent to security holders no later than 20 business days prior to the date on which the meeting of such security holders is held, or if no meeting is held, the earlier of 20 business days prior to (1) the date of such vote, consent or authorization, or (2) the date the transaction is consummated or the votes, consents or authorizations may be used to effect the corporate action.

E. In Item 14(a) of this schedule, the reference to an "S–2 company" shall refer to a company which meets the requirements for use of Form S–2 (§239.12 of this chapter), the reference to an "S–3 company" shall refer to a company which meets the following requirements:

(1) the company meets the requirements of General Instruction I.A. of Form S–3 (§ 239.13 of this chapter); and

(2) one of the following is met:

(i) the company meets the aggregate market value requirement of General Instruction I.B.1. of Form S–3; or

(ii) action is to be taken as described in Items 11, 12 and 13 of this schedule which concerns non-convertible debt or preferred securities which are "investment grade securities" as defined in General Instruction I.B.2. of Form S–3, except that the time by which the rating must be assigned shall be the date on which definitive copies of the proxy statement are first sent or given to security holders; or

(iii) the company is a majority-owned subsidiary and one of the conditions of General Instruction I.C. of Form S–3 is met.

Item 1. Date, time and place information. (a) State and date, time and place of the meeting of security holders, and the compete mailing address, including ZIP code, of the principal executive offices of the registrant, unless such information is otherwide disclosed in material furnished to security holders with the proxy statement. If action is to be taken by written consent, state the date, time and place such consents will be counted.

(b) On the first page of the proxy statement, state the approximate date on which the proxy statement and form of proxy are first sent or given to security holders.

(c) Furnish the information required to be in the proxy statement by Rule 14a-5(e) (§ 240.14a-5(e) of this chapter).

Item 2. Revocability of proxy. State whether or not the person giving the proxy has the power to revoke it. If the right of revocation before the proxy is exercised is limited or is subject to compliance with any formal procedure, briefly describe such limitation or procedure.

Item 3. Dissenters' right of appraisal. Outline briefly the rights of appraisal or similar rights of dissenters with respect to any matter to be acted upon and indicate any statutory procedure required to be followed by dissenting security holders in order to perfect such rights. Where such rights may be exercised only within a limited time after the date of adoption of a proposal, the filing of a charter amendment or other similar act, state whether the persons solicited will be notified of such date.

Instruction. Indicate whether a security holder's failure to vote against a proposal will constitute a waiver of his appraisal or similar rights and whether a vote against a proposal will be deemed to satisfy any notice requirements under State law with respect to appraisal rights. If the State law is unclear, state what position will be taken in regard to these matters.

Item 4. Persons Making the Solicitation—(a) Solicitations not subject to Rule 14a-11 (§ 240.14a-11 of this chapter.) (1) If the solicitation is made by the registrant, so state. Give the name of any director of the registrant who has informed the registrant in writing that he intends to oppose any action intended to be taken by the registrant and indicate the action which he intends to oppose.

(2) If the solicitation is made otherwise than by the registrant, so state and give the names of the persons by whom and on whose behalf it is made.

(3) If the solicitation is to be made otherwise than by the use of the mails, describe the methods to be employed. If the solicitation is to be made by specially engaged employees or paid solicitors, state (i) the material features of any contract or arrangement for such solicitation and identify the parties, and (ii) the cost or anticipated cost thereof.

(4) State the names of the persons by whom the cost of solicitation has been or will be borne, directly or indirectly.

(b) *Solicitations subject to Rule 14a-11 (§ 240.14a-11 of this chapter.)* (1) State by whom the solicitation is made and describe the methods employed and to be employed to solicit security holders.

(2) If regular employees of the registrant or any other participant in a solicitation have been or are to be employed to solicit security holders, describe the class or classes of employees to be so employed, and the manner and nature of their employment for such purpose.

(3) If specially engaged employees, representatives or other persons have been or are to be employed to solicit security holders, state (i) the material features of any contract or arrangement for such solicitation and identify the parties (ii) the cost or anticipated cost thereof, and (iii) the approximate number of such employees or employees of any other person (naming such other person who will solicit security holders.

(4) State the total amount estimate to be spent and the total expenditures to date for, in furtherance of, or in connection with the solicitation of security holders.

(5) State by whom the cost of the solicitation will be borne. If such cost is to be borne initially by any person other than the registrant, state whether reimbursement will be sought from the registrant, and, if so, whether the question of such reimbursement will be submitted to a vote of security holders.

(6) If any such solicitation is terminated pursuant to a settlement between the registrant and any other participant in such solicitation, describe the terms of such settlement, including the cost or anticipated cost thereof to the registrant.

Instructions. 1. With respect to solicitations subject to § 240.14a–11 (Rule 14a–11), costs and expenditures within the meaning of this Item 4 shall include fees for attorneys, accountants, public relations or financial advisers, solicitors, advertising, printing, transportation, litigation and other costs incidental to the solicitation, except that the registrant may exclude the amount to such costs represented by the amount normally expended for a solicitation for an election of directors in the absence of a contest, and costs represented by salaries and wages of

regular employees and officers, provided a statement to that effect is included in the proxy statement.

2. The information required pursuant to paragraph(b)(6) of this Item should be included in any amended or revised proxy statement or other soliciting materials relating to the same meeting or subject matter furnished to security holders by the registrant subsequent to the date of settlement.

Item 5. Interest of certain Persons in Matters To Be Acted Upon—(a) *Solicitatiions not subject to Rule 14a–11 (§ 240.14a–11 of this chapter).* Describe briefly any substantial interest, direct or indirect, by security holdings or otherwise, of each of the following persons in any matter to be acted upon, other than elections to office:

(1) If the solicitation is made on behalf of the registrant, each person who has been a director or executive officer of the registrant at any time since the beginning of the last fiscal year.

(2) If the solicitation is made otherwise than or behalf of the registrant, each person on whose behalf the solicitation is made.

Any person who would be a participant in a solicitation purposes of Rule 14a–11 as defined in paragraph (b) (3), (4), (5) and (6) thereof, shall be deemed a person on whose behalf the solicitation is made for purposes of this paragraph (a).

(3) Each nominee for election as a director of the registrant.

(4) Each associate of the foregoing persons.

Instruction. Except in the case of a solicitation subject to this regulation made in opposition to another solicitation subject to this regulation, this sub-item (a) shall not apply to any interest arising from the ownership of securities of the registrant where the security holder receives no extra or special benefit not shared on a pro rata basis by all other holders of the same class.

(b) *Solicitation subject to Rule 14a–11.* (1) Describe briefly any substantial interest, direct or indirect, by security holdings or otherwise, of each participant as defined in § 240.14a–11(b) (2), (3), (4), (5) and (6) (Rule X–14A–11), in any matter to be acted upon at the meeting, and include with respect to each participant the information, or a fair and adequate summary thereof, required by Items 2(a), 2(d), 3, 4(b) and 4(c) of Schedule 14B (§ 240.14a–102 of this chapter).

(2) With respect to any person, other than a director or executive officer of the registrant acting solely in that capacity, who is a party to an arrangement or understanding pursuant to which a nominee for election as director is proposed to be elected, describe any substantial interest, direct or indirect, by security holdings or otherwise, that he has in any matter to be acted upon at the meeting, and furnish the information called for by item 4(b) and (c) of Schedule 14B.

Item 6. Voting securities and principal holders thereof. (a) As to each class of voting securities of the registrant entitled to be voted, state the number of shares outstanding and the number of votes to which each class is entitled.

(b) State the record date with respect to this solicitation. If the right to vote is not limited to security holders of record on that date, indicate the conditions under which other security holders may be entitled to vote.

(c) If action is to be taken with respect to the election of directors and if the persons solicited have cumulative voting rights: (1) Make a statement that they have such rights, (2) briefly describe such rights, (3) state briefly the conditions precedent to the exercise thereof, and (4) if discretionary authority to cumulate votes is solicited, so indicate.

(d) Furnish the information required by Item 403(a) of Regulation S–K (§ 229.403(a) of this chapter) to the extent known by the persons on whose behalf the solicitation is made.

(e) If, to the knowledge of the persons on whose behalf the solicitation is made, a change in control of the registrant has occurred since the beginning of its last fiscal year, state the name of the person(s) who acquired such control, the amount and the source of the consideration used by such person or persons; the basis of the control, the date and a description of the transaction(s) which resulted in the change of control and the percentage of voting securities of the registrant now beneficially owned directly or indirectly by the person(s) who acquired control; and the identity of the person(s) from whom control was assumed. If the source of all or any part of the consideration used is a loan made in the ordinary course of business by a bank as defined by section 3(a)(6) of the Act, the identity of such bank shall be omitted provided a request for confidentiality has been made pursuant to section 13(d)(1)(B) of the Act by the person(s) who acquired control. In lieu thereof, the material shall indicate that the identity of the bank has been so omitted and filed separately with the Commission.

Instruction. 1. State the terms of any loans or pledges obtained by the new control group for the purpose of acquiring control, and the names of the lenders or pledgees.

2. Any arrangements or understandings among members of both the former and new control groups and their associates with respect to election of directors or other matters should be described.

Item 7. Directors and executive officers. If action is to be taken with respect to the election of directors, furnish the following information in tabular form to the extent practicable. If, however, the solicitation is made on behalf of persons other than the registrant, the information required need be furnished only as to nominees of the persons making the solicitation.

(a) The information required by instruction 4 to Item 103 of Regulation S–K (§ 229.103 of this chapter).

(b) The information required by Item 401 of Regulation S–K (§ 229.401 of this chapter).

(c) With respect to registrants other than investment companies registered under the Investment Company Act of 1940 furnish the information required by Item 404 (a), (b), and (c) of Regulation S–K (§ 229.404 of this chapter).

(d) With respect to investment companies registered under the Investment Company Act of 1940, indicate by an asterisk any nominee or director who is or would be an "interested person" within the meaning of section 2(a)(19) of the Investment Company Act of 1940 and briefly describe the relationships by reason of which such person is deemed an "interested person."

(e)(1) State whether or not the registrant has standing audit, nominating and compensation committees of the Board of Directors, or committees performing similar functions. If the registrant has such committees, however designated, identify each committee member, state the number of committee meetings held by each such committee during the last fiscal year and describe briefly the functions performed by such committees. In the case of investment companies registered under the Investment Company Act of 1940, indicate by an asterisk whether that member is an "interested person" as defined in section 2(a)(19) of that Act. Information concerning compensation committees is not required of registered investment companies whose management functions are performed by external managers.

(2) If the registrant has a nominating or similar committee, state whether the committee will consider nominees recommended by security holders and, if so, describe the procedures to be followed by security holders in submitting such recommendations.

(f) State the total number of meetings of the board of directors (including regularly scheduled and special meetings) which were held during the last full fiscal year. Name each incumbent director who during the last full fiscal year attended fewer than 75 percent of the aggregate of (1) the total number of meetings of the board of directors (held during the period for which he has been a director) and (2) the total number of meetings held by all committees of the board on which he served (during the periods that he served).

(g) If a director has resigned or declined to stand for re-election to the board of directors since the date of the last annual meeting of security holders because of a disagreement with the registrant on any matter relating to the registrant's operations, policies or practices, and if the director has furnished the registrant with a letter describing such disagreement and requesting that the matter be disclosed, the registrant shall state the date of resignation or declination to stand for re-election and summarize the director's description of the disagreement.

If the registrant believes that the description provided by the director is incorrect or incomplete, it may include a brief statement presenting its views of the disagreement.

(h) With respect to those classes of voting stock which participated in the most recent election of directors:

(1) State in an introductory paragraph the percentage of shares present at the meeting and voting or withholding authority to vote in the election of directors; and

(2) Disclose in tabular format, following such introductory paragraph, the percentage of total shares cast for and withheld from the vote for or, where applicable, cast against, each nominee, which, respectively, were voted for and withheld from the vote for, or

voted against, such nominee. When groups of classes or series of classes voted together in the election of a director or directors, they shall be treated as a single class for the purpose of the preceding sentence.

Instructions. 1. Calculate the percentage of shares voting or withholding authority to vote in the election of directors, referred to in paragraph (h)(1), by dividing the total shares cast for and withheld from the vote for or, where applicable, voted against, the director in respect of whom the highest aggregate number of shares was cast by the total number of shares outstanding which were eligible to vote as of the record date.

2. The information required by paragraph (h) is to be provided for only those nominees with respect to whom 5 percent or more of the total shares as calculated above were withheld from the vote for or cast against such nominee.

3. If a registrant elects less than the entire board of directors annually, disclosure is required as to any individual director if 5% or more of the total shares cast for and withheld from, the vote for, or, where applicable, cast against any incumbent director were withheld from, or cast against the vote for such director in the election in which he was most recently elected. The disclosure is required only in connection with the first renomination of the director after such election.

4. No information need be given in response to Item 7(h) if the registrant has previously furnished to its security holders a report of the results of the most recent meeting of security holders or solicitation of consents in which directors were elected which includes: (1) A description of each matter voted upon at the meeting and a statement of the percentage of the shares voting which were voted for and against each such matter; and (2) the information which would be called for by this Item 7(h). If a registrant has previously furnished such results to its security holders, this fact should be set forth in the registrant's cover letter accompanying the filing of preliminary proxy materials with the Commission.

Item 8. Compensation of directors and executive officers. (See Note C at the beginning of Schedule 14A).

Furnish the information required by Item 402 (§ 229.402 of this chapter) of Regulation S-K if action is to be taken with regard to (i) the election of directors, (ii) any bonus, profit sharing or other compensation plan, contract, or arrangement in which any director, nominee for election as a director, or executive officer of the registrant will participate, (iii) any pension or retirement plan in which any such person will participate or (iv) the granting or extension to any such person of any options, warrants or rights to purchase any securities, other than warrants or rights issued to security holders as such, on a pro rata basis. However, if the solicitation is made on behalf of persons other than the registrant the information required need be furnished only as to nominees of the persons making the solicitation and associates of such nominees.

Item 9. Independent public accountants. If the solicitation is made on behalf of the registrant and relates to (1) the annual (or special in lieu of annual) meeting of security holders at which directors are to be elected, or a solicitation of consents or authorizations in lieu of such meeting, (2) the election, approval or ratification of the registrant's independent public accountant, or (3) an action requiring the furnishing of financial statements pursuant to Item 14 of this schedule, furnish the following information describing the registrant's relationship with its independent public accountants:

(a) The name of the principal accountant selected or being recommended to security holders for election, approval or ratification for the current year. If no accountant has been selected or recommended, so state and briefly describe the reasons therefor.

(b) If the solicitation relates to (1) or (2) above, (i) a statement whether or not the principal accountant named in paragraph (a) of this section is a member in a professional organization which has both a peer review program and independent oversight function, both of which are subject to review by the Commission and (ii) if such a member, a statement whether or not the principal accountant has had such peer review, and if so the date of the most recent peer review report.

(c) The name of the principal accountant for the fiscal year most recently completed if different from the accountant selected or recommended for the current year or if no accountant has yet been selected or recommended for the current year.

(d) If a charge or changes in accountants have taken place since the date of the proxy statement for the most recent annual meeting of security holders (or, if no such meeting has been held, within 12 months prior to, and any period subsequent to, the date of the most recent financial statements) and if in connection with such change(s) a disagreement between the accountant and the registrant has occurred as described in Item 4(b) of Form 8-K or Items 77K or 102] of Form N-SAR, then whether or not previously reported, the disagreement shall be described. Prior to filing the preliminary proxy materials with the Commission which contains or amends such description, the registrant shall furnish the description of the disagreement to any accountant with whom a disagreement has been or was required to be reported. If that accountant believes that the description of the disagreement is incorrect or incomplete, he may include a brief statement, ordinarily expected not to exceed 200 words, in the proxy statement presenting his view of the disagreement. This statement shall be submitted to the registrant within ten business days of the date the accountant receives the registrant's description.

(e) The proxy statement shall indicate whether or not representatives of the principal accountants for the current year and for the most recently completed fiscal year are expected to be present at the security holders' meeting with the opportunity to make a statement if they desire to do so and whether or not such representatives are expected to be available to respond to appropriate questions.

(f) If any change in accountants has taken place since the date of the proxy statement for the most recent annual meeting of security holders, state whether such change was recommended or approved by:

(1) Any audit or similar committee of the Board of Directors, if the registrant has such a committee; or

(2) The Board of Directors, if the registrant has no such committee.

Item 10. Compensation Plans. If action is to be taken with respect to any plan pursuant to which cash or noncash compensation may be paid, furnish the following information with respect to any such plan:

(a) *All Plans.*

(1) Describe briefly the material features of the plan, identify each class of persons who will be eligible to participate therein, indicate the approximate number of persons in each such class and state the basis of such participation.

(2) State the benefits or amounts which will be received by, or allocated to, each of the following under the plan, if such benefits or amounts are determinable: (i) each person (stating name and position) specified in Item 402(a)(1)(i) of Regulation S-K (§ 229.402(a)(1)(i) of this chapter); (ii) all executive officers as a group; (iii) all directors who are not executive officers; (iv) all employees. If such benefits or amounts are not determinable, state the benefits or amounts which would have been received by, or allocated to, each of the following for the last fiscal year if the plan had been in effect, if such benefits or amounts may be determined: (i) each person (stating name and position) specified in Item 402(a)(1)(i) of Regulation S-K (§ 229.402(a)(1)(i) of this chapter); (ii) all executive officers as a group; (iii) all directors who are not executive officers; (iv) all employees.

(3) Furnish the information called for by Item 402(b) of Regulation S-K (§ 229.402(b) of this chapter) with respect to all compensation plans now in effect, or in effect during the last three years except that information called for in subparagraphs (b)(1) (vi) and (vii) and (b)(4) of Item 402(b) of Regulation S-K (§ 229.402(b) of this chapter) should be furnished with respect to the last three fiscal years for the following: (i) each person (stating name and position) specified in Item 402(a)(1)(i) of Regulation S-K (§ 229.402(a) of this chapter); (ii) all executive officers as a group; (iii) all directors who are not executive officers, if such persons may participate in the plan; and (iv) all employees, if such persons may participate in the plan. Such information is in lieu of the information otherwise called for by Item 402(b) of Regulation S-K (§ 229.402(b) of this chapter) in connection with Item 8 of this schedule.

(4) If the plan to be acted upon can be amended, otherwise than by a vote of security holders, to increase the cost thereof to the registrant or to alter the allocation of the benefits as between the groups specified in paragraph (a)(3), state the nature of the amendments which can be so made.

(b) *Specific Plans.*

(1) With respect to any pension or retirement plan submitted for security holder action, state: (i) the approximate total amount necessary to fund the plan with respect to past services, the period over which such amount is to be paid and the estimated

annual payments necessary to pay the total amount over such period; and (ii) the estimated annual payment to be made with respect to current services. In the case of a pension or retirement plan, information called for by subparagraph (a)(2) of this item may be furnished in the format specified by Item 402(b) (2) and (3) of Regulation S-K (§ 229.402(b) (2) and (3) of this chapter).

(2) With respect to options, warrants or rights submitted for security holder action, (i) state: (A) the title and amount of securities called for or to be called for by such options; warrants or rights; (B) the prices, expiration dates and other material conditions upon which the options, warrants or rights may be exercised; (C) the consideration received or to be received by the registrant or subsidiary for the granting or extension of the options, warrants or rights; (D) the market value of the securities called for or to be called for by the options, warrants or rights as of the latest practicable date; and (E) in the case of options, the federal income tax consequences of the issuance and exercise of such options to the recipient and to the registrant; and (ii) state separately the mount of options, warrants or rights received or to be received by the following persons: (A) each person (stating name and position) specified in Item 402(a)(1)(i) of Regulation S-K (§ 229.402(a)(1)(i) of this chapter); (B) all executive officers as a group; (C) all directors who are not executive officers; (D) each nominee for election as a director; (E) each associate of such directors, executive officers or nominees; (F) each other person who received or is to receive 5 percent of such options, warrants or rights; and (G) all employees.

Instructions.

1. The term "plan" as used in this item means any plan as defined in Instruction 3 of Item 402(b) of Regulation S-K (§ 229.402(b) of this chapter).

2. If action is to be taken with respect to a material amendment or modification of an existing plan, the item shall be answered with respect to the plan as proposed to be amended or modified and shall indicate any material differences from the existing plan.

3. If the plan to be acted upon is set forth in a written document, three copies thereof shall be filed with the Commission at the time preliminary copies of the proxy statement and form of proxy are filed pursuant to paragraph (a) of Rule 14a-6 (§ 229.14a-6 of this chapter).

4. Paragraphs (a)(3) and (b)(2)(ii) do not apply to warrants or rights to be issued to security holders as such on a pro rata basis.

5. The Commission should be informed, as suplemental information, when the proxy statement in preliminary form is filed, as to when the options, warrants or rights and the shares called for thereby will be registered under the Securities Act, or, if such registration is not contemplated, the section of the Act or rule of the Commission under which exemption from such registration is claimed and the facts relied upon to make the exemption available.

Item 11. Authorization or issuance of securities otherwise than for exchange. If action is to be taken with respect to the authorization or issuance of any securities otherwise than for exchange for outstanding securities of the registrant, furnish the following information:

(a) State the title and amount of securities to be authorized or issued.

(b)(1) Furnish the information required by Item 202 of Regulation S-K (§ 229.202 of this chapter). If the terms of the securities cannot be stated or estimated with respect to any or all of the securities to be authorized, because no offering thereof is contemplated in the proximate future, and if no further authorization by security holders for the issuance thereof is to be obtained, it should be stated that the terms of the securities to be authorized, including dividend or interest rates, conversion prices, voting rights, redemption prices, maturity dates, and similar matters will be determined by the board of directors. If the securities are additional shares of common stock of a class outstanding, the description may be omitted except for a statement of the preemptive rights, if any. Where the statutory provisions with respect to preemptive rights are so indefinite or complex that they cannot be stated in summarized form, it will suffice to make a statement in the form of an opinion of counsel as to the existence and extent of such rights. (2) Where common equity securities are concerned, furnished the information required by Item 201 of Regulation S-K (§ 229.201 of this chapter), if the information required in Item 201 would be applicable to a class of securities materially affected by the corporate action to be taken. Item 201 disclosure may be incorporated by reference in the manner and to the extent permitted for financial information by Item 14(a) of this schedule (for S-2 and S-3 companies) or Item 14(b) of this schedules (for all companies).

(c) Describe briefly the transaction in which the securities are to be issued including a statement as to (1) the nature and approximate amount of consideration received or to be received by the registrant and (2) the approximate amount devoted to each purpose so far as determinable for which the net proceeds have been or are to be used. If it is impracticable to describe the tranaction in which the securities are to be issued, state the reason, indicate the purpose of the authorization of the securities, and state whether further authorization for the issuance of the securities by a vote of security holders will be solicited prior to such issuance.

(d) If the securities are to be issued otherwise than in a general public offering for cash, state the reasons for the proposed authorization or issuance and the general effect thereof upon the rights of existing security holders.

Item 12. Modification or exchange of securities. If action is to be taken with respect to the modification of any class of securities of the registrant, or the issuance or authorization for issuance of securities of the registrant in exchange for outstanding securities of the registrant furnish the following information:

(a) If outstanding securities are to be modified, state the title and amount thereof. If securities are to be issued in exchange for outstanding securities, state the title and amount of securities to be so issued, the title and amount of outstanding securities to be exchanged therefor and the basis of the exchange.

(b) Describe any material differences between the oustanding securities and the modified or new securities in respect of any of the matters concerning which information would be required in the description of the securities in Item 202 of Regulation S-K (§ 229.202 of this chapter).

(c) State the reasons for the proposed modification or exchange and the general effect thereof upon the rights of existing security holders.

(d) Furnish a brief statement as to arrears in dividends or as to defaults in principal or interest in respect to the outstanding securities which are to be modified or exchanged and such other information as may be appropriate in the particular case to disclose adequately the nature and effect of the proposed action.

(e) Outline briefly any other material features of the proposed modification or exchange. If the plan of proposed action is set forth in a written document, file copies thereof with the Commission in accordance with § 240.14a-6.

(f) Where common equity securities are concerned, furnish the information required by Item 201 of Regulation S-K (§ 229.201 of this chapter), if the information required in Item 201 would be applicable to a class of securities materially affected by the corporate action to be taken. Item 201 disclosure may be incorporated by reference in the manner and to the extent permitted for financial information by Item 14(a) of this schedule (for S-2 and S-3 companies or Item 14(b) of this schedule (for all companies).

Instruction. If the existing security is presently listed and registered on a national securities exchange, state whether the registrant intends to apply for listing and registration of the new or reclassified security on such exchange or any other exchange. If the registrant does not intend to make such application, state the effect of the termination of such listing and registration.

Item 13. Mergers, consolidations, acquisitions and similar matters. (See Notes A and D at the beginning of this section.) If action is to be taken with respect to any plan for (i) the merger or consolidation of the registrant into or with any other person or of any other person into or with the registrant, (ii) the acquisition by the registrant or any of its security holders of securities of another person, (iii) the acquisition by the registrant of any other going business or of the assets thereof, (iv) the sale or other transfer of all or any substantial part of the assets of the registrant, or (v) the liquidation or dissolution of the registrant, furnish the following information:

(a) *Information about the transaction.* Furnish the following information concerning the registrant and (unless otherwise indicated) each other person: which is to be merged into the registrant or into or with which the registrant is to be merged or consolidated; the business or assets of which are to be acquired; which is the issuer of securities to be acquired by the registrant in exchange for all or a substantial part of the

registrant's assets; or which is the issuer of securities to be acquired by the registrant or its security holders:

(1) The name, complete mailing address (including the Zip Code), and telephone number (including the area code) of the principal executive offices.

(2) A brief description of the general nature of the business conducted by the other person.

(3) A summary of the material features of the proposed transaction. If the plan is set forth in a written document, file three copies thereof with the Commission at the time preliminary copies of the proxy statement and form of proxy are filed pursuant to Rule 14a-6(a) (§ 240.14a-6(a) of this chapter). The summary shall include, where applicable:

(i) a brief summary of the terms of the transaction agreement;

(ii) the reasons for engaging in the transaction;

(iii) An explanation of any material differences in the rights of security holders of the registrant as a result of this transaction;

(iv) a brief statement as to the accounting treatment of the transaction; and

(v) the federal income tax consequences of the transaction.

(4) A brief statement as to dividends in arrears or defaults in principal or interest in respect of any securities of the registrant or of such other person, and as to the effect of the plan thereon and such other information as may be appropriate in the particular case to disclose adequately the nature and effect of the proposed action.

(5) The information required by Item 301 of Regulation S-K (§ 229.301 of this chapter) (selected financial data) for (i) the registrant; (ii) the other person; and (iii) if material, the registrant or the other person on a pro forma basis, giving effect to the transaction.

(6) In comparative columnar form, historical and pro forma per share data of the registrant and historical and equivalent pro forma per share data of the other person for the following items:

(i) book value per share as of the date financial data is presented pursuant to Item 301 of Regulation S-K (§ 229.301 of this chapter) (selected financial data);

(ii) cash dividends declared per share for the periods for which financial data is presented pursuant to Item 301 of Regulation S-K (§ 229.301 of this chapter) (selected financial data); and

(iii) income (loss) per share from continuing operations for the periods for which financial data is presented pursuant to Item 301 of Regulation S-K (§ 229.301 of this chapter) (selected financial data).

Instruction to paragraph (a)(6). For a business combination accounted for as a purchase, the pro forma and equivalent pro forma income (loss) from continuing operations per share and equivalent pro forma cash dividends declared per share shall be presented only for the most recent fiscal year and interim period. Equivalent pro forma per share amounts shall be calculated by multiplying the pro forma income (loss) per share before non-recurring charges or credits directly attributable to the transaction, pro forma book value per share, and the pro forma dividends per share of the registrant by the exchange ratio so that the per share amounts are equated to the respective values for one share of the other person.

(7) Financial information required by Article 11 of Regulation S-X (§ 210.11-01 et seq. of this chapter) with respect to this transaction.

Instructions to paragraph (a)(7).

1. Any other Article 11 information that is presented (rather than incorporated by reference) pursuant to other items of this schedule shall be presented together with the information provided pursuant to paragraph (a)(7), but the presentation shall clearly distinguish between this transaction and any other.

2. If pro forma financial information with respect to all other transactions is incorporated by reference pursuant to (b)(2) of this Item, only the pro forma results need be presented as part of the pro forma financial information required by this Item.

(8) A statement as to whether any federal or state regulatory requirements must be complied with or approval must be obtained in connection with the transaction, and if so, the status of such compliance or approval.

(9) If a report, opinion or appraisal materially relating to the transaction has been received from an outside party, and such report, opinion or appraisal is referred to in the proxy statement, furnish the same information as would be required by Item 9(b)(1) through (6) of Schedule 13E-3 (§ 240.13e-100 of this chapter). (10) A description of any past, present or proposed material contacts, arrangements, understandings, relationships, negotiations or transactions during the periods for which financial statements are presented or incorporated by reference pursuant to Item 14 of this schedule between the other person or its affiliates and the registrant or its affiliates such as those concerning a merger, consolidation or acquisition; a tender offer or other acquisition of securities; an election of directors; or a sale or other transfer of a material amount of assets.

(11) As to each class of securities of the registrant, or of the other person which is admitted to trading on a national securities exchange or with respect to which a market otherwise exists, and which will be materially affected by the plan, state the high and low sale prices (or, in the absence of trading in a particular period, the range of the bid and asked prices) as of the date preceding public announcement of the proposed transaction, or if no such public announcement was made, as of the day preceding the day the agreement or resolution with respect to the corporate action was made.

(b) *Information about the registrant and the other person.*

(1) Furnish the following information concerning the registrant and the other person referred to the paragraph (a) of this Item:

(i) Information relating to industry segments, classes of similar products or services, foreign and domestic operations and export sales required by paragraphs (b), (c)(1)(i) and (d) of Item 101 of Regulation S-K (§ 229.101 of this chapter).

(ii) Information relating to property required by Item 102 of Regulation S-K (§ 229.102 of this chapter) shall be provided for any property involved in the transaction described pursuant to this Item, if such disclosure is material to the security holders' understanding of the transaction.

(iii) Information required by Item 201 of Regulation S-K (§ 229.201 of this chapter) unless otherwise provided pursuant to another item of this schedule.

(iv) In addition to the brief description of the other person's business required to be in the proxy statement by paragraph (a)(2) of this Item, a brief description of the business done by the registrant and the other person and their subsidiaries during the most recent fiscal year as required by Rule 14a-3 (§ 240.14a-3 of this chapter) to be included in an annual report to security holders. The description also shall take into account changes in the business that have occurred between the end of the latest fiscal year and the date the definitive proxy statement is filed.

(2) The information required in paragraph (b)(1) above may be incorporated by reference in the manner and to the extent permitted in Item 14 of this schedule (§ 240.14a-101 of this chapter), provided that the material so incorporated meets the requirements of this Item.

Instructions to Item 13.

1. If the registrant or any of its securities or assets are to be acquired by the other person, the information regarding the other person that is required by paragraphs (a)(4) through (a)(7), (a)(11) and (b) of this Item need only be provided to the extent that: (1) the registrant or its security holders who are entitled to vote or give an authorization or consent with regard to the action will become or remain security holders of the other person; or (2) such information is otherwise material to an informed voting decision.

2. If the plan being voted on involves only the registrant and one or more of its totally-held subsidiaries and does not involve a liquidation or spin-off, the information required by paragraphs (a)(5), (a)(6), (a)(7) and (b) of this Item may be omitted.

Item 14. Financial information. (See Notes D and E at the beginning of this section). If action is to be taken with respect to any matter specified in Items 11, 12 or 13, furnish the information specified below for the registrant and for the other person designated in Item 13(a), if applicable (hereinafter all references to the registrant should be read to include a reference to such other person, unless the context otherwise indicates):

(a) Information about the registrant.

(1) *Information with respect to S-3 registrants.* If the registrant is an S-3 company (*See* Note E to this schedule) and elects to furnish information in accordance with the provisions of this paragraph, furnish information as required below:

(i) The information required by Item 301 of Regulation S-K (§ 229.301 of this chapter) (selected financial data). To the extent the information is required to be presented in the proxy statement pursuant to Item 13, it need not be repeated pursuant to this Item;

(ii) Describe any and all material changes in the registrant's affairs that have occurred since the end of the latest fiscal year for which audited financial statements were included in the latest annual report to security holders and that have not been described in a report on Form 10–Q (§ 249.308(a) of this chapter) or Form 8–K (§ 249.308 of this chapter) filed under the Exchange Act;

(iii) Include in the proxy statement if not incorporated by reference from the reports filed under the Exchange Act specified in paragraph (a)(1)(iv) of this Item, a proxy or information statement filed pursuant to section 14 of the Exchange Act, a prospectus previously filed pursuant to Rule 424 under the Securities Act (§ 230.424 of this chapter), or a Form 8–K filed during either of the two preceding fiscal years:

(A) Financial information required by Rule 3–05 of this chapter) and Article 11 of Regulation S–X with respect to transactions other than that pursuant to which action is to be taken as described in this proxy statement;

(B) Restated financial statements prepared in accordance with Regulation S–X (Part 210 of this chapter), if there has been a change in accounting principles or a correction of an error where such change or correction requires a material retroactive restatement of financial statements;

(C) Restated financial statements prepared in accordance with Regulation S–X where one or more business combinations accounted for by the pooling of interest method of accounting have been consummated subsequent to the most recent fiscal year and the acquired businesses, considered in the aggregate, are significant pursuant to Rule 11–01(b) of Regulation S–X (§ 210.11–01(b) of this chapter); or

(D) Any financial information required because of a material disposition of assets outside the normal course of business.

(iv) Incorporate by reference into the proxy statement, by means of a statement to that effect listing all documents so incorporated, the documents listed in paragraphs (A) and (B) below.

(A) The registrant's latest annual report on Form 10–K (§ 249.310 of this chapter) filed pursuant to sections 13(a) or 15(d) of the Exchange Act which contains financial statements for the registrant's latest fiscal year for which a Form 10–K was required to be filed;

(B) All other reports filed pursuant to section 13(a) or 15(d) of the Exchange Act since the end of the fiscal year covered by the annual report referred to in paragraph (a)(1)(iv)(A) of this Item.

(v) The proxy statement also shall state that all documents subsequently filed by the registrant pursuant to sections 13(a), 13(c), 14 or 15(d) the Exchange Act, prior to one of the following dates, whichever is applicable, shall be deemed to be incorporated by reference into the proxy statement:

(A) The date on which the vote is taken;

(B) If a meeting of security holders is not to be held, the date on which the consents or authorizations are used to effect the corporate action.

(2) *Information with respect to S–2 or S–3 registrants.*

(i) *Information required to be furnished.* If the registrant is an S–2 or S–3 company (*See* Note E of this schedule) and elects to comply with this paragraph, furnish the information required by either paragraph (A) or (B) of this paragraph. However, the registrant shall not provide information in the manner allowed by paragraph (A) of this paragraph, if the financial statements in the registrant's latest annual report to security holders do not reflect: restated financial statements prepared in accordance with Regulation S–X if there has been a change in accounting principles or a correction of an error where such change or correction requires a material retroactive restatement of financial statements; restated financial statements prepared in accordance with Regulation S–X where one or more business combinations accounted for by the pooling of interest method of accounting have been consummated subsequent to the most recent fiscal year and the acquired businesses, considered in the aggregate, are significant pursuant to Rule 11–01(b) of Regulation S–X; or any financial information required because of a material disposition of assets outside of the normal course of business.

(A) If the registrant elects to furnish information pursuant to this paragraph (a)(2)(i)(A) and delivers this proxy statement together with its latest annual report to security holders, which meets or at the time of original preparation met the requirements of either Rule 14a–3 (§ 240.14a–3 of this chapter) or 14c–3 (§ 240.14c–3 of this chpater), or a complete and legible facsimile of its latest annual report to security holders, the proxy statement should:

(*1*) Indicate that the proxy statement is accompanied by the registrant's latest annual report to security holders.

(*2*) Provide financial and other information with respect to the registrant in the form required by Part I of Form 10–Q as of the end of the most recent fiscal quarter which ended after the end of the latest fiscal year for which audited financial statements were included in the latest report to security holders and more than 45 days prior to the date this proxy statement is filed in definitive form (or as of a more recent date) by one of the following means:

(*i*) Including such information in the proxy statement;

(*ii*) Providing without charge to each person to whom a proxy statement is delivered a copy of the registrant's latest Form 10–Q; or

(*iii*) Providing without charge to each person to whom a proxy statement is delivered a copy of the registrant's latest quarterly report that was delivered to its security holders and that included the required financial information.

(*3*) If not reflected in the registrant's latest annual report to security holders, provide information required by Rule 3–05 and Article 11 of Regulation S–X with respect to other transactions other than that pursuant to which action is to be taken as described in this proxy statement.

(*4*) Describe any and all material changes in the registrant's affairs that have occured since the end of the latest fiscal year for which audited financial statements were included in the latest annual report to security holders and that were not described in a Form 10–Q or quarterly report delivered with the proxy statement in accordance with paragraph (a)(2)(i)(A) (*2*) (*ii*) or (*iii*).

(B) If the registrant does not elect to furnish information pursuant to paragraph (a)(2)(i)(A), the proxy statement should:

(*1*) Include financial statements and information as required by Rule 14a–3(b)(1) (§ 240.14a–3(b)(1) of this chapter) to be included in an annual report to security holders. In addition, provide:

(*i*) The interim financial information required by Rule 10–01 of Regulation S–X (§ 210.10–01 of this chapter) for a report on Form 10–Q;

(*ii*) Financial information required by Rule 3–05 and Article 11 of Regulation S–X with respect to transactions other than that pursuant to which action is to be taken as described in this proxy statement;

(*iii*) Restated financial statements prepared in accordance with Regulation S–X if there has been a change in accounting principles or a correction of an error where such change or correction requires a material retroactive restatement of financial statements;

(*iv*) Restated financial statements prepared in accordance with Regulation S–X where one or more business combinations accounted for by the pooling of interest method of accounting have been consummated subsequent to the most recent fiscal year and the acquired businesses, considered in the aggregate, are significant pursuant to Rule 11–01(b) of Regulation S–X; and

(*v*) Any financial information required because of a material disposition of assets outside of the normal course of business.

(*2*) Furnish the information required by the following:

(*i*) Item 301 of Regulation S–K (§ 229.301 of this chapter), selected financial data;

(*ii*) Item 302 of Regulation S–K (§ 229.302 of this chapter), supplementary financial information;

(*iii*) Item 303 of Regulation S–K (§ 229.303 of this chapter), management's discussion and analysis of financial condition and results of operations; and

(*iv*) Item 304 of Regulation S–K (§ 229.304 of this chapter), changes in and disagreements with accountants on accounting and financial disclosure.

(ii) *Incorporation of certain information by reference.* If the registrant meets the requirements of an S–2 or S–3 company and elects to furnish information in accordance with the provisions of paragraph (a)(2)(i) of this item:

(A) Incorporate by reference into the proxy statement, by means of a statement to that effect in the proxy statement listing all documents so incorporated, the documents listed in paragraphs (*1*) and (*2*) of this Item and, if applicable, the portions of the documents listed in paragraphs (*3*) and (*4*) thereof.

(*1*) The registrant's latest annual report on Form 10–K filed pursuant to section 13(a) or 15(d) of the Exchange Act which contains audited financial statements for the

registrant's latest fiscal year for which a Form 10–K was required to be filed.

(2) All other reports filed pursuant to section 13(a) or 15(d) of the Exchange Act since the end of the fiscal year covered by the annual report referred to in paragraph (a)(2)(i)(A)(1).

(3) If the registrant elects to deliver its latest annual report to security holders pursuant to paragraph (a)(2)(i) (A) of this Item, the information furnished in accordance with the following:

(i) Item 301 of Regulation S–K, selected financial data;

(ii) Item 302 of Regulation S–K, supplementary financial information;

(iii) Item 303 of Regulation S–K, management's discussion and analysis of financial condition and results of operations; and

(iv) Item 304 of Regulation S–K, changes in and disagreements with accountants on accounting and financial disclosure.

(4) If the registrant elects, pursuant to paragraph (a)(2)(i)(A)(2)(iii) of this Item, to provide a copy of its latest quarterly report which was delivered to security holders, financial information equivalent to that required to be presented in Part I of Form 10–Q.

(B) The registrant also may state, if it so chooses, that specifically described portions of its annual or quarterly report to security holders, other than those portions required to be incorporated by reference pursuant to paragraphs (a)(2)(ii)(A)(3) and (4) of this Item, are not part of the proxy statement. In such case, the description of portions that are not incorporated by reference or that are excluded shall be made with clarity and in reasonable detail.

(3) *Information with respect to registrants other than S–3 or S–2 registrants.*

(i) If the registrant is not an S–2 or S–3 company (*See* Note E of this schedule), or otherwise elects to comply with this paragraph (a)(3) in lieu of (a)(1) or (a)(2), the proxy statement should furnish the following information:

(A) Financial statements meeting the requirements of Regulation S–X, as well as financial information required by Rule 3–05 and Article 11 of Regulation S–X with respect to transactions other than that pursuant to which action is to be taken as described in this proxy statement.

(B) Item 301 of Regulation S–K, selected financial data;

(C) Item 302 of Regulation S–K, supplementary financial information;

(D) Item 303 of Regulation S–K, management's discussion and analysis of financial condition and results of operations; and

(E) Item 304 of Regulation S–K, changes in and disagreements with accountants on accounting and financial disclosure.

(ii) If the other person is not subject to the reporting requirements of either section 13(a) or 15(d) of the Exchange Act; or, because of section 12(i) of the Exchange Act, has not furnished an annual report to security holders pursuant to Rule 14a–3 (§ 240.14a–3 of this chapter) or Rule 14c–3 (§ 240.14c–3 of this chapter) for its latest fiscal year, furnish:

(A) the financial statements that would have been required to be included in an annual report to security holders pursuant to Rules 14a–3 (b)(1) and (b)(2), had the company been required to furnish such a report; *provided, however,* that the balance sheet for the year preceding the latest full fiscal year and the income statements for the two years preceding the latest full fiscal year need not be audited if they have not previously been audited. In any case, such financial statements need only be audited to the extent practicable.

(B) the quarterly financial and other information that would have been required had the company been required to file Part I of Form 10–Q (§ 249.308a) for the most recent quarter for which such a report would have been on file at the time the proxy statement is mailed or for a period ending as of a more recent date.

(C) the information required by paragraph (a)(3)(i) (B), (C), (D), and (E) of this Item. (*See also* Instruction 6.)

(b) In addition to the incorporation by reference permitted in paragraph (a), the proxy statement may incorporate by reference any information required by this Item or any other item in this schedule permitted to be incorporated by reference, if it is contained in an annual report sent to security holders pursuant to Rule 14a–3 (§ 240.14a–3 of this chapter) with respect to the same meeting or solicitation of consents or authorizations as that to which the proxy statement relates, provided such information substantially meets the requirements of the item or the appropriate portions of the item.

Instructions to Item 14.

1. In order to facilitate compliance with Rule 2–02(a) of Regulation S–X, one copy of the definitive proxy statement filed with the Commission shall include a manually signed copy of the accountant's report; or, when the accountant's report is incorporated by reference:

A. a statement shall be included in the proxy statement to the effect that the accountant is aware that its report will be made a part of the proxy soliciting material; and

B. at least one copy of the definitive proxy statement shall contain a manually signed and dated copy of the statement concerning the accountant.

2. Notwithstanding the provisions of this item, any or all of the required financial statements which are not material for the exercise of prudent judgment in regard to the matter to be acted upon may be omitted. In the usual case, financial statements are deemed material to the exercise of prudent judgment where the matter to be acted upon is the authorization or issuance of a material amount of senior securities, but are not deemed material where the matter to be acted upon is the authorization or issuance of common stock otherwise than in an exchange, merger, consolidation, acquisition or similar transaction.

3. If the registrant or any of its securities or assets are to be acquired by the other person, the information regarding the other person that is required by this Item need only be provided to the extent that: (1) the registrant or its security holders who are entitled to vote or give an authorization or consent with regard to the action will become or remain security holders of the other person; or (2) such information is otherwise material to an informed voting decision.

4. If the plan being voted on involves only the registrant and one or more of its totally-held subsidiaries and does not involve a liquidation or spin-off, the information required by this item may be omitted.

5. Notwithstanding the provisions of Regulation S–X, no schedules other than those prepared in accordance with Rules 12–15, 12–28 and 12–29 (or, for management investment companies, Rules 12–12 through 12–14) of that regulation need be furnished in the proxy statement.

6. Unless registered on a national securities exchange or otherwise required to furnish such information, registered investment companies need not furnish the information required by paragraph (a)(3)(i) (B), (C) or (D) of this Item.

Item 15. Acquisition or disposition of property. If action is to be taken with respect to the acquisition or disposition of any property, furnish the following information:

(a) Describe briefly the general character and location of the property.

(b) State the nature and amount of consideration to be paid or received by the issuer or any subsidiary. To the extent practicable, outline briefly the facts bearing upon the question of the fairness of the consideration.

(c) State the name and address of the transferer or transferee, as the case may be, and the nature of any material relationship of such person to the issuer or any affiliate of the issuer.

(d) Outline briefly any other material features of the contract or transaction.

Item 16. Restatement of accounts. If action is to be taken with respect to the restatement of any asset, capital, or surplus account of the issuer, furnish the following information:

(a) State the nature aof the restatement and the date as of which it is to be effective.

(b) Outline briefly the reasons for the restatement and for the selection of the particular effective date.

(c) State the name and amount of each account (including any reserve accounts) affected by the restatement and the effect of the restatement thereon. Tabular presentation of the amounts shall be made when appropriate, particularly in the case of recapitalizations.

(d) To the extent practicable, state whether and the extent, if any, to which, the restatement will, as of the date thereof, alter the amount available for distribution to the holders of equity securities.

Item 17. Action with respect to reports. If action is to be taken with respect to any report of the issuer or of its directors, officers or committees or any minutes of meeting of its stockholders, furnish the following information:

(a) State whether or not such action is to constitute approval or disapproval of any of the matters referred to in such reports or minutes.

(b) Identify each of such matters which it is intended will be approved or disapproved, and furnish the information required by the

appropriate item or items of this schedule with respect to each such matter.

Item 18. Matters not required to be submitted. If action is to be taken with respect to any matter which is not required to be submitted to a vote of security holders, state the nature of such matter, the reasons for submitting it to a vote of security holders and what action is intended to be taken by the issuer in the event of a negative vote on the matter by the security holders.

Item 19. Amendment of charter, bylaws or other documents.

If action is to be taken with respect to any amendment of the registrant's charter, bylaws or other documents as to which information is not required above, state briefly the reasons for and the general effect of such amendment.

Instructions. 1. Where the matter to be acted upon is the classification of directors, state whether vacancies which occur during the year may be filled by the board of directors to serve only until the next annual meeting or may be so filled for the remainder of the full term.

2. Attention is directed to the discussion of disclosure regarding anti-takeover and similar proposals in Release No. 34-15230 (October 13, 1978).

Item 20. Other proposed action. If action is to be taken with respect to any matter not specifically referred to above, describe briefly the substance of each such matter in substantially the same degree of detail as is required by Items 5 to 19, inclusive, above.

Item 21. Vote required for approval. As to each matter which is to be submitted to a vote of security holders, other than elections to office or the selection or approval of auditors, state the vote required for its approval.

24. Section 240. 14a–102 is amended by removing the words "issuer" or "issuers" and replacing them with the words "registrant" or "registrants" in Item 1, Item 2(c), Item 3(a), (b), (c), (e), (f) and (g) and Item 4(c)(i) and (2) and revising Item 2.(b)(1) to read as follows:

§ 240.14a–102 Schedule 14B. Information to be included in statements filed by or on behalf of a participant (other than the issuer) pursuant to § 240.14a–11(c) (Rule 14a–11(c)).

* * * * *

Item 2. * * *

(b) State the following:

(1) Your business, mailing or residence address.

* * * * *

25. By amending § 240.14c–1 by removing the word "issuer" and replacing it with the word "registrant" in paragraph (a), by removing paragraph (c), by redesignating paragraph (d) as (c) and revising it, by redesignating paragraph (e) as (d) and by adding new paragraphs (e) and (f) to read as follows:

§ 240.14c–1 Definitions.

* * * * *

(c) *Last fiscal year.* The term "last fiscal year" of the registrant means the last fiscal year of the registrant ending prior to the date of the meeting with respect to which an information statement is required to be distributed, or if the information statement involves consents or authorizations in lieu of a meeting, the earliest date on which they may be used to effect corporate action.

* * * * *

(e) *Record date.* The term "record date" shall mean the date as of which the record holders of securities entitled to vote at a meeting or by written consent or authorization shall be determined.

(f) *Registrant.* The term "registrant" means the issuer of a class of securities registered pursuant to section 12 of the Act.

26. By revising § 240.14c–2 as follows:

§ 240.14c–2 Distribution of information statement.

(a) In connection with every annual or other meeting of the holders of a class of securities registered pursuant to section 12 of the Act, including the taking of corporate action with the written authorization or consent of the holders of a class of securities so registered, the registrant of such securities shall transmit a written information statement containing the information specified in Schedule 14C (§ 240.14c–101 of this chapter) or a written information statement included in a registration statement filed under the Securities Act of 1933 on Form S–4 or F–4 § 239.25 or 34 of this chapter) and containing the information specified in such Form, to every security holder of the class that is entitled to vote or give an authorization or consent in regard to any matter to be acted upon and from whom a proxy, authorization or consent is not solicited on behalf of the registrant pursuant to section 14(a) of the Act: *Provided, however,* that (1) in the case of a class of securities in unregistered or bearer form, such statements need be transmitted only to those security holders whose names are known to the registrant; and (2) no such statements need be transmitted to a security holder if a registrant would be excused from delivery of an annual report or a proxy statement under Rule 14a-3(e)(2) (§ 240.14a–3(e)(2) of this chapter) if such section were applicable.

(b) The information statement shall be sent or given at least 20 calendar days prior to the meeting date or, in the case of corporate action taken pursuant to the consents or authorizations of security holders, at least 20 calendar days prior to the earliest date on which the corporate action may be taken.

27. In § 240.14c–3 by revising paragraph (a) introductory text, (a)(1) and (a)(2) to read as follows, removing (a)(3) through (a)(12) including the notes after a (a)(7) and (a)(10), and by removing the words "issuer," "issuers" and "shareholders" and replacing them with the words "registrant," "registrants" and "security holders" respectively in paragraph (b) and the note following paragraph (b):

§ 240.14c–3 Annual report to be furnished security holders.

(a) If the information statement relates to an annual (or special in lieu of the annual) meeting, or written consent in lieu of such meeting, of security holders at which directors are to be elected, it shall be accompanied or preceded by an annual report to such security holders (1) The annual report shall contain the information specified in paragraph (b)(1) through (b)(11) of Rule 14a–3 (§ 240.14a–3 of this chapter.)

(2) Paragraphs (b)(5) through (b)(11) of Rule 14a–3 shall not apply to an investment company registered under the Investment Company Act of 1940. Subject to the requirements of paragraphs (b)(1) through (b)(4) of Rule 14a–3, the annual report to security holders of such investment company may be in any form deemed suitable by management.

* * * * *

§ 240.14c–4 [Amended]

28. By amending § 240.14c–4 by removing the word "issuer" and replacing it with the word "registrant" and by removing the word "to" in the phrase "within the power to" and replacing it with the word "of" so that the phrase would read "within the power of" in paragraph (b) and by placing a comma between the words "presentation" and "financial" in the first sentence of paragraph (c).

29. By revising § 240.14c–5 as follows:

§ 240.14c–5 Filing requirements.

(a) *Preliminary information statement.* Five preliminary copies of the information statement shall be filed with the Commission at least 10 calendar days prior to the date definitive copies of such statement are first sent or given to security holders, or such shorter period prior to that date as the Commission may authorize upon a showing of good cause therefor. In computing the 10-day period, the filing date of the preliminary copies is to be counted as the first day and the 11th day is the date on which definitive copies of the information statement may be mailed to security holders. At the time of filing the preliminary information statement, the issuer shall pay to the

Commission a fee of $125, no part of which shall be refunded.

Note 1.—When revised material is filed it does not recommence the ten day time period unless the revised material contains such material revisions or material new proposal(s) that it constitutes a fundamental change in the information statement.

Note 2.—The officials responsible for the preparation of the information statement should make every effort to verify the accuracy and completeness of the information required by the applicable rules. The preliminary statement should be filed with the Commission at the earliest practicable date. It should be accompanied by a letter, over the signature of an officer of the company or its counsel, stating whether the current preliminary statement merely reflects an updating of the prior year's statement (e.g., changes in the board of directors or nominees for election to the board) or includes changes of a material nature. All changes from the previously filed statement should be identified in an accompanying marked copy of the preliminary statement. If a change is material, the letter should include any explanatory comment which may be of assistance in the expeditious processing of the statement.

(b) *Definitive information statement.* Eight definitive copies of the information statement, in the form in which it is furnished to security holders, shall be filed with, or mailed for filing to, the Commission not later than the date it is first sent or given to any security holders. Three copies thereof shall at the same time be filed with, or mailed for filing to, each national securities exchange upon which any security of the registrant is listed and registered.

(c) *Release dates.* All preliminary material filed pursuant to paragraph (a) of this section shall be accompanied by a statement of the date on which copies thereof filed pursuant to paragraph (b) of this section are intended to be released to security holders. All definitive material filed pursuant to paragraph (b) of this section shall be accompanied by a statement of the date on which copies of such material have been released to security holders or, if not released, the date on which copies thereof are intended to be released.

(d) *Public availability of information.* All copies of material filed pursuant to paragraph (a) of this section shall be clearly marked "Preliminary Copies" and shall be for the information of the Commission only and shall not be deemed available for public inspection until definitive material has been filed with the Commission except that (1) such material may be disclosed to any department or agency of the United States Government and to the Congress and the Commission may make such inquiries or investigation in regard to the material as may be necessary for an adequate review thereof by the Commission, and (2) such material may be deemed available for public inspection when the staff determines that the registrant has released such material to security holders or has abandoned the intention of releasing the material.

(e) *Revised information statements.* Where any information statement filed pursuant to this section is amended or revised, two of the copies of such amended or revised material filed pursuant to this section shall be marked to indicate clearly and precisely the changes effected therein. If the amendment or revision alters the text of the material the changes in such text shall be indicated by means of underscoring or in some other appropriate manner.

(f) *Merger material.* Notwithstanding the foregoing provisions of this section, any information statement or other material included in a registration statement filed under the Securities Act of 1933 on Form S–14, S–4, or F–4 (§ 239.23, 25 or 34 of this chapter) shall be deemed filed both for the purposes of that Act and for the purposes of this section, but separate copies of such material need not be furnished pursuant to this section, nor shall any fee be required under paragraph (a) of this section. However, any additional material used after the effective date of the registration statement on Form S–14, S–4 or F–4 shall be filed in accordance with this section, unless separate copies of such material are required to be filed as an amendment of such registration statement.

(g) *Fees.* At the time of filing the preliminary information statement, the registrant shall pay to the Commission a fee of $125, no part of which shall be refunded, except, however, when filing a preliminary information statement regarding an acquisition, merger, spin-off, consolidation or proposed sale or other disposition of substantially all the assets of the company, the registrant shall pay the Commission a fee established in accordance with Rule 0–11, (§ 240.0–11 of this chapter).

30. Section 240.14c–7 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 240.14c–7 Providing copies of material for certain beneficial owners.

If the registrant knows that securities of any class entitled to vote at a meeting, or by written authorizations or consents if no meeting is held, are held of record by a broker, dealer, bank or voting trustee, or their nominees, the registrant shall:

(a) By first class mail or other equally prompt means, inquire of such record holder whether other persons are the beneficial owners of such securities and, if so, the number of copies of the information statement necessary to supply such material to beneficial owners and, in the case of an annual (or special in lieu of the annual) meeting, or written consent in lieu of such meeting, at which directors are to be elected, the number of copies of the annual report to security holders, necessary to supply such material to such beneficial owners for whom proxy material has not been and is not to be made available if such reports are to be distributed by the brokers, dealer, bank, voting trustee or their nominees; and

* * * * *

31. By revising § 240.14c–101 as follows:

§ 240.14c–101 Schedule 14C. Information required in information statement.

Note.—Where any item, other than Item 4 calls for information with respect to any matter to be acted upon at the meeting or, if no meeting is being held, by written authorization or consent, such item need be answered only with respect to proposals to be made by the registrant.

Item 1. Information required by Items of Schedule 14A (17 CFR 240.14a–101). Furnish the information called for by all of the items of Schedule 14A of Regulation 14A (17 CFR 240.14a–101) (other than Items 1(c), 2, 4 and 5 thereof) which would be applicable to any matter to be acted upon at the meeting if proxies were to be solicited in connection with the meeting. Notes A, C, D, and E to Schedule 14A are also applicable to Schedule 14C.

Item 2. Statement that proxies are not solicited. The following statement shall be set forth in the first page of the information statement in bold-face type:

We Are Not Asking You For A Proxy and You Are Requested Not To Send Us A Proxy

Item 3. Interest of certain persons in or opposition to matters to be acted upon. (a) Describe briefly any substantial interest, direct or indirect, by security holdings or otherwise, of each of the following persons in any matter to be acted upon, other than elections to office.

(1) Each person who has been a director or officer of the registrant at any time since the beginning of the last fiscal year.

(2) Each nominee for election as a director of the registrant

(3) Each associate of the foregoing persons.

(b) Give the name of any director of the registrant who has informed the registrant in writing that he intends to oppose any action to be taken by the registrant at the meeting and indicate the action which he intends to oppose.

Item 4. Proposals by security holders. If any security holder entitled to vote at the meeting or by written authorization or

consent has submitted to the registrant a reasonable time before the information statement is to be transmitted to security holders a proposal, other than elections to office, which is accompanied by notice of his intention to present the proposal for action at the meeting the registrant shall, if a meeting is held make a statement to that effect, identify the proposal and indicate the disposition proposed to be made of the proposal by the registrant at the meeting.

Instructions. 1. This item need not be answered as to any proposal submitted with respect to an annual meeting if such proposal is submitted less than 60 days in advance of a day corresponding to the date of mailing a proxy statement or information statement in connection with the last annual meeting of security holders.

2. If the registrant intends to rule a proposal out of order, the Commission shall be so advised at the time preliminary copies of the information statement are filed with the Commission, together with a statement of the reasons why the proposal is not deemed to be a proper subject for action by security holders.

§ 240.14f-1 [Amended]

32. By revising § 240.14f-1 by removing the phrase "Items 5(a), (d), (e), and (f), 6 and 7 of Schedule 14A of Regulation 14A" and replacing it with the phrase "Items 6(a), (d) and (e), 7 and 8 of Schedule 14A of Regulation 14A (§ 240.14a-101 of this chapter)."

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

33. The authority citation for Part 270 continues to read, in part, as follows:

Authority: Secs. 38, 40, 54 Stat. 841, 842; 15 U.S.C. 80a-37, 80c-89, * * *

34. By revising paragraph (a) of § 27.20a-3 to read as follows:

§ 270.20a-3 Information as to certain transactions.

(a) This section shall apply to a solicitation if (1) the information specified in Item 8, Compensation of directors and executive officers, of Schedule 14A of Regulation 14A (§ 240.14a-101 of this chapter) is required to be furnished for an investment company, or (2) action is to be taken with respect to an investment advisory contract.

* * * * *

By the Commission.

John Wheeler,

Secretary.

July 1, 1985.

[FR Doc. 85-16579 Filed 7-18-85; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Federal Old-Age, Survivors and Disability Insurance; Supplemental Security Income for the Aged, Blind and Disabled; Cost-of-Living Increases; Delayed Retirement Credits; and Maximum Family Benefits

Correction

In FR Doc. 85-16078 beginning on page 27615 in the issue of Friday, July 5, 1985, make the following corrections:

1. On page 27615, in the third column, in the third complete paragraph, in the sixth line, "for" should read "from".

2. On page 27616, in the first column, in the third complete paragraph, in the ninth line, "incresed" should read "increased".

3. On page 27617, in the third column, in § 404.272(c), in the third line, insert "is the ratio" between "ratio" and "of"; also, in the twenty-fourth, twenty-fifth, and twenty-sixth lines, remove the sentence "Estimated expenditures are amounts we expect of interfund loans."

4. On page 27618, in the third column, in § 404.275(a), in the second line, "CPI of" should read "CPI for"; also, in the eleventh line "measuring" should read "measuring".

5. On page 27619, in the second column, in § 404.313(a)(1), in the eighteenth line, "beneifits" should read "benefits".

6. On age 27619, in the third column, in § 404.313(b)(3), in the fourth line "on-fourth" should read "one-fourth".

7. On page 27619, in the third column, in § 404.313(b)(4), in the seventh line, "on" should read "in".

8. On page 27620, in the first column, in § 404.313(d), in the thirteenth line, "benefit is based" should read "benefit based".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-245-84]

Mortgage Credit Certificates; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to mortgage credit certificates.

DATES: The public hearing will be held on Wednesday, August 14, 1985, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Wednesday, July 31, 1985.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. The requests to speak and outlines or oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-245-84), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: B. Faye Easley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, telephone 202-566-3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 25 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Wednesday, May 8, 1985 (50 FR 19383).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Wednesday, July 31, 1985, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Peter K. Scott,

Director, Legislation and Regulations Division.

[FR Doc. 85-17270 Filed 7-18-85; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 1

[EE-3-85]

Effective Dates, Transitional Rules, Restrictions on Plan Distributions, and Other Issues Under the Retirement Equity Act of 1984; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing temporary regulations relating to effective dates, transitional rules, restrictions on distributions from employee plans and other issues arising under the Retirement Equity Act of 1984. The text of those temporary regulations also serves as the text for this Notice of Proposed Rulemaking.

DATES: Written comments and requests for a public hearing must be delivered or mailed before September 17, 1985. The amendments to the regulations generally would apply to plan years beginning after December 31, 1984, except as otherwise specified in the Retirement Equity Act of 1984, and are proposed be effective on the date of their publication in the **Federal Register** as a Treasury decision.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE-3-85), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles M. Watkins of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T (EE-3-85), 202-566-3903 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend 26 CFR by adding new sections under Part 1 to provide guidance so taxpayers can comply with Titles II and III of the Retirement Equity Act of 1984. The final regulations which are proposed to be based on the temporary regulations would amend Part 1 of Title 26 of the Code of Federal Regulations by adding similar sections to Part 1 (Income Tax; Taxable years beginning after December 31, 1953). The regulations are proposed to be issued under the authority contained in section 7805 of the Code (68A Stat. 917, 26 U.S.C. 7805). For the text of the temporary regulations, see FR Doc. 85-17238 (T.D. 8038) published in the Rules and Regulations portion of this issue of the **Federal Register**.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Request for Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably 8 copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who submits written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal authors of these proposed regulations are Charles M. Watkins and William D. Gibbs of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subject in 26 CFR 1.401-0—1.425-1

Income taxes, Employee benefit plans, Pensions.

James I. Owens,

Acting Commissioner of Internal Revenue.

[FR Doc. 85-17229 Filed 7-18-85; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Parts 1 and 602

[EE-35-85]

Notice, Election, and Consent Rules Under the Retirement Equity Act of 1984

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing temporary regulations relating to notice, election, and consent rules under the Retirement Equity Act of 1984. The text of those temporary regulations also serves as the text for this Notice of Proposed Rulemaking.

DATES: Written comments and requests for a public hearing must be delivered or mailed before September 17, 1985. The amendments to the regulations generally would apply to plan years beginning after December 31, 1984, except as otherwise specified in the Retirement Equity Act of 1984, and are proposed to be effective on the date of their publication in the **Federal Register** as a Treasury decision.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE-35-85), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles M. Watkins of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T (EE-35-85), 202-566-3903 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend 26 CFR by amending §1.401(a)-11T and by adding a new § 1.402(f)-1T under Part 1 to provide guidance so taxpayers can comply with Titles II and III of the

Retirement Equity Act of 1984. The final regulations which are proposed to be based on the temporary regulations would amend Part 1 of Title 26 of the Code of Federal Regulations by adding similar sections to Part 1 (Income Tax; Taxable years beginning after December 31, 1953). The regulations are proposed to be issued under the authority contained in section 7805 of the Code (68A Stat. 917, 26 U.S.C. 7805). For the text of the temporary regulations, see FR Doc. 85–17237 (T.D. 8037) published in the Rules and Regulations portion of this issue of the **Federal Register**.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Request for Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably 8 copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**. The collection of information requirements contained herein have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on the requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Internal Revenue Service, New Executive Office Building, Washington D.C. 20503. The Internal Revenue Service requests persons submitting comments to OMB also to send copies of the comments to the Service.

Drafting Information

The principal authors of these proposed regulations are Charles M. Watkins and William D. Gibbs of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of subjects

26 CFR 1.401–0–1.425–1

Income taxes, Employee benefit plans, Pensions.

26 CFR Part 602

OMB Control numbers, Paperwork Reduction Act, Reporting and recordkeeping requirements.

James I. Owens,

Acting Commissioner of Internal Revenue.

[FR Doc. 85–17228 Filed 7–18–85; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 57

Safety Standards for Gassy Metal and Nonmetal Mines; Extension of Comment Period

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice to extend period for public comment on proposed rule.

SUMMARY: Due to requests from the public, the Mine Safety and Health Administration (MSHA) is extending the period for public comment regarding its proposed rule for gassy metal and nonmetal mines.

DATE: Written comments on the proposed rule must be received on or before September 5, 1985.

ADDRESS: All comments should be sent to: Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, phone: (703) 235–1910.

SUPPLEMENTARY INFORMATION: On June 4, 1985, MSHA published a proposed rule (50 FR 23612) revising the gassy mine standards for the metal and nonmetal mining industry. The comment period was scheduled to end on August 5, 1985.

Due to requests from the public, MSHA is extending the time for commenting on this proposed rule. The comment period is extended to September 5, 1985. All interested members of the mining community are encouraged to submit comments prior to that date.

Dated: July 15, 1985.

David A. Zegeer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 85–17225 Filed 7–18–85; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Notice of Withdrawal of a Proposed Rulemaking Concerning an Amendment to the Ohio Permanent Regulatory Program

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

ACTION: Withdrawal of a proposed rule.

SUMMARY: OSM is announcing the withdrawal of a proposed rulemaking concerning a proposed program amendment submitted by Ohio as an amendment to its permanent regulatory program. The proposed amendment pertaining to the disposal of excess spoil was withdrawn by the State in a letter to OSM dated June 13, 1985.

DATE: This withdrawal is effective July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866–0578.

SUPPLEMENTARY INFORMATION: By letter dated November 20, 1984, Ohio submitted a proposed program amendment to OSM concerning disposal of excess spoil. OSM announced receipt of the amendment and initiated a public comment period in the **Federal Register** on December 31, 1984 (49 FR 50741). The comment period ended on January 30, 1985. On April 2, 1985, OSM notified the State of concerns it had regarding the proposed amendment. OSM identified the handling and disposal of excess spoil and the construction of excess spoil fills as concerns. By letter dated June 13, 1985, the State withdrew this proposed amendment. At the same time, Ohio informed OSM that it was preparing another State program amendment on excess spoil and would

submit it to OSM at a later date. When received by OSM the proposed amendment will be announced in the **Federal Register** to include a 30-day public comment period and an opportunity to request a public hearing.

Dated: July 16, 1985.

Carl C. Close,

Acting Assistant Director, Program Operations and Inspection.

[FR Doc. 85-17241 Filed 7-18-85; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 935

Ohio Permanent Regulatory Program; Reopening and Extension of Comment Period

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

ACTION: Reopening of public comment period.

SUMMARY: By letter dated November 6, 1984, Ohio submitted to OSM a program amendment concerning civil penalties. OSM published a notice in the **Federal Register** on December 12, 1984, announcing receipt of the amendment and inviting public comment on the adequacy of the amendment (49 FR 48324).

OSM's review of Ohio's proposed amendment identified the implementation of alternate enforcement measures as a concern. OSM notified the State about its concern on March 11, 1985. On June 21, 1985, the State responded by submitting a policy statement addressing the implementation of alternate enforcement measures.

Accordingly, OSM is reopening and extending the comment period on Ohio's November 6, 1984 proposed amendment as modified on June 21, 1985. This action is being taken to provide the public an opportunity to consider the adequacy of the proposed amendment in light of the State's clarification.

DATES: Written comments, data or other relevant information relating to this rulemaking not received on or before 4:30 p.m. August 5, 1985, will not necessarily be considered in the Director's decision.

ADDRESSES: Written comments should be mailed or hand delivered to Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866-0578.

Copies of the Ohio program, the proposed modification to the program, and all written comments received in response to this notice will be available for public review at the OSM Field Office listed above and at the OSM Headquarters office and the office of the State regulatory authority listed below, during normal business hours, Monday through Friday, excluding holidays. Each requestor may receive, free of charge, one single copy of the proposed amendment by contacting OSM's Columbus Field Office.

Office of Surface Mining, Room 5124, 1100 L Street, NW., Washington, D.C. 20240

Ohio Division of Reclamation, Fountain Square—Building B-3, Columbus, Ohio 43224

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION:

I. Background

The Ohio program was approved effective August 16, 1982. Information pertinent to the general background, revisions, modifications and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register** (47 FR 34688).

II. Proposed Amendment

By letter dated November 6, 1984, Ohio submitted a proposed program amendment consisting of a revision to rule 1501:13-14-03 concerning civil penalties, setting a 30-day cap on failure-to-abate cessation order assessments and establishing assessment conference procedures. The proposed amendment also provides for alternative enforcement actions to be taken if a violation has not been abated within 30 days.

OSM announced receipt of the amendments and initiated a public comment period on December 12, 1984 (49 FR 48324). The comment period closed on January 11, 1985.

During review of the amendment, OSM identified one concern. The proposed amendment does not specify how alternative enforcement measures will be implemented at the end of the 30-day abatement period to ensure that violations will be corrected. OSM notified Ohio about this concern by letter dated March 11, 1985. On June 21, 1985, Ohio responded by providing a policy statement on the implementation of alternative enforcement measures.

The full text of the proposed amendment and of the subsequent material is available for review at the locations listed above under "**ADDRESSES**". OSM is now seeking public comment on the adequacy of Ohio's November 6, 1984 amendment in light of the June 21, 1985 modification. If the Director determines that the proposed amendment is no less stringent than SMCRA and no less effective than the Federal regulations, the amendment will be approved and become part of the approved permanent program.

List of Subjects in 30 CFR Part 935

Coal mining; Intergovernmental relations; Surface mining; Underground mining.

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

Dated: July 16, 1985.

Carl C. Close,

Acting Assistant Director, Program Operations and Inspection.

[FR Doc. 85-17239 Filed 7-18-85; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 950

Public Comment Period and Opportunity for Public Hearing on an Amendment to the Wyoming Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period and for a public hearing on an amendment submitted by the State of Wyoming to amend its permanent regulatory program which was conditionally approved by the Secretary of the Interior under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the water quality provisions of the approved program which are administered by the Wyoming Water Quality Division.

This notice sets forth the times and locations that the proposed amendment is available for public inspection, the comment period during which interested persons may submit written comments on the proposed program amendment and information pertinent to the public hearing.

DATES: Written comments not received on or before 4:00 p.m. on August 19, 1985, will not necessarily be considered. A public hearing on the proposal will be

held, if requested on August 13, 1985, at the address listed below under "ADDRESSES."

Any person interested in making an oral or written presentation at the hearing should contact Mr. William Thomas at the OSM Casper Field Office, whose address appears below, by 4:00 p.m. on August 8, 1985. If no one has contacted Mr. Thomas to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Thomas, a public meeting, rather than a hearing may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: The public hearing will be held at the Herschler Office Building, 122 W. 25th Street, Cheyenne, Wyoming 82002.

Written comments should be mailed or hand-delivered to Mr. William R. Thomas, Office of Surface Mining Reclamation and Enforcement, P.O. Box 1420, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644. See "SUPPLEMENTARY INFORMATION" for address where copies of the Wyoming program amendment and administrative record on the Wyoming program are available. Each requestor may receive, free of charge, one single copy of the proposed program amendment by contacting the OSM Casper Field Office listed above.

FOR FURTHER INFORMATION CONTACT: Mr. William Thomas, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644, Telephone: (307) 261-5824.

SUPPLEMENTARY INFORMATION: Copies of the Wyoming program amendment, the Wyoming program and the administrative record on the Wyoming program are available for public review and copying at the OSM offices and the office of State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Administrative Record Room 5124, 1100 "L" Street, N.W., Washington, D.C. 20240

Office of Surface Mining Reclamation and Enforcement, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644

Wyoming Department of Environmental Quality, Land Quality Division, Herschler Office Building, 122 W. 25th Street, Cheyenne, Wyoming 82002

Background

The general background on the permanent program, the general background on the State program approval process, the general background on the Wyoming program, and the conditional approval can be found in the Secretary's Findings and conditional approval published in the November 26, 1980 **Federal Register** (45 FR 78637-78684).

On January 22, 1985, the State of Wyoming submitted to OSM a proposed regulation package which addressed water quality standards and related provisions that were administered by the Wyoming Water Quality Division. OSM announced receipt of the material and a public comment period in the March 11, 1985 **Federal Register** (50 FR 9680). Subsequent to the close of OSM's comment period, the State of Wyoming conducted a public hearing on the draft water quality regulation package. As a result of comments received at the State hearing, Wyoming made revisions to the draft water quality package. OSM stopped processing the material upon notification of pending revisions by the State.

Proposed Amendment

On June 19, 1985, the State of Wyoming submitted to OSM an amendment to its approved permanent regulatory program. The amendment addresses water quality standards and related provisions that are administered by the Wyoming Water Quality Division. Specifically, the amendment consists of proposed regulations addressing definitions relating to water quality, effluent limitations for coal mining operations, water testing procedures, discharge points, application requirements for construction of sedimentation control facilities, minimum design standards for sedimentation control facilities and enforcement of the water quality provisions.

OSM is seeking comment on whether the Wyoming proposed modifications are consistent with the requirements of the Federal provisions and satisfy the criteria for approval of State program amendments at 30 CFR 732.15 and 732.17.

The full text of the program modification submitted by Wyoming for OSM's consideration is available for public review at the addresses listed under "ADDRESSES."

Additional Determinations

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

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

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

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

List of Subjects in 30 CFR Part 950

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

Dated: July 15, 1985.

Jed D. Christensen,

Director, Office of Surface Mining.

[FR Doc. 85-17240 Filed 7-18-85; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9 FRL 2867-3]

County of Ventura; Air Pollution Control Regulations, State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: On May 30, 1985 (50 FR 23032), EPA invited comment on the proposed approval of the Ventura County Air Pollution Control District's NSR/PSD rule. Due to the complexity of the regulations and in light of a request for an extension of the comment period by the Ventura County APCD, EPA is extending the comment period to August 1, 1985.

DATE: Comments are due on or before August 1, 1985.

FOR FURTHER INFORMATION CONTACT: David Howekamp at (415) 974-8201.

ADDRESS: Comments may be sent to: Regional Administrator, Attn: Air

Management Division (A-3-1), Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105.

Dated: July 3, 1985.

John Wise,

Acting Regional Administrator.

[FR Doc. 85-17203 Filed 7-18-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 355

Requirements for Establishing U.S. Citizenship

AGENCY: Maritime Administration, DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The Maritime Administration (MARAD) is withdrawing a notice of proposed rulemaking (NPRM) published in 1979. This NPRM proposed amendments to 46 CFR Part 355, principally concerning the types of proof that MARAD would require from a corporation in order to determine that corporation is a United States citizen, as defined in the Shipping Act, 1916, thus, making it eligible to participate in various benefit programs administered by MARAD.

FOR FURTHER INFORMATION CONTACT: Doris Lansberry, Office of Chief Counsel Maritime Administration, 400 Seventh Street, SW., Room 7230, Washington, D.C. 20590; Telephone (202) 426-5711.

SUPPLEMENTARY INFORMATION: On October 12, 1979, MARAD published a NPRM (44 FR 58928) that proposed amendments to its requirements for establishing United States citizenship (46 CFR Part 355). The proposed amendments would have been applicable to certain participants in the various benefit programs administered by MARAD under the Merchant Marine Act, 1936, as amended (46 U.S.C. 1101 et seq.).

Those receiving or requesting benefits include individuals, corporations and other entities deemed to have a legal or beneficial interest in vessels built with or operated with MARAD financial assistance under its programs. Corporate applicants for construction-differential subsidy (CDS), operating-differential subsidy (ODS), vessel obligation guarantees (Title XI guarantees) and Capital Construction Fund (CCF), as well as other interested parties, are required to establish their United States citizenship for eligibility to participate in each of these programs. (46 CFR 355.1).

The NPRM

The first proposed provision would have liberalized the so-called "fair inference" rule (46 CFR 355.2). That rule allows the inference that a publicly-held corporation owning and operating vessels in the United States coastwise trade has at least 75 percent of its stock owned by citizens of the United States, if 95 percent of the stock is held by persons having registered United States addresses. The proposed amendment would have required a showing of at least 90 percent of the stock held by persons having registered United States addresses.

Another proposed provision would have required that a majority of any committee authorized under the bylaws of a corporation to act on behalf of its board of directors be United States citizens. This proposal responded to a trend toward delegation of significant decision-making authority by corporate boards of directors to committees, often referred to as Executive Committees or Mangement Committees.

The NPRM also proposed formalizing MARAD's existing policy of exercising discretion in acceptance of other methods of proof of U.S. citizenship as alternatives to: (1) Direct proof of citizenship for privately-owned corporations; and (2) proof through the "fair inference" rule for publicly-held corporations. The NPRM included a proposed provision informing the public of MARAD's acceptance of alternate methods of proof of U.S. citizenship, such as dual stock certificates.

The fourth provision proposed to inform the public that the affidavits and other documents filed in support of establishing U.S. citizenship would become subject to automatic release, pursuant to a Freedom of Information Act (FOIA) request, unless the documents were marked "confidential" and the submitting party stated the basis of the claim for exemption at the time of filing the information with MARAD.

The proposed revisions were intended principally to establish official agency practice and policy for demonstrating corporate citizenship, and to advise the participants submitting citizenship data of the FOIA requirements.

However, in view of the time that has elapsed since the proposed rule was published, MARAD has decided to withdraw this proposed rulemaking action and review these issues further before determining any further action.

Authority: 46 U.S.C. 1114(b); 49 CFR 1.66.

By Order of the Maritime Administrator.

Dated: July 16, 1985.

Georgia P. Stamas

Secretary, Maritime Administration.

[FR Doc. 85-17219 Filed 7-18-85; 8:45 am]

BILLING CODE 4910-81-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 81-893; FCC 85-345]

Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Service (Second Computer Inquiry)

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Notice proposes and seeks comment on a structure for the detariffing of embedded customer premises equipment (CPE) that is (i) owned by Independent telephone companies (Independents); (ii) tariffed at the federal or state level, and (iii) used by the Federal government for national security and emergency preparedness functions. This Notice also seeks comment on the procedures for the deregulation of any remaining new or embedded CPE that is still subject to tariff and that has not been, or is not being addressed in other notices and orders, including: (1) Detariffing procedures for federally tariffed embedded mobile CPE that has already been deregulated; (2) leaving the decision of whether or not to detariff Independent-owned 911 emergency equipment to the states rather than requiring deregulation by December 31, 1987; and (3) deregulating any new or embedded CPE used in conjunction with Part 81 licensed maritime common carrier services.

DATES: Comments are due by August 9, 1985 and replies by August 27, 1985.

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

FOR FURTHER INFORMATION CONTACT: Rose M. Crellin at (202) 632-9342.

Third Further Notice of Proposed Rulemaking

In the matter of Procedures for implementing the Detariffing of Customer Premises Equipment and Enhanced Service (Second Computer Inquiry), CC Docket No. 81-893.

Adopted: July 5, 1985.

Released: July 12, 1985.

By the Commission:

I. Introduction

1. This *Notice* proposes, and seeks comment on, a structure for the detariffing of embedded customer premises equipment (CPE)[1] that is (i) owned by Independent telephone companies (ITCs or "Independents"),[2] (ii) tariffed at the federal or state level, and (iii) used by the Federal government for national security and emergency preparedness (NSEP) functions.[3] The proposed plan seeks to accomplish detariffing of this ITC-owned NSEP CPE in a manner that is consistent with the principles and goals we have established in the *Second Computer Inquiry*.[4] This Notice also seeks comment on the procedures for the deregulation of any remaining new or embedded CPE that is still subject to tariff and that has not been, or is not being, addressed in other notices or orders.[5] Specifically, we seek comment on: (1) Detariffing procedures for federally tariffed embedded mobile CPE that has already been deregulated; (2) leaving the decision of whether or not to detariff ITC-owned 911 equipment to the states rather than requiring deregulation by December 31, 1987; and (3) deregulating any new or embedded CPE used in conjunction with Part 81 licensed maritime common carrier services.

II. General Background

2. In the *Second Computer Inquiry*, we concluded that "CPE is a severable commodity from the provision of transmission services and that regulation of CPE under Title II [of the Communication Act of 1934] is not required and is no longer warranted."[6] We concluded in subsequent proceedings in the *Second Computer Inquiry* that continued provision of CPE by common carriers under regulation impedes the evolution of a truly competitive CPE market."[7] With regard to detariffing CPE, the Commission decided to deregulate new and embedded CPE separately.[8] New CPE was detariffed on January 1, 1983, while the detariffing of embedded CPE began after the completion of a separate "implementation proceeding", which addressed "issues of capital recovery and asset valuation, alternative mechanisms by which transition to an unregulated CPE environment may be achieved, and the appropriate time period for removal of embedded CPE investment from separations and a carrier's rate base."[9] We indicated that special treatment of embedded CPE was necessary in order to avoid the significant dislocations that could result from immediate detariffing.[10]

3. Several Commission Orders in this docket have implemented the *Second Computer Inquiry* decisions requiring detariffing of embedded CPE.[11] In the *First Order*, we required the transfer of embedded CPE owned by AT&T at net book value plus transaction costs to an unregulated subsidiary, AT&T–IS, effective January 1, 1984, [12] and required

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[1] In the *Second Computer Inquiry* proceeding, we defined "CPE" to include all equipment provided by common carriers in the fifty states, the District of Columbia, Puerto Rico, and the Virgin Islands and located on customer premises, except over-voltage protection equipment, inside wiring, coin-operated or pay telephones, and multiplexing equipment to deliver multiple channels to the customer. Amendment of 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), Memorandum Opinion and Order on Further Reconsideration, 88 FCC 2d 512, para. 1 n.1 (1981) (hereinafter *Further Reconsideration Order*). We also defined "embedded" CPE as "that equipment or inventory, which is tariffed or otherwise subject to the jurisdictional separations process as of the bifurcation date [January 1, 1983]," and "new" CPE as "[a]ny other CPE which is acquired by a carrier or manufactured by an affiliated entity after [the bifurcation date]." *Id.* at para. 45. Mobile customer premises equipment was defined in Procedures for Implementing the Detariffing of Customer Premises Equipment (Second Computer Inquiry), Second Report and Order, 96 FCC 2d 814, para. 1 n.1 (1984) (hereinafter *Second Order*). (This equipment had been excluded from the original *Second Computer Inquiry* deregulatory decisions on CPE. *See infra* note 49.) Furthermore, there may still be some equipment subject to *tariff* that does not fall within either the *Second Computer Inquiry* or the *Second Order* definitions of CPE, but should be considered "customer premises equipment" and should be detariffed. *See, e.g., infra* note 51. As explained more fully *infra*, we invite comment on the detariffing of such equipment.

[2] For purposes of this proceeding, Cincinnati Bell Telephone Company (CBT) and Southern New England Telephone Company (SNET) are included among the Independent telephone companies.

[3] Section 1 of the Communications Act of 1934, as amended, 47 U.S.C. 151 (1982), provides that two of the goals the FCC should pursue in exercising its regulatory mandate over interstate and foreign communications are to assist in the national defense and to promote the safety of life and property. *See* Exec. Order No. 12,472, 49 FR 13,471 (1984) and 47 CFR 201.0–215.2 (1984).

[4] Amendment of § 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), 77 FCC 2d 384 (hereinafter *Final Decision*), *modified on reconsideration*, 84 FCC 2d 50 (1980) (hereinafter *Reconsideration Order*), *modified on further reconsideration*, 88 FCC 2d 512 (1981) (hereinafter *Further Reconsideration Order*), *aff'd sub nom. Computer & Communications Industry Ass'n v. FCC*, 693 F.2d 198 (D.C. Cir. 1982), *cert. denied*, 461 U.S. 938 (1983), *aff'd on second further reconsideration*, FCC 84–190 (released May 4, 1984) (hereinafter *Second Further Reconsideration Order*).

[5] One exception to the broad scope of this proposed detariffing of all remaining CPE subject to tariff is the embedded CPE owned by the Bell Operating Companies (BOCs) that was not transferred to AT&T at divestiture. This category of CPE will be addressed in a subsequent rulemaking. It includes 911 Public Safety Answering Point CPE, concentrator-identifier systems associated with telephone answering service systems, network channel terminating equipment (such as terminating sets, subscriber pair gain equipment, and repeaters), 101 ESS switches used in providing Centrex-CU service, Centrex-CO attendant position equipment (including Centrex consoles and console cabinets), CPE located at Public Service Answering Points used in connection with 911 emergency service, and 60-type console control cabinets and mini-computers associated with ESS–ACD (Automatic Call Distributer) service. *See* AT&T Plan of Reorganizaztion at 82–86, United States v. AT&T (filed Dec. 16, 1982). Coin or pay telephones are specifically excluded from the definition of CPE. *Reconsideration Order*, 84 FCC 2d at 61 n.10. We recently reaffirmed that public and semi-public telephones may remain tariffed. See Petition for Declaratory Ruling of Tonka Tools, Inc. and Southern Merchandise Corp. Regarding American Telephone and Telegraph Company Provision of Coinless Pay Telephones, Memorandum, Opinion and Order, FCC 85–269, (released May 22, 1985). In a previous decision, however, we determined that "extensions" to semi-public telephones are CPE. *See* Modifications to the Uniform System of Accounts, 48 FR 50,534 (1983). An extension is equipment attached to public, pay telephones typically located on private premises or in a private establishment and used by the owner or employees of the private establishment. This Notice covers other new or embedded CPE, if any, held by the BOCs that is still subject to tariff.

[6] *Final decision* at para. 9.

[7] *Reconsideration Order* at para. 46 (citing *Final Decision* at paras. 144–59).

[8] *Reconsideration Order* at para. 49.

[9] *Id.* at para. 55 (footnote omitted).

[10] This docket was initiated through the release of a Notice of Inquiry on April 13, 1982. Procedures for Implementing the Detariffing of Customer Premises Equipment (Second Computer Inquiry), Notice of Inquiry, 89 FCC 2d 694 (1982) (hereinafter *Notice of Inquiry*). On June 21, 1983, we released a Notice of Proposed Rulemaking, 94 FCC 2d 76 (1983) (hereinafter *Notice*). The Report and Order detariffing AT&T's embedded CPE was released on December 15, 1983, 95 FCC 2d 1276 (1983) (hereinafter *First Order*), *modified on reconsideration*, 50 FR 9016 (1985) (hereinafter *First Order Reconsideration*). On June 29, 1984, we released *the Second Order*, *supra* note 1, which detariffed embedded CPE used in mobile telephone service. A Second Further Notice of Proposed Rulemaking, released on June 20, 1984, 98 FCC 2d 361 (1984) (hereinafter *Second Further Notice*), sought comment on a framework to allow federal agencies to obtain NSEP equipment from AT&T and its subsidiaries and the Bell Operating Companies, and the Sixth Report and Order in this docket, 50 FR 1525 (1985) (hereinafter *Sixth Order*), established such a framework. The Third Report and Order, released on October 26, 1984, 99 FCC 2d 354 (1984) (hereinafter *Third Order*), *aff'd on reconsideration*, FCC 85–118 (released March 27, 1985), provides a framework for states to deregulate embedded CPE owned by the ITCs and tariffed at the state level. The Fourth Report and Order in this docket, 49 FR 47,285 (1984), released November 4, 1984, detariffed CPE provided by Western Union and the international record carriers. The Fifth Report and Order, released November 20, 1984, 49 FR 48,378 (1984) (hereinafter *Fifth Order, reconsideration pending*, addressed accounting matters involved in detariffing CPE.

[11] The principal rules regarding the treatment of any gains or losses in connection with the removal of utility assets from regulated service are set out in *Democratic Cent. Comm. v. Washington Metro. Area Transit Comm'n*, 485 F.2d 786 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 935 (1974) (hereinafter, together with companion cases, referred to as *Democratic Central Committee*). For a list of companion cases, see *First Order* at para. 56 n. 48.

that AT&T–IS provide a sale option to its embedded CPE customers. National sales prices are set for single-line equipment for a two-year price predictability period. For multiline equipment, the sales prices are not to exceed net book value plus transaction costs in the aggregate. Increases in lease prices are also controlled by the *First Order* for the two-year period ending December 31, 1985.[13]

4. In the *Third Order*, we established a framework for states to follow in deregulating ITC-owned embedded CPE tariffed at the state level. Subject to a minimum set of federal requirements, states are given the flexibility to develop an approach to detariffing that best meets the needs of customers and ITCs in their jurisdictions. We did not set a valuation standard for the transfer price, but rather allowed the states to determine the valuation mechanism.[14] States are required to certify to the Commission by September 1, 1985, that they have developed plans to deregulate embedded CPE by December 31, 1987, in a manner consistent with the *Third Order*.[15]

5. While we have deregulated, or have established a framework for deregulation of, a substantial amount of embedded CPE, there are still certain categories of embedded CPE yet to be detariffed. In this proceeding we seek comment on our proposals to deregulate embedded CPE for which we did not receive substantial comment in prior proceedings, *i.e.*, NSEP equipment owned by Independents and tariffed at the state or federal level. We also propose to establish detariffing mechanisms for mobile CPE tariffed at the federal level. In order to complete in an orderly and timely fashion the deregulation of all CPE, we also seek comments in this Notice on the detariffing of any remaining CPE, new or embedded, for which we have not previously requested comments. Parties should provide information on the type of any such CPE, the entity responsible for the equipment, and a preferred valuation technique and deregulation date.[16] We seek to complete the deregulatory process with respect to all CPE as expeditiously as possible.

III. NSEP Equipment Owned by Independent Telephone Companies

A. Background

6. Previous rulemakings in this docket have not specifically addressed the deregulation of embedded NSEP equipment owned by ITCs. The *Notice* did not discuss the deregulation of NSEP equipment. The *Third Order*, which provided a framework for states to deregulate embedded CPE owned by Independents and tariffed at the state level, specifically excluded NSEP equipment [17] in order to provide for a consistent deregulatory process for all NSEP owned by ITCs, whether tariffed at the state or federal level.

7. In the *Second Further Notice*, we suggested several options for a framework under which certain federal agencies might obtain CPE needed for NSEP function.[18] The options presented, and the majority of the responses received, however, focused only on AT&T's role in the provision of NSEP equipment. Accordingly the *Sixth Order* established a framework, involving a permanent waiver of the *Second Computer Inquiry* separate subsidiary requirements,[19] under which AT&T Communications (AT&T–COM) and the BOCs could continue to act as a single point of contact for federal agencies to facilitate the operation, maintenance and servicing of 21 NSEP systems.[20] This waiver applies to both new and embedded NSEP CPE. The *Sixth Order* provided for the deregulation of embedded NSEP CPE owned by AT&T in a manner similar to that required by the *First Order* with respect to single and multiline CPE, *i.e.*, the equipment was transferred out of regulation at net book value plus transaction costs with a sales plan and two-year price predictability period. After careful review by the Commission of the impact of NSEP CPE deregulation on national security communications, deregulation of AT&T-owned NSEP became effective retroactive to January 1, 1984.[21] Although the *Sixth Order* did not address the provision of NSEP equipment by ITCs, we pointed out that ITCs could continue to act as a single point of contact for NSEP communications needs and that a specific waiver similar to that obtained by AT&T–COM and the BOCs would not be necessary since ITCs, unlike AT&T–COM and the BOCs, are not restricted by the Commission-imposed separate subsidiary requirements.[22]

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[13] In the *First Order*, we decided to detariff embedded CPE owned by AT&T quickly because of the then-imminent Bell System divestiture, but determined that, since divestiture did not apply to ITCs, we could decide on the detariffing of ITC-owned CPE in a future rulemaking. *First Order* at para. 174–76.

[14] States are subject to compliance with the principles of *Democratic central Committee*, *i.e.*, "the right to capital gains on utility assets is tied to the risk of capital losses" and "he who bears the financial burden of particular utility activity should also reap the benefit resulting therefrom." *Democratic Central Committee*, 485 F.2d at 806. Therefore, gains or losses on transfer or sale of assets must go to the entity—carriers, investors, or ratepayers—that bore the risk of loss of capital value over the regulated life of the assets. For further discussion of this case, see *Third Order* at para. 39 n. 28.

[15] In the *Second Order*, we detariffed state and federally tariffed mobile CPE owned by ITCs. States were allowed to establish the detariffing mechanisms, including establishing valuation. We propose detariffing mechanisms for federally tariffed ITC-owned mobile CPE herein.

[16] In response to the *Second Further Notice* in this docket, we received comments on the deregulation of federally tariffed CPE provided by the ITCs. The deregulation of this equipment (excluding federally tariffed, ITC-owned NSEP CPE), and CPE that remained with the BOCs at divestiture, described *supra* note 5, will be implemented in subsequent proceedings.

[17] *Third Order* at para. 27.

[18] *Second Further Notice* at paras. 9–11.

[19] In the *Second Computer Inquiry*, we permitted AT&T to engage in the provision of CPE and enhanced services only through a separate subsidiary. We adopted this requirement to lessen the likelihood that AT&T's provision of CPE and enhanced services would result in harm to competition in these markets or cause ratepayers to fund CPE and enhanced service operations through the improper allocation of costs properly associated with these unregulated activities to AT&T's regulated services. *See Final Decision* at para. 208. We have recently issued a Notice of Proposed Rulemaking inviting comments on our proposal to relieve AT&T from structural separation requirements for the provision of CPE. *See* Furnishing of Customer Premises Equipment and Enhanced Services by American Telephone and Telegraph Company, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 50 FR 9060 (1985).

[20] The permanent waiver permits AT&T–C and the regulated BOC entities to maintain end-to-end responsibility for NSEP communications in cases of presidentially declared and other emergencies and on a continuous bases for the designated NSEP systems. *See Sixth Order* at para. 28, n.72. The Federal Executive Agencies (FEA) listed 21 NSEP systems and circuits as being covered by its request that CPE associated with NSEP functions not be detariffed and transferred to AT&T–IS. The Department of Defense systems were: Automatic Secure Voice Communications Network (AUTOSEVOCOM); Joint Chiefs of Staff Systems (JCS Alerting Network and Minuteman); Strategic Air Command Systems (SAC Primary Alerting System, SAC Operations Conference System, and SAC Command Post Command and Control Consoles); Northern American Air Defense Command (NORAD) Alerting System; Tactical Air Command Systems (TAC Command and Control Alerting Command and TAC Force Control Management System); Military Airlift Command (MAC) Operational Phone System; Air Force Digital Graphics System (AFDIGS); Air Force Command Post Alerting Network (COPAN); and Air Force Command Post Record Capability (COPREC). Also included was the U.S. National Airspace System in the Federal Aviation Administration. The Federal Emergency Management Agency Systems were: A classified FEMA system provided under AT&T Tariff FCC No. 260; Emergency Broadcast System; FEMA National Voice System; and FEMA National Warning System. The NRC Emergency Notification System in the Nuclear Regulatory Commission was also listed. The following White House Communications Agency systems and equipment were included: Transportable electric consoles; and Echo Fox Radio System. *See First Order* at para. 171 n.146, and *Sixth Order*, App. A.

[21] *Sixth Order* at para. 34.

[22] *Id.* at para. 1 n.4.

B. Discussion

8. Our goal in formulating this proposal for the deregulation of ITC-owned NSEP CPE is to effectuate the detariffing of this equipment in a timely manner, while also protecting the national security and the interests of ratepayers, in-place customers, and investors. Although we are convinced that the deregulatory policies of the *Second Computer Inquiry* can proceed without adversely affecting national security and emergency preparedness, we would like to provide interested parties with an opportunity for more detailed comment on the ITC's NSEP CPE before we proceed to establish rules for deregulation.

1. STATE-TARIFFED NSEP

9. In response to the *Notice*, the Federal Executive Agencies (FEAs) opposed state-by-state sale of embedded CPE. In the *Third Order*, we determined that the benefits of allowing states flexibility in the detariffing of embedded CPE outweighed any inconvenience to some large users in having to deal with several state commissions.[23] We are convinced, however, that there is merit to the FEAs' objections with respect to NSEP CPE due to the unique concerns implicated in national security and emergency preparedness. Thus, we propose that ITC-owned NSEP CPE tariffed at the state level be detariffed along with federally tariffed, ITC-owned NSEP CPE, as proposed herein.

10. Additionally, in the *Second Computer Inquiry*, we required that AT&T provide embedded and new CPE through a separate subsidiary in order to eliminate the risk of cross-subsidization or other anticompetitive conduct.[24] While we chose not to place these requirements on ITCs,[25] we did not preclude states from requiring that an ITC establish a separate subsidiary for the provision of CPE.[26] However, when a state has imposed such a requirement on an ITC, problems similar to those addressed in the *Sixth Order*, regarding AT&T's ability to provide end-to-end service for NSEP requirements, may exist.

2. Federally Tariffed NSFE

11. In the *Second Further Notice*, we proposed a framework for deregulating federally tariffed embedded CPE owned by ITCs.[27] Since we did not require that ITC-owned CPE be handled through a separate subsidiary, as was required for AT&T, we are not aware of any special provisions that are needed in the deregulation of this federally tariffed NSEP equipment. As with other federally tariffed CPE owned by ITCs, the ITCs that provide NSEP CPE to the Federal Government vary in size.[28] We are aware of the need to assess the impact of our deregulatory policies on smaller ITCs. We seek comment on any special requirements in deregulating embedded NSEP CPE faced by the specified federal agencies, ITCs, and other interested parties in order to provide for the smooth deregulation of this equipment.

3. Definition of NSEP CPE

12. We also seek comment on the type of CPE that should be included as NSEP subject to the detariffing provisions of this Notice. We propose to include any embedded CPE that is used in conjunction with a service or circuit that has been assigned a National Communications System (NCS)[29] Federal Communications Commission approved restoration priority (RP) 1–4,[30] and is under contract to specified federal agencies.[31] This definition, although relatively broad,[32] ensures that NSEP communications are not hampered by the varied state detariffing procedures.[33] It also provides an opportunity for any further comment on any special requirements, should they be necessary, in order to provide a smooth transition to deregulation.[34] We seek comment on whether this definition should be limited to CPE in a specified set of NSEP systems.

3. NSEP CPE Detariffing Requirements

13. We propose to deregulate ITC-owned NSEP CPE, tariffed at the state and federal level, in a manner similar to that proposed for all federally tariffed CPE in the *Second Further Notice*. We propose to: (1) Deregulate ITC-owned NSEP CPE on January 1, 1986; (2) require that net book value[35] plus transaction

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[23] *Third Order* at para. 27. As we indicated in the *Third Order*, our findings that states may implement federal policy in deregulating ITC-owned CPE tariffed at the state level does not prejudice our decision in other areas where implementation at the national level is required. *See Third Order* at para. 22 n.14.

[24] *See supra* note 19.

[25] In the *Reconsideration Order*, we found that separate subsidiary requirements would not be necessary for Independents. First, we indicated that opportunities for Independents to cross-subsidize were less than those for AT&T. Second, the costs of separation would be greater for Independents and might foreclose their entry into the enhanced service or CPE markets. *See Reconsideration Order* at para. 70.

[26] In the *Second Computer Inquiry*, we held that "if a state regulatory authority, focusing on the local activities of a carrier not subject to structural separation under our rules, perceived that the carrier's unregulated activities could lead to cross-subsidies or other anticompetitive conduct detrimental to basic service ratepayers the state could apply structural separation conditions on that carrier." *Second Further Reconsideration Order* at para. 2.

[27] *See Second Further Notice* at paras. 20–4. As discussed *supra* note 16, the deregulation of federally tariffed, ITC-owned, non-NSEP embedded CPE will be addressed in a subsequent order.

[28] Central Telephone Co. indicated in its reply comments to the *Second Further Notice* that it provides in excess of $14 million of CPE to three Air Force bases, an Army facility, and an FAA air traffic control facility. Filings in Tariff 277 indicate smaller companies that provide CPE include Iroquois Telephone Co., Shenandoah Telephone Co., and Hardy Telephone Co.

[29] The NCS includes the telecommunication assets of, and representatives from, "those Federal departments, agencies or entities, designated by the President, which lease or own telecommunications facilities or services of significance to national security or emergency preparedness, and to the extend permitted by law, other Executive entities which bear policy, regulatory or enforcement responsibilities of importance to national security or emergency preparedness telecommunications capabilities." Exec. Order No. 12, 472, 49 FR 13471 (1984).

[30] *See* 47 CFR Part 64, App. A, pp. 693–97. The Communications Act grants the FCC authority over the assignment of priorities for restoration of common carrier provided service, until such time as the applicable FCC rules are superseded by the President's emergency power. *Id.* at 693. A restoration priority system is "intended to restore only the most essential private line communications circuits in order to increase their reliability during emergencies." *Id.* All communications common carriers are directed by Appendix A of Part 64 of the Commission's Rules to honor and apply the restoration priority system.

[31] The federal agencies involved are the Department of Defense (DOD) the Department of Energy, the Department of the Interior, the Department of Transportation (including the Federal Aviation Administration and the Coast Guard), the General Services Administration, the Central Intelligence Agency, the Federal Emergency Management Agency, the National Aeronautics and Space Administration, the United States Information Agency, and the Nuclear Regulatory Commission. These agencies are hereinafter referred to as the "specified federal agencies."

[32] Dod originally argued that the AT&T waiver from the separate subsidiary requirements for the provision of NSEP CPE should include all RP systems. *CPE Waiver Order* at para. 11. In the *Bureau Waiver Order*, the waiver was limited to 12 systems due to the possible impact on competition. Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry), Order in CC Docket No. 81–893, Mimeo No. 1705 (released Jan. 10, 1984) (hereinafter *Bureau Waiver Order*). The *Sixth Order* affirmed the 21-system

[33] The use of this definition of NSEP is limited to this Notice and any orders issued in response to it.

[34] This definition does not adversely impact competition since these provisions apply to embedded NSEP CPE. New CPE provided to restoration priority systems and circuits is not regulated and is therefore open to competition. Embedded ITC-owned CPE not subject to the proposed detariffing provisions of this Notice (non NSEP CPE) and tariffed at the state level would be deregulated by states according to the provisions of the *Third Order*.

[35] Adjustments to net book value would be made in accordance with the principles and rules adopted

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cost be used as the valuation standard for the transfer of the equipment to unregulated books; (3) provide that customers have an opportunity to purchase the in-place equipment at any time during a two-year price predictability period following detariffing, at sales prices that in the aggregate do not exceed the net book value of the equipment; and (4) mandate that accounting requirements currently applicable to the offering of new CPE by companies that do not establish separate subsidiaries for such offerings would also apply to this detariffed CPE. We seek comment on whether we should establish a price predictability program, based on the requirements established for AT&T–IS in the *First Order*, under which month-to-month lease rates charged by the ITCs would be subject to established ceilings. Existing fixed-term leases applicable to this detariffed equipment would remain in effect according to their terms and would be enforceable by the ITC and customer involved.[36] The ITC would have to establish accounting mechanisms for the detariffed equipment that comply with the accounting and tax requirements we established in the *Third Order* for state-tariffed embedded CPE owned by the Independents and the *Fifth Order*.[37]

14. In the *Second Further Notice*, we indicated that, although the amount of federally tariffed embedded CPE provided by Independents may be small in comparison with the total amount of ITC-owned CPE, a significant portion of embedded CPE owned by a particular ITC may be subject to federal tariff. We are concerned about this possibility as it impacts NSEP CPE and, therefore, propose to allow for a waiver of the detariffing date to no later than January 1, 1989, in certain limited circumstances for those ITCs with a substantial amount of embedded NSEP equipment. The purpose of such waivers would be to ensure that our detariffing plan does not unduly disadvantage the ratepayers or investors of those ITCs, while at the same time adequately balancing the interests of CPE users. The waiver request must demonstrate that the ITC in question will not recover its investment in NSEP CPE if the CPE is detariffed on January 1, 1986, and that a substantial portion of the investment has not already been recovered through depreciation. We propose to limit this waiver to ITCs that are providing more than 20 percent of their embedded CPE base (in terms of net book value) to support the NSEP communications needs of the specified federal agencies.

15. We invite interested parties to comment on our proposal to deregulate NSEP CPE owned by ITCs, and to present and discuss other alternatives for the detariffing of this embedded NSEP equipment. We also invite interested parties to propose and discuss additional terms and conditions that may be necessary to ensure that the arrangements we propose herein accommodate ITCs and NSEP requirements in a manner consistent with the *Second Computer Inquiry* and a competitive CPE market.

4. State Separate Subsidiary Requirements

16. In those states where ITCs have been required to provide CPE through a separate subsidiary, we believe that any state-imposed limitations may need to be preempted for the effective provision of CPE for national security and emergency purposes,[38] including those situations under which priority restoration and similar requirements would necessitate participation by ITCs in ensuring the telecommunications requirements of NSEP.[39] As was the case with AT&T in the *Sixth Order*, we are concerned here that these state separate subsidiary requirements would preclude ITCs from responding on an "end-to-end" basis in providing new and embedded NSEP CPE.[40]

17. Where it is necessary to preempt any state-imposed limitations due to separate subsidiary or other requirements for the provision of NSEP CPE, we propose to include: (a) The RP system discussed above,[41] (b) new or embedded CPE equipment that is utilized for any service or circuit required in support of emergency situations,[42] and (c) any new or embedded CPE required with respect to NSEP military exercise or special purpose services or circuits.[43]

18. Thus, we seek comment on the need for the Commission to preempt state subsidiary requirements [44] that do not allow ITCs to provide embedded, new, or replacement NSEP CPE [45] as part of an end-to-end service. We also seek comment on any limitations that should apply to ITCs in this case.[46]

IV. Other Embedded CPE

A. Background

19. As previously noted, the Commission in several Orders has proceeded to deregulate embedded CPE in a manner consistent with the requirements of the *Second Computer Inquiry*.[47] We seek in this Notice comment regarding the deregulatory framework for any new or embedded CPE that has not been addressed in a prior notice in this docket or has not been commented on.[48]

1. Mobile Telephone Equipment

20. In the *Second Order* in this proceeding, we detariffed all embedded CPE used in mobile telephone services that was provided by AT&T, ITCs, and radio common carriers (RCCs).[49] For

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with respect to AT&T embedded CPE in the *First Order*. For AT&T, we found that "using net book value as a proxy for economic value [has the advantage of extreme simplicity, and it may be the most prudent approach in some cases given the practical difficulties of implementing other alternatives'." *First Order* at para. 51 [quoting *Notice of Inquiry* at para. 12]. We further concluded regarding detariffing of CPE owned by AT&T that a sale plan of embedded CPE, coupled with a plan for transferring the remaining CPE to unregulated service, was consistent with the equitable prinicples of *Democratic Central Committee*, since it properly accommodates the interests of both ratepayers and investors. *See Notice* at para. 32.

[36] *See* Memorandum Opinion and Order in CC Docket No. 81–893, FCC 85–220 [released May 15, 1985].

[37] *See Third Order* at paras. 43–45; *see also Fifth Order*.

[38] These emergency situations include a presidentially declared disaster or emergency as defined in the Disaster Relief Act (42 U.S.C. 5122) or other emergency as defined in DCA Circular 310–130–1, Chapter II, para. 2 (Feb. 1982). For the relevant text from the DCA Circular, see AT&T Petition for Waiver of § 64.702 of the Commission's Rules and Regulations with Respect to the Department of Defense and Specified Government Agencies, Memorandum Opinion and Order, 93 FCC 2d 632, para. 7 n. 6 (1983) [hereinafter *CPE Waiver Order*].

[39] *See supra* para. 10.

[40] *See Bureau Waiver Order* at para. 12 n.16 regarding the DOD's comments on the need for a single point of contact for emergency communications needs.

[41] *See supra* note 30.

[42] *See supra* note 38.

[43] Special purpose services/circuits include services/circuits used to support the President, Vice President, or activities conducted pursuant to the Foreign Intelligence Surveillance Act, 50 U.S.C. 1801–11.

[44] Only CPE associated with NSEP situations, as described *supra* para. 17, would be covered by the proposed preemption.

[45] The new or replacement CPE would not be tariffed and would not be added to the regulatory revenue requirements. Expenses incurred by ITCs in connection with making such arrangements would be recorded as "below-the-line" expenses.

[46] For example, in the *Sixth Order*, we placed restrictions on AT&T–COM and the BOCs in providing NSEP CPE to the Federal Government. *See also CPE Waiver Order* at paras. 15–17.

[47] *See supra* note 11.

[48] As noted above, this Notice excludes consideration of CPE owned by the BOCs that was not transferred to AT&T at divestiture, and non-NSEP federally tariffed CPE provided by the ITCs. *See supra* notes 5 and 16.

[49] Mobile telephone equipment was excluded from the decision to deregulate CPE in the *Second Computer Inquiry* because the staffs of this

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AT&T, we decided to require the removal of embedded mobile CPE from regulated service in accordance with the conditions and requirements established in the *First Order*. As with other embedded CPE, the valuation of AT&T's embedded mobile CPE was set at adjusted net book value, and a sale and price predictability program was established. This detariffing plan was made effective retroactive to January 1, 1984. With regard to embedded mobile CPE owned by the ITCs and the RCCs, we determined that the position of these companies in this competitive market did not require any extended transition period before removing embedded mobile CPE from regulated service, and therefore, we required detariffing of this equipment as of January 1, 1985. We decided to extend to the state commissions the flexibility to establish valuation standards and detariffing mechanisms, such as sales plans, to be applied at the time these assets owned by ITCs and RCCs were removed from regulated service.

21. Although we detariffed federally tariffed embedded mobile ITC-owned CPE in the *Second Order*, we did not specify the detariffing mechanisms or valuation methodology to be used. It is our understanding that this represents a small amount of CPE. In this Notice we seek comment on our proposal to utilize net book value plus transaction costs as the valuation mechanism for the detariffing of this equipment in a manner similar to that described herein for NSEP equipment, excluding the waiver provision.

equipment was being examined in a separate cellular mobile radio proceeding. *See Final Decision* at para. 161 n.57; *Reconsideration Order* at para. 59. In the cellular proceeding, we ordered that mobile telephone equipment provided in conjunction with cellular systems be deregulated. Cellular Communications Systems, Report and Order, 86 FCC 2d 469 (1981), *modified on reconsideration*, 89 FCC 2d 58 (1982), *modified on further reconsideration*, 90 FCC 2d 571 (1982), *appeal dismissed sub. nom. U.S. v. F.C.C.*, No 82-1526 (D.C. Cir. January 17, 1983). Subsequently, a Notice of Proposed Rulemaking in CC Docket No. 83-372 addressed the deregulation of mobile CPE used in conventional common carrier mobile radio services. Deregulation of Mobile Customer Premises Equipment, Notice of Proposed Rulemaking, 48 FR 20952 (1983)[hereinafter *Mobile Notice*]. In the Order adopted pursuant to this notice, the Commission, consistent with the procedures established in the *Second Computer Inquiry*, deregulated and detariffed mobile telephone equipment on a bifurcated basis. Deregulation of Mobile Customer Premises Equipment, Report and Order, 48 FR 54619 (1983) [hereinafter *Mobile Order*], *modified on reconsideration*, 49 FR 882 (1983). In a Further Notice of Proposed Rulemaking in this docket, 48 FR 54668 (1983), we proposed procedures for deregulating embedded mobile CPE, and the *Second Order* was adopted pursuant to that notice.

2. Other CPE

22. In order to ensure that when we terminate this proceeding all new or embedded CPE has been detariffed,[50] we are seeking comment on the deregulation of any remaining CPE we have not addressed in this or any previous notice and order.[51] We propose to deregulate any other embedeed CPE in a manner similiar to NSEP CPE, excluding the waiver provision for extending the period for deregulation.[52]

[50] In the *Third Order*, the Commission indicated that states must detariff embedded CPE no later than December 31, 1987. The Commission, however, excluded from this requirement CPE that serves the disabled. States were given the option of deciding whether or not to detariff the specialized terminal equipment needed by persons whose hearing, speech, vision or mobility is impaired. *See id.*, para. 45 n. 35. We propose herein to provide the same type of option with respect to 911 emergency CPE owned by ITCs and tariffed at the state level. The Common Carrier Bureau has previously concluded that the provision of 911 emergency service directly promotes the statutory objectives embodied in Section 1 of the Communications Act, 47 U.S.C. 151, of "promoting safety of life and property through the use of wire and radio communications." *See* Letter from the Chief, Common Carrier Bureau, to Alfred A. Green, AT&T (Dec. 30, 1982). *See* also *generally* Southwestern Bell Telephone Company, File No. ENF 84-44, Mimeo No. 1709 (released January 8, 1985). Because of the extraordinary requirements for service continuity, reliability and maintenance associated with 911 emergency calls, we propose to defer to the states the decision of whether and how to detariff new or embedded 911 emergency service. State action should not, however, unnecessarily restrain competition in the provision of 911 equipment. *See generally id.* at paras. 18-19. Our proposal governs the CPE located at 911 attendants' positions, including associated switches and processing database equipment used to implement centralized 911 dispatch services. It does not govern coventional telephone CPE that might be used to place or receive a 911 call.

[51] For example, in a recent letter to the Common Carrier Bureau, Waterway Communications Systems, Inc. once again requested that the Commission deregulate new CPE to be utilized in a maritime common carrier service licensed under Part 81 of the Commission's Rules, 47 CFR 81.913-15. Letter from Martin W. Bercovici to Chief, Common Carrier Bureau (March 1, 1985). In comments filed in response to the *Mobile Notice*, Waterway had argued that the proceeding in CC Docket No. 83-372 should include customer equipment used in conjunction with Part 81-licensed services, but the Commission rejected this position, noting that the *Mobile Notice* was "finely focused upon the sole issue of deregulating mobile telephone CPE [used in all services licensed under Part 22 of the Commission's Rules] and did not include deregulation of any other type of CPE." *Mobile Order* at para. 11. Therefore, we seek comments in the Notice regarding the deregulation of customer equipment used in conjunction with Part 81-licensed maritime common carrier services. We propose to deregulate any such new equipment as soon as possible, and embedded equipment, if any, would be detariffed pursuant to the schedule proposed herein. *See also supra* notes 5 and 16.

[52] *See supra* para. 13.

Comments should address the type of CPE, the entity responsible for the CPE, valuation standard, transfer, date of deregulation and other significant issues involved in the proposed detariffing plan.

V. Initial Analysis and Certification Under the Regulatory Flexibility Act

23. This Notice proposes rules and policies for the detariffing of CPE owned by ITCs, tariffed at the federal or state level, and used by the Federal Government for NSEP functions. The objective of this proceeding is to establish a workable and durable framework for the provision of this CPE in a manner that accommodates national defense and emergency preparedness goals as well as the policies of the *Second Computer Inquiry*. This Notice also proposes a framework for the deregulation of any remaining new or embedded CPE that is still being offered subject to tariffs. The authority for this proposed rulemaking proceeding is contained in sections 4(i), 4(j), 201-205, 213, 218, 220, and 403 of the Communications Act of 1934, 47 U.S.C. 154(i), 154(j), 201-205, 213, 218, 220, 403. We state our legal authority for taking action in this proceeding, and note that the policy objectives of the Regulatory Flexibility Act are also encompassed in sections 2(b) and 203(a) of the Communications Act of 1934, the provisions of which are intended to relieve many small telephone companies from various reporting requirements established in the Communications Act.

24. We tentatively conclude that small business entities, as defined for purposes of the Regulatory Flexibility Act, 5 U.S.C. 602-12, would be favorably affected by this proposed rulemaking. The proposals made in this Notice for NSEP and mobile CPE could affect some ITCs and RCCs. Our request for comment on other CPE may also affect AT&T-IS and the BOCs.

25. We hereby certify pursuant to 5 U.S.C. 605(b) that the Regulatory Flexibility Act is not applicable to ITCs because they are monopolies in their own service areas.[53] The Act incorporates the definition of a "small business" in section 3 of the Small Business Act as the definition of a "small entity." The latter definition excludes any business that is dominant in its field of operation. ITCs, even small ones, enjoy a dominant monopoly position in their local service area. This is the case regarding the ITCs because each of them is the dominant provider of telephone service within its service

[53] *See Notice* at para. 88.

area. Moreover, the actions we are taking in this proceeding with respect to NSEP CPE is designed such that the interests of small telephone companies are protected. We note that, even though the Regulatory Flexibility Act does not apply to ITCs, our proposal regarding the detariffing or CPE owned by those companies and tariffed at the federal or state level complies with the spirit of that statute because it will have the effect of reducing administrative burdens faced by small ITCs.

26. We tentatively conclude that our proposals will have a favorable impact on small RCCs directly affected by our actions. It is our view that any small business under the terms of the Regulatory Flexibility Act will be favorably affected because the removal of tariffs and other regulatory restrictions will enable those companies to contend with market forces, to meet the needs of their customers, to take advantage of technological developments affecting CPE, and to control and direct the operation and expansion of their CPE businesses in a more efficient manner. Moreover, as we noted in the *CPE Detariffing Order*, the Regulatory Flexibility Act was designed for the protection of small businesses that are directly subject to administrative rules rather than businesses indirectly affected by the results that any rules will produce.[54]

27. With respect to any detariffing of CPE proposed for equipment owned by AT&T–IS or the BOCs, we conclude, as we found in the *CPE Detariffing Order*, that these companies are not small businesses for the purposes of the Regulatory Flexibility Act. We also conclude that there are no federal rules which would overlap, duplicate, or conflict with the action proposed in this Notice.

VI. Comment Filings; Ordering Clauses

28. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantial disposition of the matter is to be considered in a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever occurs earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding.

29. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation, and that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally* § 1.1231 of the Commission's Rules, 47 CFR 1.1231.

30. Accordingly, it is hereby ordered, that pursuant to sections 4(i), 4(j), 201–205, 213, 218, 220, and 403 of the Communications Act of 1934, 47 U.S.C. 154(i), 154(j), 201–205, 213, 218, 220, 403, and pursuant to Section 553 of Title 5, United States Code, notice is hereby given of the proposed adoption of new or modified rules, in accordance with the discussion and delineation of issues in this Notice and on the basis of previous notices and filings in this proceeding.

31. It is further Ordered, that all interested persons may file comments on the issues and proposals discussed in this Notice not later than August 9, 1985, and that replies may be filed not later than August 27, 1985. In accordance with the provisions of § 1.419 of the Commission's Rules, 47 CFR 1.419, an original and five copies of all statements, briefs, comments, or replies shall be filed with the Federal Communications Commission, Washington, D.C. 20554, and all such filings will be available for public inspection in the Docket Reference Room at the Commission's Washington, D.C., offices. In reaching its decision, the Commission may consider information and ideas not contained in filings, provided that such information is reduced to writing and placed in the public file, and provided that the fact of the Commission's reliance on any such information or ideas is noted in the *Order*.

32. It is further Ordered, that the Secretary shall cause this Notice of Proposed Rulemaking to be published in the **Federal Register**.

33. It is further Ordered, that the Secretary shall cause a copy of this Notice of Proposed Rulemaking to be mailed to the Chief Counsel for Advocacy of the Small Business Administration.

34. It is further Ordered, that the Secretary shall cause a copy of this Notice of Proposed Rulemaking to be provided to each state regulatory commission.

Federal Communications Commission
William J. Tricarico,
Secretary.

[FR Doc. 85-17158 Filed 7-18-85; 8:45 am]
BILLING CODE 6712-01-M

[54] *Id.*

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47 CFR Part 73

[MM Docket No. 85-213; RM-4907]

FM Broadcast Station in Hanover, NH

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the allotment of Channel 277A at Hanover, New Hampshire, in response to a petition filed by Sound Citizen Corp., Inc. The allotment could provide for a second FM service for Hanover.

DATE: Comments must be filed on or before September 3, 1985, and reply comments on or before September 18, 1985.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

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

Notice of Proposed Rulemaking

In the matter of amendments of § 73.202(b), Table of Allotments, FM Broadcast Stations (Hanover, New Hampshire); MM Docket No. 85-213, Rm-4907.

Adopted: June 28, 1985.
Released: July 11, 1985.
By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is a petition for rule making filed by Sound Citizen Communications Corp., Inc. ("Sound"), requesting the substitution of FM Channel 263A for Channel 221A at Hanover, New Hampshire, and the substitution of FM Channel 230A for vacant Channel 263A at Lebanon, New

Hampshire. Sound, an applicant for Channel 221A, also requests that we permit its application to be amended to specify FM Channel 263A and to retain cut-off protection.

2. Channel 221A was assigned to Hanover, New Hampshire, in 1981 (Docket 80–278). Currently, three applications are pending at the Commission for Channel 221A.[1] The applicants state that they have been hampered by the lack of site availability. Five sites have been proposed by the applicants, all of which have been opposed on environmental grounds by local citizens group. The petitioner relates that the three applicants have signed a settlement agreement which could provide additional FM service to Hanover with a minimum of delay, provided the substitution and modification of Sound's application is granted. Valley Radio Corporation and North Star Communications Corp., Inc. have agreed to dismiss their applications, and Sound will reimburse them for the expenses incurred in the preparation of their applications. The agreement is contingent upon the Commission taking the following action: substitute Channel 263A, with no site restriction, for Channel 221A at Hanover; permit Sound to amend its application to specify the new channel with cut-off protection; and grant a construction permit to Sound on the new channel.

3. On May 15, 1985, the petitioner filed an amendment to his petition requesting Channel 277A be substituted for Channel 221A at Hanover, instead of Channel 263A. A staff study indicates that Channel 277A can be allotted to Hanover in compliance with the Commission's mileage separation requirements and would not require a substitution of channels at Lebanon, New Hampshire. Since Hanover is located within 320 kilometers (200 miles) of the common U.S.-Canadian border, Canadian concurrence is required.

4. In accordance with Commission policy we would retain Sound's cut-off protection when it amends to specify Channel 277A, since the channels are equivalent. See, *Phillipsburg, Kansas* (Docket 82–145), 48 FR 10844, published March 15, 1983.[2]

5. In view of the foregoing, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Hanover, New Hampshire	221A, 257A	257A, 277A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note. A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before September 3, 1985, and reply comments on or before September 18, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be serve on the petitioner, as follows: J. Dominic Monahan, Noel C.R. Gunther, Dow, Lohnes & Albertson, 1255—23rd Street, NW., Washington, D.C. 20037 (Counsel for the petitioner).

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a *Notice of Proposed Rulemaking* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Apppendix is attached. All submissions

[1] Sound Citizen Communications Corp., Inc. (File No. BPH-810603AH); Valley Radio Corporation (File No. BPH-811024AN); and, North Star Communications, Inc. (File No. BPH-811028A)].

[2] See, also, *Bountiful, Utah*, 48 R.R. 2d 1322 (1981).

by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accomplished by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 85-17153 Filed 7-18-85; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-210; RM-4969]

FM Broadcast Station in Corning, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allocation of Channel 254A to Corning, New York, as that community's second local FM service, at the request of WCBA Radio, Inc.

DATES: Comments must be filed on or before September 3, 1985, and reply comments on or before September 18, 1985.

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

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

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

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations, (Corning, New York); MM Docket No. 85-210, RM-4969.

Adopted: June 25, 1985.
Released: July 11, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it a petition for rule making filed by WCBA Radio, Inc. ("petitioner") requesting the allocation of Channel 254A to Corning, New York, as that community's second local FM service. Petitioner states that it will apply for the frequency, if allocated.

2. Corning is located within 320 kilometers (200 miles) of the U.S.-Canadian border. Therefore, Canadian concurrence must be obtained before the channel will be allotted.

3. We believe the public interest would be served by proposing to allot Channel 254A to Corning, as requested. Accordingly, we seek comments on the amendment of the FM Table of Allotments, for the community listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Corning, New York	291	254A, 291

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note. A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before September 3, 1985, and reply comments on or before September 18, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Mark E. Fields, Esq, Miller & Fields, P.C., P.O. Box 33003, Washington, D.C. 20033 (Counsel to petitioner).

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202 (b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a massage (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner consititutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be

considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All findings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 85-17150 Filed 7-18-85; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-209; RM-4923]

FM Broadcast Station in Naguabo, PR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allocation of channel 268A to Naguabo, Puerto Rico, as that community's first local FM service, at the request of Reyes Ruiz Rivera.

DATES: Comments must be filed on or before [September 3, 1985, and reply comments on or before September 18, 1985.

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

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

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

Notice of Proposed Rulemaking

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations, (Naguabo, Puerto Rico); MM Docket No. 85-209, RM-4923.

Adopted: June 26, 1985.
Released: July 11, 1985.

By the chief, Policy and Rules Division.

1. The Commission has before it for consideration the petition for rule making filed by Reyes Ruiz Rivera ("petitioner") requesting the allocation of Channel 268A to Naguabo, Puerto Rico, as that community's first local FM service. Petitioner states that he will apply for the channel, if allocated. The channel can be allocated to Naguabo in compliance with the Commission's mileage separation requirements, if the transmitter site is restricted to an area 12.5 kilometers (7.8 miles) east of the community, to avoid a short-spacing to the construction permit of Station WKSA-FM, Isabella, Puerto Rico.[1]

2. In view of the fact that this allotment could provide a first local FM service to Naguabo, we believe it is appropriate to invite comments on the proposal to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, with respect to the community listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Naguabo, Puerto Rico		268A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.)

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allocated.

4. Interested parties may file comments on or before September 3, 1985, and reply commends on or before September 18, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, as follows: Vincent J. Curtis, Jr., Esq. Kathleen Quinn Abernathy, Esq., Fletcher, Heald & Hildreth, 1225 Connecticut Avenue, NW., Suite 400 Washington, D.C. 20036 (Counsel to petitioner).

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules.* 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allocations. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it

[1] The staff has conducted an engineering study and confirmed petitioner's showing that a transmitter for Channel 268 can be located at least 7.8 miles east of Naguabo and provide the entire community with the required city-grade coverage. Thus, we believe it is not necessary for the petitioner to provide us with any further signal coverage showings.

is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 85-17149 Filed 7-18-85 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 85-211; RM-4740]

FM Broadcast Stations in Santa Isabel, PR and Christiansted, VI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allotment of Class B FM Channel 258 to Santa Isabel, Puerto Rico, as that community's first local service, and the substitution of Class B FM Channel 268 for Channel 258 at Christiansted, Virgin Islands, at the request of Pablo Rodriquez.

DATES: Comments must be filed on or before September 3, 1985, and reply comments on or before September 18, 1985.

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

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

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

Notice of Proposed Rule Making and Order to Show Cause

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Santa Isabel, Puerto Rico, and Christiansted, Virgin Islands); MM Docket No. 85-211, RM-4740.

Adopted: June 25, 1985.

Released: July 11, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the petition for rule making filed by Pablo Rodriquez ("petitioner") requesting the allocation of Channel 258 to Santa Isabel, Puerto Rico, as that community's first local FM service. Petitioner states that he will apply for channel, if allocated.

2. Channel 258 can be allocated to Santa Isabel, in compliance with the Commission's minimum distance separation requirements, if Channel 268 is substituted for Channel 258 at Christiansted, Virgin Islands. Channel 258 is currently licensed to Station WIVI-FM.[1] Petitioner states that he will reimburse Station WIVI-FM for the reasonable expenses incurred in changing its channel of operation. We are issuing an *Order to Show Cause* to Station WIVI-FM as it has not indicated its consent to the channel change. We also note that Station WIOB, Channel 260, San Juan, Puerto Rico, has an application pending before the Commission to move its transmitter to a site that would be shortspaced to a Channel 258 allotment at Santa Isabel (BPH-831116AK). Therefore, in accordance with Commission policy, this application will be held in abeyance pending the outcome of this proceeding. See *Andalusia, Alabama*, 49 Fed. Reg. 32201, published August 13, 1984, and cases cited therein.

3. We believe the public interest would be served by seeking comments on the proposed allotment at Santa Isabel, as it could provide the community with its first local service. Accordingly, we propose to amend the FM Table of Allotments, § 73.202(b) of the Rules, with respect to the communities listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Santa Isabel, Puerto Rico		258.
Christiansted, Virgin Islands	232A, 236, 258, 262, 291.	232A, 236, 262, 268, 291.

4. It is ordered, that pursuant to section 316(a) of the Communications Act of 1934, as amended, CDI Communications ("CDI"), licensee of Station WIVI-FM, Christiansted, Virgin Islands, shall show cause why its license should not be modified to

[1] The new allocation rules adopted in BC Docket 80-90 increased the mileage separation for second adjacent Class B channels to 74 kilometers. However, as this petition was filed piror to the effective date of these rules, the previously required 64 kilometer spacing remains in effect. *Report and Order*, 94 F.C.C. 2d 152 (1983).

specify operation on Channel 268 in lieu of Channel 258 as proposed herein.

5. Pursuant to § 1.87 of the Commission's Rules, CDI may, not later than September 3, 1985, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, CDI may, not later than September 3, 1985, file a written statement showing with particularity why its license should not be modified as proposed in the *Order to Show Cause*. In this case, the Commission may call on CDI to furnish additional information, designate the matter for hearing, or issue, without further proceedings, an Order modifying the license as provided in the *Order to Show Cause*. If the right to request a hearing is waived and no written statement is filed by the date referred to above, CDI will be deemed to have consented to the modification as proposed in the *Order to Show Cause* and a final Order will be issued by the Commission if the above-mentioned channel modification is ultimately found to be in the public interest.

6. It is further ordered, that the Secretary shall send a copy of this *Notice of Proposed Rule Making and Order to Show Cause* by certified mail, return receipt requested, to CDI Communications, Bankers Building, Suite 942, 105 W. Adams Street, Chicago, Illinois, and to Estereotempo, Inc., licensee of Station WIOB–FM, P.O. Box 43, Mayaguez, Puerto Rico 00708.

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allocated.

8. Interested parties may file comments on or before September 3, 1985, and reply comments on or before September 18, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, as follows: Pablo Rodriquez, P.O. Box AR, Juana Diaz, Puerto Rico 00605 (Petitioner).

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 F.R. 11549, published February 9, 1981.

10. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allocations. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communication Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflicts with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments: Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 85–17151 Filed 7–18–85; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 85–214; RM–4921]

FM Broadcast Station in Wartburg, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein, at the request of Sandra Lavender, proposes the allotment of Channel 255A to Wartburg, Tennessee, as that community's first FM service.

DATES: Comments must be filed on or before September 3, 1985, and reply comments on or before September 18, 1985.

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

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

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

Notice of Proposed Rule Making

In the matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations, (Wartburg, Tennessee); MM Docket No. 85–214, RM–4921.

Adopted: June 28, 1985.

Released: July 11, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration a petition for rule making filed by Sandra Lavender ("petitioner"), seeking the allocation of Channel 255A to Wartburg, Tennessee, as that community's first FM allotment. Petitioner has expressed an intention to apply for the channel, if assigned. The channel can be alloted in compliance with the Commission's minimum distance separation requirements.

2. In view of the fact that the proposed allotment could provide a first FM service to Wartburg, Tennessee, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, for the following community:

City	Channel No.	
	Present	Proposed
Wartburg, Tennessee		255A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before September 3, 1985, and reply comments on or before September 18, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant as follows: Timothy K. Brady, 1116 Weisgarber Road, P.O. Box 10566, Knoxville, Tennessee 37939–0566, (Counsel to petitioner).

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the AM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be

available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 85-17152 Filed 7-18-85; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-212; RM-4925]

FM Broadcast Station in Paris, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allotment of Channel 230C2 to Paris, Texas, as that community's third FM service, at the request of The Gene Sudduth Co., Inc.

DATES: Comments must be filed on or before September 3, 1985, and reply comments on or before September 18, 1985.

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

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

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations, (Paris, Texas); MM Docket No. 85-212, RM-4925.

Adopted: June 26, 1985.
Released: July 11, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration a petition for rule making filed by The Gene Sudduth Co., Inc., ("petitioner") requesting the allocation of Channel 230C2 to Paris, Texas, as that community's third FM service. Petitioner has expressed an intention to apply for the channel.

2. The channel can be allotted consistent with the Commission's minimum distance separation requirements provided a site restriction of 17.2 kilometers (10.7 miles) north of Paris is imposed to avoid short spacings to Station KMBQ-FM, Channel 229, at Shreveport, Louisiana and Station KESS-FM, Channel 231 at Fort Worth, Texas.

3. In view of the fact that the proposed allotment could provide a third FM service to Paris, Texas, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, for the following community:

City	Channel No.	
	Present	Proposed
Paris, Texas	257A, 280A	230C2, 257A, and 280A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before September 3, 1985, and reply comments on or before September 18, 1985 and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the counsel to the petitioner, as follows: Thomas J. Keller, Verner, Liipfert, Bernhard, McPherson and Hand, 1660 L Street NW., Suite 1000, Washington, D.C. 20036.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes as *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is alloted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

(4) *Comments and Reply Comments: Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice*

of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be srved on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 85-17154 Filed 7-18-85; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 97

[PR Docket No. 85-215; RM-4885; FCC 85-341]

Proposed Amendment of the Amateur Radio Service Rules To Allow Auxiliary Operation on All Amateur Frequencies, Except 431-433 MHz and 435-438 MHz

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Amateur Radio Service Rules to allow auxiliary operation on all amateur frequencies, except 431-433 MHz and 435-438 MHz. The proposed rule is necessary so that amateur radio operators will have more flexibility in operating their stations. The effect of the proposed rule is simplification in the operation of amateur repeaters and remote controlled stations.

DATES: Comments are due by September 24, 1985 and replies by October 25, 1985.

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

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, D.C. 20554, (202) 632-4964.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Amateur radio, Radio, Repeaters.

Notice of Proposed Rule Making

In the matter of amendment of the amateur radio service rules to allow auxiliary operation on all amateur frequencies, except 431-433 MHz and 435-438 MHz, PR Docket No. 85-215, RM-4885.

Adopted: July 5, 1985.
Released: July 10, 1985.
By the Commission.

1. Notice of Proposed Rule Making in the above-captioned matter is hereby given.

2. On December 28, 1984, the Quarter Century Wireless Association (QCWA) filed a petition (RM-4885) requesting that the Amateur Rules be amended to permit auxiliary links to be used by amateur operators on all amateur frequencies. The present rules permit amateur operators to engage in auxiliary operation only on frequencies above 220.5 MHz (except 431-433 MHz and 435-438 MHz). Auxiliary operation is defined in Section 97.3(1) of the Amateur Rules as radio communication for remotely controlling other amateur radio stations, for automatically relaying the radio signals of other amateur radio stations in a system of stations, or for intercommunicating with other amateur radio stations in a system of amateur radio stations. No comments concerning the petition were filed.

3. In support of its petition, the QCWA states that the technological state of the art has made restrictions on auxiliary operation unnecessary. According to petitioner, allowing auxiliary links to be used on all amateur frequencies would provide the Amateur Radio Service with a variety of options such as in-band control including the use of tertiary offsets; cross polarization of antennas; new cross-band modes of operation; and independent sideband for simultaneous control and repeater operation referenced to the same suppressed carrier frequency). Petitioner believes that the general use of auxiliary links would provide more flexibility for amateurs operating remotely-controlled stations and greatly simplify the operation of repeaters and remotely-controlled stations.

4. The rationale for expanding the use of auxiliary links in the Amateur Radio Service is consistent with our proposal in PR Docket 85-105 to broaden the uses of automatic control. In that proceeding [1] we said:

> . . . we believe that now may be the appropriate time to expand automatic control to all amateur operations, prohibiting its use only in those situations where there is a justifiable reason why automatic control should not be allowed.

It appears that this approach is as valid for "auxiliary links" as it is for "automatic control". For these reasons, we propose to permit auxiliary links on all amateur frequencies, except on frequencies between 431-433 MHz and 435-438 MHz where we would continue to protect such activities as weak-signal communications, moonbounce experimentation and satellite transmissions. As in Docket 85-105, we invite amateur radio operators in general, and amateurs experienced in auxiliary operation in particular, to submit comments calling to our attention any problems that may arise by expanding the use of auxiliary links.

5. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation, addressing matters not fully covered in any previously-filed comments in the proceeding, must prepare a written summary of that presentation; on the day of the oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's Rules, 47 CFR 1.1231. A summary of the Commission's procedures governing *ex parte* contacts in informal rule makings is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554, (202) 632-7000.

6. Authority for issuance of this Notice is contained in sections 4(i) and 303 (g)

[1] See Notice of Proposed Rule Making in PR Docket No. 85-105, adopted April 5, 1985; FCC 85-168; 50 FR 15196, April 17, 1985.

and (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303 (g) and (r). Pursuant to applicable procedures set forth in § 1.415, 47 CFR 1.415, of the Commission's Rules, interested persons may file comments on or before September 24, 1985, and reply comments on or before October 25, 1985. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided further that the fact of the Commission's reliance on such information is noted in the Report and Order.

7. In accordance with § 1.419 of the Commission's Rules, 47 CFR 1.419, formal participants must file an original and five copies of their comments and other materials. Participants who wish each Commissioner to have a personal copy of their comments should file an original and eleven copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. Each set of comments must state on its face the proceeding to which it relates (PR Docket Number) and should be submitted to: The Secretary, Federal Communications Commission, Washington, D.C. 20554. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

8. In accordance with section 605 of the Regulatory Flexibility Act of 1980 (5 U.S.C. 605), the Commission certifies that these rules would not, if promulgated, have a significant economic impact on a substantial number of small entities because these entities may not use the Amateur Radio Service for commercial radiocommunication (see 47 CFR 97.3(b)). In addition, the proposed rules allowing auxiliary operation on additional amateur frequencies would not significantly impact manufacturers of amateur radio equipment since auxiliary operation on the additional frequencies proposed herein would be optional rather than mandatory.

9. In view of the foregoing, rule making petition RM–4885 filed by the QCWA is granted insofar as we propose to allow auxiliary operation on additional amateur frequencies and IS DENIED insofar as the restrictions prohibiting auxiliary operation on frequencies between 431–433 MHz and 435–438 MHz are retained.

10. It is ordered, That the Secretary shall cause a copy of this Notice to be served upon the Chief Counsel for Advocacy of the Small Business Administration and the Secretary shall also cause a copy of this Notice to be published in the **Federal Register.**

11. For information concerning this proceeding, contact Maurice J. DePont, Federal Communications Commission, Private Radio Bureau, Washington, D.C. 20554, (202) 632–4964.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations would be amended, as follows:

1. The authority citation for Part 97 would continue to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

2. Section 97.86(d) would be amended to read:

§ 97.86 Auxiliary operation.

* * * * *

(d) All amateur frequency bands, except 431–433 MHz and 435–438 MHz, are available for auxiliary operation.

[FR Doc. 85–17157 Filed 7–18–85; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 50, No. 139
Friday, July 19, 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.

COMMISSION ON CIVIL RIGHTS

Maine Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Maine Advisory Committee to the Commission will convene at 7:00 p.m. and adjourn at 9:00 p.m. on August 13, 1985, at the Hubbard Hall, Government Department Conference Room, Bowdoin College, Brunswick, Maine. The purpose of the meeting is to provide an orientation for new members of the recently rechartered Committee.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Richard Morgan of Jacob Schlitt, Director of the New England Regional Office at (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 16, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–17196 Filed 7–18–85; 8:45 am]

BILLING CODE 6335–01–M

Vermont Advisory Committee; Agenda for Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Vermont Advisory Committee to the Commission will convene at 7:00 p.m. and adjourn at 9:00 p.m. on August 12, 1985, at the University of Vermont, Williams Science Hall, Room 511, Burlington, Vermont. The purpose of the meeting is to provide an orientation for new members of the recently rechartered Committee.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Kenneth Holland or Jacob Schlitt, Director of the New England Regional Office at (617 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, DC, July 16, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–17197 Filed 7–18–85; 8:45 am]

BILLING CODE 6335–01–M

Wyoming Advisory Committee; Agenda for Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wyoming Advisory Committee to the Commission will convene at 11:00 a.m. and adjourn at 1:00 p.m. on August 3, 1985, at the Downtowner Motel, I–25 and Center Street, the Champagne Room, Casper, Wyoming. The purpose of the meeting is to plan future projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Donald Tolin or William Muldrow, director of the Rocky Mountain Regional Office at (303) 844–2211.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 12, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–17198 Filed 7–18–85; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Automated Manufacturing Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Automated Manufacturing Equipment Technical Advisory Committee will be held August 7, 1985, at 9:30 a.m., Herbert C. Hoover Building, Room 4830, 14th Street and Constitution Avenue NW., Washington, D.C.

The Committee advises the Office of Export Administration with respect to technical questions which affect the level of export control applicable to automated manufacturing equipment or technology.

Agenda

1. Introduction of members and guests.
2. Opening remarks by the Chairman.
3. Presentation of papers or comments by the public.
4. Programmable Controllers.
5. Robotics.
6. Automatically Controlled Industrial Systems.
7. Sensory Controls.
8. Technology notes to CCL.
9. Foreign Availability.
10. 1985 annual report.

Executive Session

11. Discussions of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 6, 1984, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: (202) 377–4217. For further information or copies of the minutes contact Jess M. Batton, (202) 377–2583.

Dated: July 16, 1985.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 85–17210 Filed 7–18–85; 8:45 am]

BILLING CODE 3510–DT–M

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes; University of Illinois 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.

Docket No. 85–100. Applicant: University of Illinois, Urbana-Champaign Campus, Urbana, IL 61801. Instrument: Electron Microscope, Model JEM–4000EX with Accessories. Manufacturer: JEOL, Japan. Intended use: See notice 50 FR 9476. Application received by Commissioner of Customs: February 13, 1985.

Docket No. 85–102. Applicant: Atlanta University, Atlanta, GA 30314. Instrument: Electron Microscope, Model H–600–2 with Accessories. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use: See notice 50 FR 11233. Instrument Ordered: August 23, 1984.

Docket No. 85–105. Applicant: DHHS/PHS/CDC/NIOSH, Cincinnati, OH 45226. Instrument: Electron Microscope, Model EM 420 and Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use: See notice at 50 FR 11233. Instrument ordered: January 29, 1985.

Docket No. 85–107. Applicant: Texas A&M University, College Station, TX 77843. Instrument: Electron Microscope, Model EM 10CA with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 50 FR 11746. Instrument ordered: January 11, 1985.

Docket No. 85–110. Applicant: Tulane University School of Medicine, New Orleans, LA 70112. Instrument: Electron Microscope, Model JEM–100CXII with Accessories. Manufacturer: JEOL, Co., Ltd., Japan. Intended use: See notice at 50 FR 13059. Instrument ordered: December 6, 1984.

Docket No. 85–111. Applicant: University of Maryland, Baltimore, MD 21201. Instrument: Electron Microscope, Model JEM–1200EX with Accessories. Manufacturer: JEOL, Ltd., Japan. Intended use: See notice at 50 FR 13059. Instrument ordered: October 2, 1984.

Docket No. 85–113. Applicant: Rutgers Medical School, Piscataway, NJ 08854. Instrument: Electron Microscope, Model EM 420T with Accessories. Manufacturer: Philips Gloeilampenfabrieken, The Netherlands. Intended use: See notice at 50 FR 13059. Application Received by Commissioner of Customs: March 11, 1985.

Docket No. 85–121. Applicant: University of Nebraska Medical Center, Omaha, NE 68105. Instrument: Electron Microscope, Model EM 410LS with Accessories. Manufacturer: Philips, The Netherlands. Intended use: See notice at 50 FR 13844. Application received by Commissioner of Customs: March 14, 1985.

Docket No. 85–122. Applicant: David Taylor Naval Ship Research and Development Center, Annapolis, MD 21402–1198. Instrument: Electron Microscope, Model EM 420. Manufacturer: N.V. Philips, The Netherlands. Intended use: See notice at 50 FR 15596. Instrument ordered: January 25, 1985.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or of any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

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

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85–17211 Filed 7–18–85; 8:45 am]

BILLING CODE 3510–05–M

[C–433–502]

Extension of the Deadline for Final Countervailing Duty Determination; Oil Country Tubular Goods (OCTG) From Austria

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: Based upon the request of the United States Steel Corporation, the Department of Commerce is extending the deadline for its final determination in the countervailing duty investigation of oil country tubular goods (OCTG) from Austria to correspond to the date of the final determination in the antidumping investigation of the same product pursuant to section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984 (Pub.L. 98–573).

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Loc Nguyen or Mary Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377–0167 or 377–3464.

SUPPLEMENTARY INFORMATION:

Case Histories

On February 28, 1985, we received antidumping and countervailing duty petitions filed by the United States Steel Corporation against oil country tubular goods from Austria.

In compliance with the filing requirements of § 353.36 of our regulations (19 CFR 353.36), the antidumping petition alleged that imports of oil country tubular goods from Austria are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the countervailing duty petition alleged that manufacturers, producers, or exporters in Austria of oil country tubular goods directly or indirectly receive benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petitions contained sufficient grounds on which to initiate

antidumping and countervailing duty investigations, and on March 20, 1985, we initiated such investigations (50 FR 12069, 50 FR 12065). On May 24, 1985, we issued an affirmative preliminary determination in the countervailing duty investigation (50 FR 23334). The preliminary determination in the antidumping investigation will be made on or before August 7, 1985.

On June 17, 1985, the United States Steel Corporation filed a request for extension of the deadline date for the final determination in the countervailing duty investigation to correspond with the date of the final determination in the antidumping investigation.

Section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984, provides that when a countervailing duty investigation is "initiated simultaneously with an [antidumping] investigation . . . which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend the date of the final determination [in the countervailing duty investigation] to the date of the final determination" in the antidumping investigation (19 U.S.C. 1671d(a)(1)). Pursuant to this provision, the Department is granting an extension of the deadline for the final determination in the countervaiing duty investigation of oil country tubular goods from Austria to October 21, 1985, the current deadline for the final determination in the antidumping investigation.

Dated: July 2, 1985.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-17256 Filed 7-18-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-503]

64K Dynamic Random Access Memory Components (64K DRAMS) From Japan; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether 64K dynamic random access memory components (64K (DRAMs) from Japan are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before August 8, 1985, and we will make ours on or before December 2, 1985.

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Patrick J. O'Mara; Office of Investigations, Import Administration International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1779.

SUPPLEMENTARY INFORMATION: .

The Petition

On June 24, 1985, we received a petition in proper form filed by Micron Technology, Inc. (Micron). In compliance wth the filling requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material injury, to a United States industry.

The petitioner based the United States price upon bid and price quotations made to an independent third party by authorized U.S. distributors and authorized manufacturer representatives of Japanese companies.

Petitioner based foreign market value upon local distributor prices, reports appearing in the Japanese press, and local market reports translated and forwarded by the office of Micron Technology, Inc. in Japan. Petitioner also alleged that these home market sales of 64K DRAMs were made at prices below the cost of production.

Petitioner constructed a value for Japanese 64K DRAMs based on both a 1982-83 Integrated Circuit Engineering Corporation ("ICE") report, as adjusted to take into account progress in the industry, and petitioner's actual costs since the ICE report and a 1983 report by the Semiconductor Industry Association which concluded that Japanese costs of production do not vary significantly form those of U.S. manufacturers. Adjustments were made as necessary to account for general expenses, interest expense, and the statutory minimum for profits.

Based on the comparison of United States price and foreign market value, petitioner alleges an average dumping margin of 94 percent.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and further, whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on 64K DRAMs from Japan and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether 64K DRAMs from Japan are being, or are likely to be, sold in the United States at less than fair value. We are also investigating the allegation of sales below the cost of production. If our investigation proceeds normally, we will make our preliminary determination by December 2, 1985.

Scope of Investigation

The merchandise covered by this investigation are all 65,536 bit dynamic random access memory components of the N-channel metal oxide semiconductor type (64K DRAMs) from Japan. This merchandise is currently provided for in item 687.7441 of the Tariff Schedules of the United States, Annotated.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by August 8, 1985, whether there is a reasonable indication that imports of 64K DRAMs from Japan are causing material injury, or threaten material injury, to a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Dated: July 15, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-17258 Filed 7-18-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-351-502]

Fuel Ethanol From Brazil; Postponement of Preliminary Antidumping Duty Determination

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: The preliminary antidumping duty determination involving fuel ethanol from Brazil is being postponed until not later than September 4, 1985.

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Ken Shimabukuro or David Johnston Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 377-5332 or 377-2239.

SUPPLEMENTARY INFORMATION: On March 18, 1985, we announced the initiation of an antidumping duty investigation to determine whether fuel ethanol from Brazil is being, or is likely to be, sold in the United States at less than fair value (50 FR 11748). The notice stated that we would issue a preliminary determination by August 5, 1985.

As detailed in that notice, the petition alleged that imports from Brazil of fuel ethanol are being, or are likely to be, sold in the United States at less than fair value.

On July 3, 1985, counsel for petitioners, the Ad Hoc Committee of Domestic Fuel Ethanol Producers and the Oil Chemical and Atomic Workers International Union, requested that the Department extend the period for the preliminary determination until September 4, 1985. Accordingly, the period for determination in the case is hereby extended. We intend to issue a preliminary determination not later than September 4, 1985.

This notice is published pursuant to section 733(c)(2) of the Act.

Dated: July 12, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-17261 Filed 7-18-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-485-006]

Termination of Antidumping Duty Investigation; Carbon Steel Plate From Romania

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: In letters dated June 19 and 25, 1985, petitioners withdrew their antidumping petitions, filed on January 11, 1982, on carbon steel plate from Romania. Based on the withdrawals, we are terminating the investigation.

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Raymond Busen, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-2830.

SUPPLEMENTARY INFORMATION:

Case History

On January 11, 1982, we received petitions from United States Steel Corporation, and from Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel Inc., National Steel Corporation, and Cyclops Corporation (the "Five"), on behalf of the U.S. industry producing certain steel products.

After reviewing the petitions, we determined that they contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the International Trade Commission (ITC) of our action and initiated the investigation on February 1, 1982 (47 FR 5752). On February 25, 1982, the ITC found that there was a reasonable indication that imports of carbon steel plate from Romania materially injure, or threaten material injury to, a United States industry. On August 16, 1982, we made a preliminary determination that carbon steel plate from Romania was being, or was likely to be, sold in the United States at less than fair value (47 FR 35646).

On December 28, 1982, on the basis of an agreement with the Romanian exporter to revise its prices to eliminate sales of the merchandise to the U.S. at less than fair value, the Department suspended the antidumping duty investigation (48 FR 317). On March 6, 1985, the Department cancelled the suspension agreement and resumed the antidumping duty investigation because the Department concluded that the suspension agreement was no longer in the public interest and no longer met the requirements of section 734(d)(1)(A) of the Tariff Act of 1930, as amended. 19 U.S.C. 1673c(d)(1)(A) (50 FR 9812).

Scope of Investigation

The product under investigation is hot-rolled carbon steel plate, currently classifiable under items 607.6620, 607.6625, 607.9400, 608.0710, and 608.1100 of the Tariff Schedules of the United States Annotated (TSUSA).

Withdrawal of Petitions

In letters dated June 19, 1985 and June 25, 1985 from United States Steel Corporation and the Five, respectively, petitioners notified us that they were withdrawing their January 11, 1982 petitions, and requested that the investigation be terminated. Under section 734(a) of the Tariff Act of 1930, as amended by section 604 of the Trade and Tariff Act of 1984 (the Act), upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation and after assessing the public interest as required by statute. These withdrawals are based on a bilateral arrangement with the Government of Romania to limit the volume of imports of this product. We have taken into account the public interest factors set out in section 734(a) of the Act and consulted with potentially affected producers, workers, consuming industries, and with the ITC. On the basis of our assessment of the public interest factors and our consultations, we have determined that termination would be in the public interest.

We have notified all parties to the investigation and the ITC of petitioners' withdrawals and our intention to terminate.

For these reasons, we are terminating our investigation.

Dated: July 15, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-17260 Filed 7-18-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-485-401]

Termination of Antidumping Duty Investigations; Certain Carbon Steel Products From Romania

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On June 20, 1985, the United States Steel Corporation withdrew its antidumping duty petition, filed on December 19, 1984, on certain carbon steel products from Romania. Based on the withdrawal, we are terminating the investigations.

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: David Johnston, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–2239.

SUPPLEMENTARY INFORMATION:

Case History

On December 19, 1984, we received a petition from the United States Steel Corporation filed on behalf of the U.S. industry producing certain carbon steel products.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate antidumping duty investigations. We notified the International Trade Commission (ITC) of our action and initiated the investigations on January 8, 1985 (50 FR 1916). On February 4, 1985, the ITC found that there was a reasonable indication that imports from Romania materially injure, or threaten material injury to, a United States industry. On May 28, 1985, we made a preliminary determination that certain carbon steel products from Romania were being, or were likely to be, sold at less than fair value (50 FR 23342). On June 20, 1985, the United States Steel Corporation withdrew its antidumping duty petition.

Scope of the Investigations

The products under investigation are cold-rolled carbon steel flat-rolled products and hot-rolled carbon steel flat-rolled products.

The term "cold-rolled carbon steel flat-rolled products" covers cold-rolled carbon steel flat-rolled products, whether or not corrugated or crimped; whether or not painted or varnished and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; over 12 inches in width, and 0.1875 inch or more in thickness; as currently provided for in item 607.8320 of the *Tariff Schedules of the United States Annotated* (TSUSA); or over 12 inches in width and under 0.1875 inch in thickness, whether or not in coils; as currently provided for in items 607.8350, 607.8355 or 607.8360 of the *TSUSA*.

The term "hot-rolled carbon steel flat-rolled products" covers hot-rolled carbon steel flat-rolled products, whether or not corrugated or crimped; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; 0.1875 inch or more in thickness and over 8 inches in width; pickled, as currently provided for in item 607.8320 of the *TSUSA;* or under 0.1875 inch in thickness and over 12 inches in width, whether or not pickled, whether or not in coils; as currently provided for in items 607.7610, 607.6720 or 607.6730, 607.6740, or 607.8342 of the TSUSA.

Withdrawal of Petition

By letter dated on June 20, 1985, petitioner notified us that it was withdrawing its petition, and requested that the investigations be terminated. Under section 734(a) of the Tariff Act of 1930 (the Act), as amended by section 604 of the Trade and Tariff Act of 1984 (19 U.S.C. 1673(c), upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation and after assessing the public interest as required by the Act. This withdrawal is based on bilateral arrangements with the Government of Romania to limit the volume of imports of these products. We have assessed the public interest factors set out in section 734(a)(2) of the Act, and consulted with potentially affected producers, workers, and consuming industries and with the ITC. On the basis of our assessment of the public interest factors and our consultations, we have determined that termination would be in the public interest.

We have notified all parties to the investigations and the ITC of petitioner's withdrawal and our intention to terminate.

For these reasons, we are terminating our investigations.

Dated: July 15, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-17259 Filed 7-18-85; 8:45 am]

BILLING CODE 3510-05-DS

[A-307-402]

Termination of Antidumping Duty Investigations; Certain Carbon Steel Products From Venezuela

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On June 26, 1985, United States Steel Corporation withdrew its antidumping petition, filed on December 19, 1984, on certain carbon steel products from Venezuela. Based on the withdrawal, we are terminating these investigations.

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Michael Ready, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–2613.

SUPPLEMENTARY INFORMATION:

Case History

On December 19, 1984, we received a petition from the United States Steel Corporation on behalf of the U.S. industries producing hot-rolled carbon steel flat-rolled products (hot-rolled sheet), cold-rolled carbon steel flat-rolled products (cold-rolled sheet), carbon steel plate, and galvanized carbon steel sheet.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate antidumping duty investigations. We notified the International Trade Commission (ITC) of our action and initiated these investigations on January 8, 1985 (50 FR 1915). On February 4, 1985, the ITC found that there was a reasonable indication that imports of hot-rolled sheet, cold-rolled sheet, and carbon steel plate (hereafter referred to as certain carbon steel products) materially injure, or threaten material injury to, a U.S. industry. The ITC also determined that there is no reasonable indication that imports of galvanized carbon steel sheet materially injure or threaten material injury to, a U.S. industry. Consequently, we terminated our investigation with respect to galvanized carbon steel sheet.

On May 28, 1985, we made preliminary determinations that certain carbon steel products from Venezuela were being, or were likely to be, sold in the United States at less than fair value (50 FR 23345).

Scope of Investigations

The products under investigation are certain carbon steel products, which are fully described below:

1. The term *"hot-rolled carbon steel flat-rolled products"* covers hot-rolled carbon steel products, whether or not corrugated or crimped; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; 0.1875

inch or more in thickness and over 8 inches in width; pickled and as currently provided for in item 607.8320 of the *TSUSA*; and not pickled and in coils; as currently provided in items 607.6610 or under 0.1875 inch in thickness and over 12 inches in width, whether or not pickled, whether or not in coils, as currently provided for in items 607.6710, 607.6720, 607.6730, 607.6740, or 607.8342 of the *TSUSA*.

2. The term *"cold-rolled carbon steel flat-rolled products"* covers cold-rolled carbon steel products, whether or not corrugated or crimped; whether or not painted or varnished and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; over 12 inches in width, and 0.1875 or more in thickness; as currently provided for in item 607.8320 of the *TSUSA*; or over 12 inches in width and under 0.1875 inch in thickness, whether or not in coils; as currently provided for in items 607.8350, 607.8355, 607.8360 of the *TSUSA*.

3. The term *"carbon steel plate"* covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in items 607.6620, and 607.6625 of the *Tariff Schedules of the United States Annotated* (TSUSA). Semifinished products of solid rectangular cross section with width at least four times the thickness and processed only through primary mill hot-rolling are not included.

Withdrawal of Petition

On June 26, 1985, petitioner notified us that it is withdrawing its petition, and requested that the investigations be terminated. This withdrawal is based on an arrangement with the Government of Venezuela to limit the volume of imports of these products. Under section 734(a) of the Tariff Act of 1930, as amended by section 604 of the Trade and Tariff Act of 1984 (the Act), upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation. We have assessed the public interest factors set out in section 734(a) of the Act and consulted with potentially affected producers, workers, and consuming interests and with the ITC. On the basis of our assessment of the public interest factors and our consultations with affected parties, we have determined that termination would be in the public interest.

We have notified all parties to the investigations and the ITC of petitioner's withdrawal and our intention to terminate.

For these reasons, we are terminating our investigations.

Dated: July 12, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-17257 Filed 7-18-85; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. C580-504]

Preliminary Affirmative Countervailing Duty Determination; Offshore Platform Jackets and Piles From Korea

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Korea of offshore platform jackets and piles. The estimated net subsidy is 9.58 percent *ad valorem* for Daewoo Shipbuilding and Heavy Machinery, Ltd./Daewoo Corporation and 4.14 percent *ad valorem* for Hyundai Heavy Industries Co., Ltd/Hyundai Corporation.

We have notified the U.S. International Trade Commission (ITC) of our determination. We are directing the U.S. Customs Service to suspend liquidation of all entries of offshore platform jackets and piles from Korea that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit or bond on entries of these products in the amount equal to the estimated net subsidy.

If this investigation proceeds normally, we will make our final determination by September 30, 1985.

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Mary Martin or Rick Herring, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-3464 or 377-0187.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Korea of offshore platform jackets and piles. For purposes of this investigation, the following programs are found to confer subsidies:

- Export Credit Financing from the Korea Export-Import Bank;
- Accelerated Depreciation under Article 25 of the "Act Concerning the Regulation of Tax Reduction and Exemption"; and
- Tax Incentives for Exporters under Articles 22, 23, and 24 of the "Act Concerning the Regulation of Tax Reduction and Exemption."

We determine the estimated net subsidy to be 9.58 percent *ad valorem* for Daewoo Shipbuilding and Heavy Machinery Ltd./Daewoo Corporation and 4.14 percent *ad valorem* for Hyundai Heavy Industries Co., Ltd./Hyundai Corporation.

Case History

On April 19, 1985, we received a petition in proper form from the Kaiser Steel Corporation and the International Brotherhood of Boilermakers, Ironship Builders, Blacksmiths, Forgers and Helpers, filed on behalf of the U.S. industry producing offshore platform jackets and piles. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleged that manufacturers, producers, or exporters in Korea of offshore platform jackets and piles directly or indirectly receive benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on May 9, 1985, we initiated this investigation (50 FR 20253). We stated that we expected to issue a preliminary determination by July 15, 1985.

Since Korea is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the ITC of our initiation. On June 3, 1985, the ITC determined that there is a reasonable indication that these imports materially injure, or threaten material injury to, a U.S. industry.

We presented a questionnaire concerning the allegations to the government of Korea in Washington, D.C. on May 20, 1985.

On June 24, 1985, we received responses to our questionnaire from the government of Korea, Daewoo Shipbuilding and Heavy Machinery Ltd., and Daewoo Corporation (the manufacturer and exporter of Platform Harvest), and Hyundai Heavy Industries Co. Ltd., and Hyundai Corporation (the manufacturer and exporter of Platform Julius).

The Department has received letters and comments from several U.S. importers of platform jackets and piles from Korea claiming that the petition was not filed on behalf of the U.S. industry producing platform jackets and piles. However, we have not received any opposition from any members of the domestic industry.

Scope of Investigation

The products covered by this investigation are steel jackets (templates) and piles for offshore platforms, subassemblies thereof that do not require removal from a transportation vessel and further U.S. onshore assembly, and appurtenances attached to the jackets and piles. These platforms are also known as conventional fixed platforms and are permanently affixed by the piles to the seabed. The platforms are not mobile. These jackets and piles are currently provided for in item 652.97 of the 1985 *Tariff Schedules of the United States* (TSUS).

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984, issue of the Federal Register (49 FR 18006).

Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

During the period 1983 through the first quarter of 1985, two Korean firms were awarded contracts for construction of platform jackets and piles for the United States, Daewoo Shipbuilding and Heavy Industries and Hyundai Heavy Industries. The two platforms are Platform Harvest and Platform Julius. Very recently we have learned that a third contract was awarded to Daewoo in April, 1985 for Platform Esther.

For purposes of this preliminary determination, we investigated only the manufacturers of these platforms and we calculated the subsidy conferred upon the two platforms, Harvest and Julius. This is a departure from our normal practice, where we choose for purposes of the investigation an historical period and calculate subsidies bestowed on the total output or exports during that period.

In this case, the normal practice does not apply. Once a contract for a platform is awarded, it can take fourteen months to construct and then, after it is entered into the United States, payment terms are extended for up to ten years. Also, as noted above, there have been only three contracts awarded to Korean firms in over two years. Therefore, were we to choose 1984, for example, as the period for which we are measuring subsidization, there would be no exports of the subject merchandise.

Because of the lack of a period which is representative of total subsidies bestowed on total exports of the subject merchandise and because of the small number of contracts and their dollar value, we have calculated the subsidy conferred on each of the two platforms, Harvest and Julius. We have chosen these particular sales because they constitute entries of the merchandise that are potentially liable for countervailable duties. We would have included Platform Esther, but information on this contract was received too late.

Based upon our analysis of the petition, information submitted by petitioners, and the responses to our questionnaires submitted by the government of Korea, Daewoo Shipbuilding and Heavy Machinery, Daewoo Corporation, Hyundai Heavy Industries, and Hyundai Corporation, we preliminarily determine the following:

I. Programs Determined To Confer Subsidies

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in Korea of offshore platform jackets and piles under the following programs:

A. *Export Credit Financing from the Export-Import Bank of Korea.* Petitioners allege that the U.S. purchasers of the subject merchandise receive preferential buyer's credit from the Export-Import Bank of Korea.

The Export-Import Bank of Korea (KXMB) was inaugurated on July 1, 1976, under the authority of the Export-Import Bank of Korea Act (Law No. 2122; July 28, 1969). The purpose of this Act is to promote the sound development of the national economy and economic cooperation with foreign countries by extending financing for export and import transactions, overseas investments and development of natural resources abroad.

The KXMB has provided two types of export credit: (1) a pre-delivery loan to cover the period of construction of the project, and (2) a deferred export credit in the form of a post-delivery loan for ten years including a two-year grace period. To be eligible for deferred export credit, the following criteria must be met by the exporter: (1) The contract on the sale must require a minimum 15 percent cash payment by the foreign purchaser; (2) the requested financing cannot exceed a 10-year period for loans greater than U.S. $1,000,000; and (3) the requested financing cannot be at interest rates below the KXMB's lending rates.

For pre-delivery financing, interest is pre-paid quarterly beginning at the time each principal installment is drawn down and extending throughout the life of the loan. Interest on the post-delivery loan is paid semi-annually on a retroactive basis. The principal of the pre-delivery loan is repaid in one lump sum at the time of acceptance of delivery. Post-delivery financing is repaid semi-annually over an eight-year period beginning two years after disbursement of the loan. The KXMB requires that the borrower obtain Medium- and Long-Term Credit Risk Insurance for post-delivery financing. For our determination on the Export Credit Insurance program, see the section "Program Determination Not to Confer a Subsidy."

Daewoo Corporation and Hyundai Corporation have both received pre- and post-delivery financing for Platform Julius and Platform Harvest, respectively, from the KXMB. The financing is in the form of seller's credits, rather than buyer's credits as alleged by petitioners; i.e., the lending is direct to the manufacturer/exporter. Daewoo received all of its financing at a fixed interest rate of 9 percent, while Hyyundai received its pre-delivery loan at a fixed interest rate of 9 percent and

its post-delivery loan at a fixed interest rate of 10 percent. These are dollar-denominated loans.

In order to determine if the KXMB financing is preferential, we sought the cost to Daewoo and Hyundai of comparable alternative fixed-interest dollar-denominated commercial financing. Since these are long-term loans, we first reviewed the credit histories of both of the companies. We found that both have received commercial long-term dollar-denominated loans, but all were at variable interest rates. We also learned that there are no commercial fixed-rate dollar loans available in Korea. However, we discovered that there is a well-established international market available to companies that wish to swap variable-rate dollar obligations for fixed-rate dollar obligations, and that Daewoo has participated in this market. Based on the fact that one of the producers under investigation has used the swap market on a number of occasions, and on a careful review of information we obtained regarding all alternative sources of long-term fixed-interest dollar-denominated commercial financing, we preliminarily determine that, absent the availability of the KXMB financing, both Daewoo and Hyundai would have most likely obtained long-term fixed-interest dollar-denominated commercial financing for the projects under investigation in the swap market. Furthermore, based on company-specific information regarding the terms Hyundai received on commercial long-term variable-rate dollar loans actually used in the financing of Platform Julius, and technical analysis of the structure of swap arrangements during the relevant time periods, we were able to determine the fixed-interest financing costs which each company would have had to bear after a swap. A comparison of these rates with those of the companies' KXMB loans indicates that, in the case of both loans to both companies, the KXMB export financing rates are less. Because this financing is contingent upon export and the rates of interest charged are less than that on comparable commercial financing, we preliminarily determine that this program confers a countervailable benefit.

Under our normal methodology for allocating the benefits of long-term loans, benefits are deemed to begin accruing at the time of the first cashflow effect and continue through the life of the loan. Therefore, if we were measuring subsidization in calendar year 1984, for example, and the first interest payment would not be made until 1985, then we would find no benefits conferred upon exports of the subject merchandise in 1984. Instead, the benefits of the loan would be allocated to exports in 1985 and each year thereafter for as long as the loan was outstanding.

The use of our standard long-term loan methodology is not appropriate in this case because of the nature of the platform jackets and piles market. In the first place, the loans in question can be unquestionably tied to specific plaforms. Secondly, allocating the benefits over the life of the loan would mean we might not capture, and countervail, all the benefits conferred upon these exports. This is because Platform Harvest and Platform Julius would be imported into the United States and their entries liquidated by U.S. Customs ten years before the last interest payments would be made on the Export-Import Bank loans; i.e., ten years before the last countervailable benefits would be conferred upon the products.

In order to capture the full benefit conferred by each of the KXMB loans, we measured the difference in the present value of the repayment stream on the KXMB loans and the repayment stream on swap market financing. This amount was divided by the contract value of the respective platform. Using this methodology, we calculated an export subsidy of 9.4 percent *ad valorem* for Daewoo Shipbuilding and Heavy Machinery, Ltd./Daewoo Corporation and 3.91 percent *ad valorem* for Hyundai Heavy Industries Co., Ltd./Hyundai Corporation.

B. *Accelerated Depreciation Under Article 25 of the "Act Concerning the Regulation of Tax Reduction and Exemption."* Article 25 of the "Act Concerning the Regulation of Tax Reduction and Exemption" permits a firm earning more than 50 percent of its total proceeds in a business year from foreign exchange to increase its normal depreciation by 30 percent. If the corporation has received less than 50 percent of its total proceeds from foreign exchange, it can still claim some accelerated depreciation, determined by a formula based on the firm's foreign exchange earnings and total business earnings. Of the firms manufacturing or exporting the products under investigation, only Hyundai Heavy Industries, the manufacturer of Platform Julius, used accelerated depreciation under this program. Because the use of accelerated depreciation is contingent upon export performance, we determine that this program confers benefits which constitute export subsidies.

Under our normal methodology for determining the benefits from export-related accelerated depreciation, we would calculate the subsidy based on the tax savings received during the period of review and attribute it to export sales during the same period. For the same reasons described *supra* regarding KXMB financing, however, the use of our standard methodology is not appropriate in this case. Hyundai Heavy Industries will record no export sales income from Platform Julius until it files its taxes in 1986 and 1987. The most recent year in which taxes have been filed is 1984. Therefore, none of the tax savings in 1984 derive from, or are attributable to, sales of the subject merchandise to the United States.

In order to capture and countervail all of the tax benefits attributable to Platform Julius, we should calculate the present value of the benefits that will accrue in 1986 and 1987. Obviously, it is impossible to make this calculation in 1985 because we do not know how much or whether accelerated depreciation will be claimed. Therefore, believing it to be the only reasonable alternative methodology available to us, we have instead calculated the benefit that would have accrued in 1984 (the most recent year for which we have all the necessary data) had the entire sales income earned from Platform Julius been reported in that year. Using this methodology, we found a subsidy of 0.15 percent *ad valorem* for Hyundai Heavy Industries.

C. *Tax Incentives for Exporters Under Articles 22, 23 and 24 of the "Act Concerning the Regulation of Tax Reduction and Exemption".* Articles 22, 23 and 24 of the "Act Concerning the Regulation of Tax Reduction and Exemption" provide for the deduction from taxable income of a number of different reserves relating to export activities. These reserves cover export losses, overseas market development and price fluctuation losses. Under Article 22, a corporation may establish a reserve amounting to one percent of the foreign exchange earnings or 50 percent of net income in the applicable period, whichever is smaller. If certain export losses occur, they are offset from the reserve fund. If there are no offsets for export losses, the reserve is returned to the income account and taxed, after a one-year grace period, over a three-year period.

Under Article 23, governing overseas market development, a corporation may establish a reserve fund amounting to one percent of its foreign exchange earnings in the export business for the respective business year. Expenses

incurred in developing overseas markets are offset from the reserve fund. Like the export loss reserve fund, if there are no offsets for expenses, the reserve is returned to the income account and taxed, after a one-year grace period, over a three-year period.

A price fluctuation reserve fund may be established under Article 24. Under this article, a corporation may establish reserves equivalent to five percent of the book value of the products and works in progress which will be exported by the close of the business year. This reserve may be used to offset losses incurred from the fluctuation of prices for export goods. These losses may be offset by returning an amount equivalent to the losses to the income account. If not so utilized, the reserve is returned to the income account the following business year.

The balance in all three reserve funds is not subject to corporate tax, although all moneys in the reserve funds are eventually reported as income and subject to corporate tax either when they offset export losses, are used to develop overseas markets, or when the grace period expires. Daewoo Corporation claimed reserves under Articles 22 and 23 and Hyundai Heavy Industries claimed reserves under Article 22. We determine that these export reserve programs confer benefits which constitute export-subsidies because they provide a deferral of direct taxes specifically related to export performance.

As with the previous programs, our normal methodology for calculating the benefit arising from these tax deferrals does not apply in this case. This is because the deferrals currently being enjoyed are not derived from sales of the subject merchandise to the United States. Nor can we anticipate that there will be imports in each of the years that deferrals attributable to these sales are in effect. Therefore, to calculate the benefits received under this program applicable to the products under investigation, we first took one percent of the value of the platform contract and treated it as if it were placed into the respective reserve fund based on when the company would enter the contract value as sales revenue in its accounting records. For Daewoo Corporation the entire one percent was treated as it it were put into each of the tax-free reserves on the date of shipment of the platform. Hyundai Heavy Industries recognizes income progressively during the period of construction rather than in one lump-sum on a single date, and thus, the one percent of the contract was divided into two reserves.

Because these export reserve funds constitute a deferral of tax liabilities, we treat the tax savings on these funds as short-term interest-free loans. Thus, we took the tax savings on one percent of the contract value (or that portion of the contract treated as sales revenue) for the platform in the year in which it would be treated as sales revenue and treated it as a zero-interest loan, rolled over in each year that taxes would be deferred. We compared the zero-interest that would be paid in each year to the interest that would be paid had the money been borrowed from commercial sources. We used as our benchmark the average interest rate on commercial short-term loans in Korea which we preliminarily determine to be 10.75 percent. The source of our benchmark determination is the Bank of Korea's *Monthly Statistical Bulletin*. We necessarily assumed that this benchmark interest rate would extend into the future periods. We then calculated the present value of the benefits in each of the years in which there would be a tax savings accruing to the respective reserve funds. We then took the total benefit for each of the reserve funds and allocated it over the contract value of the respective platform. Using this methodology, we calculated a subsidy of 0.16 percent *ad valorem* for Daewoo Shipbuilding and Heavy Machinery, Ltd./Daewoo Corporation and 0.08 percent *ad valorem* for Hyundai Heavy Industries Co., Ltd./Hyundai Corporation.

II. Program Preliminarily Determined Not To Confer a Subsidy

A. Export Credit Insurance by the Export-Import Bank of Korea. Petitioners allege that the Korean government makes substantial contributions to the export credit insurance program of the Export-Import Bank of Korea and that this program is not self-supporting, thus providing countervailable benefits to producers of the subject merchandise.

The Korean Import Bank operates an export insurance program which provides commercial, political and managerial risk insurance. A separate budget for this program is maintained by the Export-Import Bank. Hyundai Corporation and Daewoo Corporation have both applied for commercial risk insurance. Purchase of this insurance is compulsory on all loans provided by the Export-Import Bank of Korea.

To be a subsidy, a government-operated insurance program has to charge premiums which are inadequate to cover the long-term operating costs and losses of the program. The government of Korea states that the insurance program has been not only self-sustaining, but also very profitable since its inception. They further state that the government has never contributed funds to cover losses and that the level of premiums charged far exceeds the costs associated with claims against the insurance policies.

We reviewed the financial statements for the last five years for the export insurance fund, and have preliminarily determined that the premiums charged to exporters allow the Export-Import Bank of Korea to cover its losses and its long-term operating expenses. Therefore, we preliminarily determine that this program does not constitute a subsidy.

III. Programs Preliminarily Determined Not to be Used

We have preliminarily determined that manufacturers, producers, or exporters in Korea of off shore platform jackets and piles do not use the following programs:

A. *Short-term Export Financing.* Petitioners allege that the manufacturers and exporters receive preferential export financing under the Export Financing Regulations. According to the government of Korea, this program was not used by manufacturers and exporters of the subject merchandise because projects receiving deferred export financing from the Export-Import Bank of Korea are not eligible for short-term loans under the Export Financing Regulations.

B. *Special Depreciation Under Article 11 of the "Act Concerning the Regulation of the Tax Reduction and Exemption".* Petitioners allege that certain designated industries receive preferential depreciation benefits under Article 11. According to the government of Korea, assets used to construct jackets and piles are not eligible for accelerated depreciation under Article 11.

C. *Export Guarantees From Export-Import Bank of Korea.* Petitioners allege that producers of the subject merchandise receive advance payment export guarantees and performance export guarantees from the Export-Import Bank of Korea. According to the government of Korea, the platform jackets and piles covered by this investigation have not received such guarantees from the Export-Import Bank of Korea.

IV. Program Determined Not to be an Independent Program

We preliminary determine that the following is not an individual export loan program:

A. *Deferred Export Loans through the National Investment Fund.* Petitioners allege that National Investment Fund loans provided through the Export-Import Bank of Korea are used to finance exports of the subject merchandise on a deferred payment basis and at below-market interest rates.

According to the government of Korea, the National Investment Fund (NIF) is a specific type of financing and not a particular loan program. The only deferred export financing authorized under the NIF is wholly administered by the Export-Import Bank. There is no separate facility under the NIF to grant such financing. The NIF's only participation in the export credit financing program is as a source of funding in the Export-Import Bank's budget. The NIF is not involved in any way with the individual loan decisions made by the Export-Import Bank and the interest rates charged to exporters by the Bank are the same regardless of the source of financing. Therefore, we preliminarily determine that the NIF is not a specific export loan program but a source of funding within the Export-Import Bank's Export Credit Financing program which is discussed in the section "Programs Determined to Confer Subsidies".

Verification

In accordance with section 776(a) of the Act, we will verify the data used in making our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of offshore platform jacket and piles which are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register, and to require a cash deposit or bond in the amount of 9.58 percent *ad valorem* for Daewoo Shipbuilding and Heavy Machinery, Ltd./Daewoo Corporation and 4.14 percent *ad valorem* for Hyundai Heavy Industries Co., Ltd./Hyundai Corporation. The cash deposit or bonding rate for imports of the subject merchandise from all other companies is 7.22 percent ad valorem. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our file, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. If our final determination is affirmative, the ITC will make its determination of whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days after our final determination.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on September 4, 1985, at the U.S. Department of Commerce, Room 1414, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B099, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by August 28, 1985. Oral presentations will be limited to issues raised in the briefs.

In accordance with 19 CFR 355.33(d) and 19 CFR 355.34, written views will be considered if received not less than 30 days before the final determination or if a hearing is held, within 10 days after the hearing transcript is available.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Dated: July 15, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-17271 Filed 7-18-85; 8:45 am]

BILLING CODE 3510-DS-M

[C-307-403]

Termination of Countervailing Duty Investigations; Certain Carbon Steel Products From Venezuela

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On June 26, 1985, United States Steel Corporation withdrew its countervailing duty petition, filed on December 19, 1984, on certain carbon steel products from Venezuela. Based on the withdrawal, we are terminating these investigations.

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Ms Terry Link or Ms. Barbara Tillman of the Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-0189 or 377-2438.

SUPPLEMENTARY INFORMATION:

Case History

On December 19, 1984, we received a petition from the United States Steel Corporation filed on behalf of the U.S. industries producing hot-rolled carbon steel flat-rolled products (hot-rolled sheet), cold-rolled carbon steel flat-rolled products (cold-rolled sheet), carbon steel plate, and galvanized carbon steel sheet.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate countervailing duty investigations. We notified the International Trade Commission (ITC) of our action and initiated these investigations on January 8, 1985 (50 FR 1905). On February 4, 1985, the ITC found that there was reasonable indication that imports of hot-rolled sheet, cold-rolled sheet, and carbon steel plate (hereinafter referred to as certain carbon steel products) materially injure, or threaten material injury to, a U.S. industry. The ITC also determined that there is no reasonable indication that imports of galvanized carbon steel sheet materially injure, or threaten material injury to, a U.S. industry. Consequently, we terminated our investigation with respect to galvanized carbon steel sheet.

On March 14, 1985, we made preliminary determinations that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Venezuela of certain carbon steel products (50 FR 11227).

Scope of Investigations

The products covered by these investigations are certain carbon steel products, which are fully described below:

1. The term *"hot-rolled carbon steel flat-rolled products"* covers hot-rolled carbon steel products, whether or not corregated, or crimped; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; 0.1875 inch or more in thickness and over 8 inches in width; pickled, as currently provided for in item 607.8320 of the *TSUSA;* and not pickled and in coils; as currently provided in item 607.6610, or under 0.1875 inch in thickness and over 12 inches in width, whether or not pickled, whether or not in coils, as currently provided for in items 607.6710, 607.6720, 607.6730, 607.6740, or 607.8342 of the *TSUSA.*

2. The term *"cold-rolled carbon steel flat-rolled products"* covers cold-rolled carbon steel products, whether or not corrugated or crimped; whether or not painted or varnished and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; over 12 inches in width and 0.1875 inch or more in thickness, as currently provided for in item 607.8320 of the *TSUSA;* or over 12 inches in width and under 0.1875 inch in thickness, whether or not in coils; as currently provided for in items 607.8350, 607.8355, or 607.8360 of the *TSUSA.*

3. The term *"carbon steel plate"* covers hot-rolled carbon steel products, whether or not corrugated, or crimped; not pickled; not cold-rolled; not in coils, not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in item 607.6620, and 607.6625 of the *TSUSA.* Semi-finished products of solid rectangular cross-section with a width at least four times the thickness and processed only through primary mill hot-rolling are not included.

Withdrawal of Petition

On June 26, 1985, petitioner notified us that it is withdrawing its petition, and requested that the investigations be terminated. This withdrawal is based on an arrangement with the govenment of Venezuela to limit the volume of imports of these products. Under section 704(a) of the Tariff Act of 1930 ("the Act"), as amended by section 604 of the Trade and Tariff Act of 1984, upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation. We have assessed the public interest factors set out in section 704(a)(2) of the Act and consulted with potentially affected producers, workers, consuming interests, and with the ITC. On the basis of our assesment of the public interest factors and our consultations with affected parties, we have determined that termination would be in the public interest.

We have notified all parties to the investigations and the ITC of petitioner's withdrawal and our intention to terminate.

For these reasons, we are terminating our investigations.

Dated: July 12, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-17262 Filed 7-18-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-404]

Antidumping Duty Order: Fabric Expanded Neoprene Laminate From Japan

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The United States Department of Commerce (the Department) and the United States International Trade Commission (the ITC) have determined that fabric expanded neoprene laminate from Japan is being sold at less than fair value and that sales of this product are materially injuring a United States industry. Therefore, based on these findings, all unliquidated entries, or warehouse withdrawals, for consumption of this product made on or after March 15, 1985, the date on which the Department published its preliminary determination of sales at less than fair value in the **Federal Register,** will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made after the date of publication of this antidumping duty order in the **Federal Register.**

SUPPLEMENTARY INFORMATION: The merchandise covered by this investigation is fabric expanded neoprene, currently provided for in item numbers 355.81, 355.82, 359.50 and 359.60 of the *Tariff Schedules of the United States (Annotated).*

In accordance with section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b), on March 15, 1985, the Department published its preliminary determination that there was reason to believe or suspect the fabric expanded neoprene laminate from Japan was being sold in the United States at less than fair value. On June 4, 1985, the Department published its final determination that these imports were being sold at less than fair value.

On July 12, 1985, in accordance with section 735(d) of the Act (19 U.S.C. 1673d(d)), the ITC notified the Department that imports of fabric expanded neoprene laminate are materially injuring a United States industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of fabric expanded neoprene laminate from Japan, with the exception of that produced by Asahi Rubber Co., Ltd., Sedo Chemicals Co., Ltd. and Daiwa Rubber and Chemicals Co., Ltd. who have been excluded from this investigation.

These antidumping duties will be assessed on all unliquidated entries of such merchandise entered, or withdrawn from warehouse, for consumption on or after March 15, 1985, the date on which the Department published its "Preliminary Determination of Sales at Less Than Fair Value" notice in the **Federal Register.**

On and after the date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated customs duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below:

Manufacturers/Producers/ Exporters	Identification No.	Weighted-average margin (percent)
Yamamoto Corporation	A-588-404-01	3.09
All Others (except Asahi, Sedo and Daiwa)	A-588-404-02	3.09

This determination constitutes an antidumping duty order with respect to fabric expanded neoprene laminate from Japan pursuant to section 736 of the Act (19 U.S.C. 1673e) and section 353.48 of the Commerce Regulations (19 CFR 353.48). We have deleted from the Commerce Regulations, Annex 1 of 19

CFR Part 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

July 16, 1985.

[FR Doc. 85-17335 Filed 7-18-85; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

University of California; Marine Mammal Permit Application

Notice is hereby given that pursuant to the provisions of § 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR 216), Scientific Research Permit No. 397 issued to Ms. Susan H. Shane, Biology-Applied Sciences Bldg., University of California, Santa Cruz, California 95064, on December 16, 1982 (47 FR 57083), is modified as follows:

Section B-5 is modified by substituting the following:

5. "This Permit is valid with respect to the authorized taking until December 31, 1986."

This modification became effective July 15, 1985.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: July 15, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-17255 Filed 7-18-85; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Managment Council and its advisory bodies will convene public meetings as follows:

Bottomfish Plan Development Team

The Council's Bottomfish Plan Development Team will meet July 18, 1985, at 9 a.m., at the Council's Office, 1164 Bishop Street, Room 1405, Honolulu, HI, to review a redraft of the Bottomfish Framework Fishery Management Plan (FMP), and to discuss progress on the limited entry concept for the Northwestern Hawaiian Islands (NWHI).

Crustaceans Development Team

The Council's Crustaceans Development Team will meet also on July 18, at 1:30 p.m., at the same location as above, to review Amendment #5 to the Spiny Lobster FMP that would change the legal size measurement basis from carapace length to tail width and abolish the 15 percent of total catch tolerance provision for undersized lobsters.

Council

The Western Pacific Fishery Management Council will meet August 7-8, 1985, at the King Kamehameha Hotel, 75-5660 Palani Road, Kailua-Kona, HI, to: (1) Review the redraft of the Bottomfish Framework FMP with management measures for the NWHI, and to further discuss limited entry concepts for the NWHI; (2) approve amendment to the Spiny Lobster FMP that changes the legal size measurement basis from carapace length to tail width and abolishes the 15 percent total catch tolerance provision; (3) review public and agency comments on the Pelagics FMP; (4) discuss reauthorization of amendments to the Magunuson Fishery Conservation and Management Act, and (5) approve the FY86 administrative budget.

Scientific and Statistical Committee (SSC) and Advisory Panel (AP)

The Council's SSC will meet August 5-6, 1985, and its AP will meet August 6, 1985, both at the same location as the Council to discuss the same subjects as the Council. Detailed agendas for the Council, SSC and AP meetings are available.

For futher information, contact Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813; telephone: (808) 523-1368.

Dated: July 16, 1985.

Richard B. Roe, Director,

Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-17101 Filed 7-18-85; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Requesting Public Comment on Bilateral Textile Consultations With the Government of the Socialist Federal Republic of Yugoslavia on Categories 340 and 448

July 16, 1985.

On June 28, 1985 the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, requested the Government of the Socialist Federal Republic of Yugoslavia to enter into consultations concerning exports to the United States of men's and boys' woven cotton shirts in Category 340 and women's, girls' and infants' wool trousers, slacks and shorts in Category 448, produced or manufactured in Yugoslavia.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations with the Government of the Socialist Federal Republic of Yugoslavia, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehoue for consumption of textile products in Categories 340 and 448, produced or manufactured in Yugoslavia and exported to the United States during the twelve-month period which began on June 28, 1985 and extends through June 27, 1986, to respective levels of 147,576 dozen and 22,933 dozen.

Summary market statements concerning these categories follow this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Anyone wishing to comment or provide data or information regarding

the treatment of these categories is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultation is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Yugoslavia—Market Statement

Category 340—Men's and Boys' Woven Cotton Shirts

June 1985.

Summary and Conclusion

United States imports of Category 340 from Yugoslavia were 171,000 dozens for the year ending April 1985. This is an annualized level of 249,000 dozens. Imports were 4,000 dozens for the same period one year earlier. Imports from Yugoslavia of this category were 300 dozens in 1983 and less than 100 dozens in 1982.

Import growth from Yugoslavia of Category 340 has been sharp and substantial, adding to the existing market disruption in this category.

General Imports

Imports of Category 340 from all sources increased 29 percent between 1983 and 1984. In the first four months of 1985 imports of this category increased 27 percent from the same period in 1984. The overall growth rate from 1980 to 1984 was 45 percent; seventy-two percent of this growth occurred in 1984 alone.

U.S. Production and Market Share

U.S. production of this category has declined over 50 percent since 1973. Between 1980 and 1983 production declined from 5,526,000 dozens to 4,735,000 dozens, a drop of 14 percent. Production in 1984 is estimated to be flat, or just slightly below the 1983 level. Cuttings of all men's and boys' shirts declined 5 percent in the first three months of 1985.

Imports have not only captured all of the growth but have also displaced domestically produced MB cotton woven shirts in the market. The U.S. Category 340 market increased by 2 million dozens during 1980–1984. Imports increased by about 2.8 million dozens while domestic production was reduced by 800,000 dozens. The U.S. producers' market share for Category 340 was 46.7 percent in 1980 and only an estimated 34.0 percent in 1984.

Import Penetration

The import-to-production ratio for this category has increased sharply over the last 5 years. In 1980 the ratio topped 100 percent for the first time, reaching 114 percent. By 1983 the ratio had climbed 36 percentage points to 150 percent. The huge increase in imports in 1984 helped boost the ratio an additional 44 percentage points, nearing 194 percent.

Employment

Employment in the men's and boys' shirt industry was 99,200 workers in 1984.[1] This is approximately the same level as in 1980. In the first four months of 1985 employment was down 3.3 percent from the same period one year earlier.

Import Value vs Domestic Producer's Price

Ninety-eight percent of Category 340 imports from Yugoslavia imported in the first four months of 1985 entered under two TSUSA numbers. These were 379.5520—other men's cotton dress shirts, and 379.5550—other men's cotton sport shirts. These items entered at duty-paid values below the U.S. producer's price for comparable garments.

Yugoslavia—Market Statement

Category 448—Women's, Girls' and Infants' Wool Trousers, Slacks and Shorts (WGI Trousers)

Summary and Conclusion

Category 448—WGI wool trouser imports from Yugoslavia reached 24,823 dozens during the year-ending April 1985, compared with 19,257 dozens imported in 1984 and 634 dozens in 1983. In 1982, Yugoslavia was the 14th largest foreign supplier of WGI wool trousers to the United States. In the 1st four months of 1985, however, when Category 448 imports from Yugoslavia reached 6,560 dozens, Yugoslavia became the third major supplier.

This is a sharp and substantial increase in trade which has created a real risk of market disruption.

U.S. Market and Domestic Producers' Share

The market for domestically produced and imported WGI wool trousers has leveled at about 1,000,000 dozens since 1982. However, the U.S. producers' share of this market has continued to decline. From 1982–1984, domestic production declined 10 percent while imports more than doubled. As a result the U.S. share of this market fell from 87 percent in 1982 to an estimated 75 percent in 1984.

U.S. Production

U.S. production has been declining in recent years, with 1984 Category 448 production an estimated 85,000 dozens below 1982 levels. Cuttings data indicates further declines in domestic production in 1985. Cuttings of women's trousers, slacks and shorts were down by 6 percent during January–April 1985.

Imports

Imports in 1984, at 263,000 dozens, were 134,000 dozens above 1982 levels and three times greater than the 81,000 dozens imported in 1980. Imports during January–April 1985 increased 40 percent to 49,021 dozens. Yugoslavia contributed 39 percent of the 1985 Category 448 import growth from all sources.

Import Unit Values and Domestic Producers Price

Virtually all of the Category 448 imports from Yugoslavia entered under TSUSA No. 383.7556—women's and girls' not ornamented woven slacks. These garments entered at landed, duty-paid values below the domestic producers' price for comparable garments.

[FR Doc. 85-17212 Filed 7-18-85; 8:45 am]

BILLING CODE 3510-DR-M

[1] SIC 2321, Men's and boys' shirt and nightwear industry.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1985; Addition

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

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1985 a service to be provided by workshops for other severely handicapped.

EFFECTIVE DATE: July 19, 1985.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

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

SUPPLEMENTARY INFORMATION: A Notice of Proposed Addition to the Procurement List of the service listed below was published in the **Federal Register** on January 4, 1985 (50 FR 522). One comment was received in response to this notice. The commenter, the current contractor, indicated that it had lost other business as the result of the Committee's program and suggested that employment of severely handicapped should be accomplished by other means. The Committee considered the comment

received as well as other pertinent information and determined that the addition of this service to the Procurement List will not result in severe impact on the current contractor.

Addition

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77 and 41 CFR 51–2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the service listed.

c. The action will result in authorizing small entities to provide the service procured by the Government.

Accordingly, the following service is hereby added to Procurement List 1985:

Janitorial/Custodial, Naval Communications Unit (Cheltenham), Washington, D.C.

C.W. Fletcher,

Executive Director.

[FR Doc. 85–17215 Filed 7–18–85; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1985; Additions

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

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1985 commodities and services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: July 18, 1985.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

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

SUPPLEMENTARY INFORMATION: On January 4, February 15, March 15, March 29, April 12, April 18, 1985, the Committee for Purchase from the Blind and Other severely Handicapped published notices (50 FR 522, 50 FR 6376, 50 FR 10529, 50 FR 12605, 50 FR 14412 and 50 FR 15474) of proposed additions to Procurement List 1985, October 19, 1984 (49 FR 41195).

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77 and 41 CFR 51–2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce the commodities and provide the services procured by the Government.

Accordingly, the following commodities and services are hereby added to Procurement List 1985:

Commodities

Cushion, Seat Back, Vehicular: 2540–00–880–3925

Microfiche, Subject Headings and Name Authorities (Requirements of Library of Congress only): 7670–00–NSH–0001

Services

Administrative Services, FAA Regional Office, East Point, Field Facilities and Accounting Office, Hapeville, Georgia

Commissary Shelf Stocking and Custodial, Shaw Air Force Base, South Carolina

Janitorial/Custodial, Federal Building and U.S. Courthouse, 121 W. Spring Street, New Albany, Indiana

C.W. Fletcher,

Executive Director.

[FR Doc. 85–17216 Filed 7–18–85; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1985; Proposed Additions and Deletions

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

ACTION: Proposed Additions and Deletions to Procurement List.

SUMMARY: The Committee has received proposals to add to delete from Procurement List 1985 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

DATE: Comments must be received on or before: August 21, 1985.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

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

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77 and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and services to Procurement List 1985, October 19, 1984 (49 FR 41195):

Commodities

Cloth, Abrasive: 5350–00–187–6275, 5350–00–187–6272, 5350–00–187–6270, 5350–00–187–6269, 5350–00–187–6268, 5350–00–187–6286, 5350–00–187–6285, 5350–00–187–6284, 5350–00–187–6283, 5350–00–187–6281, 5350–00–187–6280, 5350–00–187–6297, 5350–00–229–3088, 5350–00–229–3085, 5350–00–187–6295, 5350–00–187–6294, 5350–00–187–6293, 5350–00–187–6292, 5350–00–187–6291, 5350–00–174–6209, 5350–00–187–6290, 5350–00–187–6289, 5350–00–187–7986, 5350–00–229–3097, 5350–00–229–3094, 5350–00–229–3095, 5350–00–229–3080, 5350–00–229–3081, 5350–00–229–3092, 5350–00–192–9325.

Pallet Assembly: 8140–01–050–9789.

Services

Commissary Shelf Stocking:

1. Branch Commissary Store, Little Creek, Naval Amphibious Base, Building 3324, Norfolk, Virginia.
2. Branch Commissary Store, Building 350, Norfolk Naval Shipyard, Portsmouth, Virginia.

Commissary Shelf stocking and Custodial, Fort Irwin, California.

Commissary Shelf Stocking and Custodial, Tobyhanna Army Depot, Pennsylvania.

Drill Sharpening (Requirements of Hill Air Force Base, Ogden, Utah only)

Janitorial/Custodial, U.S. Courthouse, 312 North Spring Street, Los Angeles, California.

Deletions

It is proposed to delete the following commodities from Procurement List 1985, October 19, 1984 (49 FR 41195):

Pillow, Foam Latex: 7210–00–619–8262

Paper Set, Manifold and Carbon: 7530–00–880–9154, 7530–00–205–0511.

C.W. Fletcher,

Executive Director.

[FR Doc. 85–17217 Filed 7–18–85; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Defense Acquisition Regulatory Council; Meeting

ACTION: Notice of public meeting.

SUMMARY: The Defense Acquisition Regulatory Council will hold a meeting with the public from 2:00 p.m. until 3:30 p.m. on Friday, July 26, 1985 in Room 5A1070, The Pentagon. The Council will discuss its operating reforms, its Case Action Management (CAM) System, and receive questions and comments. Attendees not in possession of a DoD Building Pass will be conducted to Room 5A1070 from the Information Desk on the Pentagon Concourse at 1:45 p.m. on the date of the meeting.

FOR FURTHER INFORMATION CONTACT: Charles W. Lloyd, Executive Secretary, DAR Council, (202) 697–7267.

Charles W. Lloyd,

Executive Secretary, DAR Council.

[FR Doc. 85–17318 Filed 7–18–85; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Winnersville Weapons Range; Public Hearing

To All Interested Government Agencies, Public Groups and Concerned Citizens: The United States Air Force will hold a public hearing on Thursday, August 15, 1985, to receive public and agency comments on the Winnersville Weapons Range, Lanier and Lowndes Counties, Georgia Draft Environmental Impact Statement (EIS). The Winnersville Weapons Range Draft EIS addresses the proposed action to take advantage of an opportunity to construct an air to surface weapons range in the immediate geographical area of Moody AFB and the no action alternative.

The public hearing will be held August 15, 1985, at 7:00 P.M. in the Lanier County courthouse located in Lakeland, Georgia. Both written and oral comments will be accepted and a transcript of the hearing will be made. Lengthy or technically complex statements should be summarized for the oral presentation. If possible, copies of the statements should be presented prior to the oral presentation. Oral statements will be limited to 5 minutes for individuals and 10 minutes for group spokespersons.

Additional written comments may be submitted until September 3, 1985 (the end of the public comment for the draft EIS).

Written comments should be forwarded to: Mr. Alton Chavis, HQ TAC/DEEV, Langley AFB, Virginia 23665, (804) 764–4430.

Copies of the Winnersville Weapons Range Draft EIS will be available for review at the following locations:

Lanier County Public Library, 300 Church Street, LakeLand, Georgia 31635

Lowndes County Public Library, Valdosta, Georgia 31603.

Aditional copies of the draft EIS are available from Mr. Chavis at the address noted above.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 85–17221 Filed 7–18–85; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Military Traffic Management Command; Directorate of Personal Property; Freight Carriers

AGENCY: Military Traffic Management Command (MTMC), DOD.

ACTION: Invitation to comment on a procedural change relative to nonuse and disqualification action taken against freight carriers.

SUMMARY: As a result of the memorandum of understanding between the military service claims office and the carrier industry, it was necessary to develop procedures to coincide with the new DD Forms 1840 and 1840R. After discussion with the military services, military service claims offices, and the carrier industry, the following proposed procedures are offered for comment.

1. Carrier shall:

a. Complete Section A of the DD Form 1840 and make all (5) copies available upon delivery.

b. In conjunction with member, annotate all loss and/or damage in Section B on all (5) copies of the DD Form 1840.

c. Provide the member with (3) copies of the completed DD Form 1840 signed by both the carrier and the member.

d. Trace all missing items annotated on DD Form 1840 and/or DD Form 1840R immediately and respond to the destination ITO/TMO in writing within 30 days of notification of loss.

e. Provide the destination ITO/TMO a copy of DD Form 1840 within 30 days of delivery or be subject to action taken by the ITO/TMO for a Tender of Service violation for failure to return documents.

f. Discontinue using Consignee's Statement of Delivery and Loss or Damage Portion of DD Form 619–1.

2. Member shall:

a. In conjunction with the carrier, complete Section B and sign the DD Form 1840 at time of delivery.

b. Retain (3) signed and completed copies of the DD Form 1840.

c. Annotate additional loss or damage found after delivery on DD Form 1840R (reverse DD Form 1840).

d. Within 70 days from date of delivery submit all (3) copies of the completed DD Forms 1840 and DD 1840R to the appropriate claims office. The claims office will return one copy acknowledging receipt for use in filing claim and provide one copy to the carrier for notice of additional loss and/or damage.

e. Contact the ITO/TMO for any assistance required at time of delivery and for any supporting documents required in processing a claim.

f. File a claim with appropriate claims office.

3. ITO/TMO shall:

a. Retain the carrier provided copy of the DD Form 1840.

b. Conduct inspection for loss or damage upon request by service member or military service claims office within 10 workdays of request when possible and prepare the DD 1841 (Government Inspection Report).

c. Upon request provide a copy of the PPGBL and any other shipment documents to assist member in filing a claim.

d. Take appropriate action against carrier for Tender of Service violation for failure to return documents if DD Form 1840 is not returned by carrier within 30 days of delivery.

DATE: Submit written comments by August 16, 1985.

HQ Military Traffic Management Command, 5611 Columbia Pike, ATTN: MT–PPM, File: DD 1840, Falls Church, Virginia 22041–5050.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Gaige, HQ Military Traffic Management Command, ATTN: MT–PPM (Room No. 410), 5611 Columbia Pike, Falls Church, Virginia 22041–5050.

Peter J. Ladzinski,

Alternate Department of the Army Liaison with the Federal Register.

[FR Doc. 85–17227 Filed 7–18–85; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Endowment Grant Program, Extension of Closing Date Deadline for Matching Fiscal Year (FY) 1985, Federal Endowment Grant Funds

The Secretary extends the closing date for raising matching funds to August 15, 1985 for those institutions selected in FY 1985 for funding under the Endowment Grant Program. The previous closing date of July 15, 1985 was published in the **Federal Register** of November 6, 1984 (FR 44320).

The Endowment Grant Program is authorized by section 333 of Title III of the Higher Education Act of 1965, as amended (20 U.S.C. 1065a).

Under the Endowment Grant Program, the Secretary is authorized to make grants to eligible institutions of higher education for the purpose of establishing or increasing endowment funds at those institutions. The Federal grant funds must be matched dollar-for-dollar by the institution selected to receive a grant.

The Secretary determines annually the fund-raising period. The Secretary is extending the closing date to allow institutions as much time as possible before the end of the Fiscal Year to raise their matching funds.

Subject to other limitations in the statute, the maximum endowment grant an institution may receive is the amount of the matching funds it raises by August 15, 1985.

Further Information: For further information, contact Dr. Caroline Gillin, Director, Division of Institutional Development, U.S. Department of Education, Room 3042, Regional Office Building 3, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 426–8960.

(20 U.S.C. 1064–1069c)

(Catalog of Federal Domestic Assistance Number 84.031—Institutional Aid Programs)

Dated: July 17, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 84–17338 Filed 7–18–85; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Energy Research

Health and Environmental Research Advisory Committee; Open Meeting

Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Health and Environmental Research Advisory Committee (HERAC).

Date and Time: August 5, 1985—9:00 a.m.–5:00 p.m.; August 6, 1985—8:30 a.m.–Noon.

Place: Conference Room 190, Building 1505, Oak Ridge National Laboratory, Oak Ridge, Tennessee.

Contact: David A. Smith, Department of Energy, Office of Health and Environmental Research (ER–72), Office of Energy Research, Washington, D.C. 20545, Telephone: 301/353–2987.

Purpose of the Committee: To provide advice on a continuing basis to the Secretary of the Department of Energy (DOE), through the Director of Energy Research, on the many complex scientific and technical issues that arise in the development and implementation of the Health and Environmental Research (HER) program.

Tentative Agenda: Briefings and discussions of:

Monday, August 5, 1985

- Presentations by Oak Ridge National Laboratory Staff
- Public comment (10 minute rule)

Tuesday, August 6, 1985

- Report from HERAC Subcommittee on Risk Analysis
- Report from HERAC Subcommittee on Ecology
- Report from HERAC Subcommittee Radiation Biology
- Discussion of New Business
- Public comment (10 minute rule)

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact David A. Smith at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, IE–190, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on July 15, 1985.

K. Dean Helms,

Advisory Committee Management Officer.

[FR Doc. 85–17186 Filed 7–18–85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER85–600–000 et al.]

Commonwealth Edison Co. et al.; Electric Rate and Corporate Regulation Filings

July 11, 1985.

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

1. Commonwealth Edison Company

[Docket No. ER85–600–000]

Take notice that Commonwealth Edison Company (Edison) on July 1, 1985, tendered for filing a Facilities Connection Agreement (Agreement) dated June 10, 1985, between Edision, Iowa-Illinois Gas and Electric Company (Iowa) and Interstate Power Company (Interstate), proposed effective upon acceptance for filing.

The Agreement effects coordinated construction of certain 345 kV electric transmission facilities of Iowa and Interstate from Quad-Cities Station, in Cordova Township, Illinois, extending to a defined point of departure in Clinton County, Iowa, utilizing transmission support structures suitable for double circuit construction, ultimately achieving economics and minimization of environmental impact in respect of a Mississippi river crossing, and enhancing reliability of the systems of all parties upon the completion by Interstate of its circuit thereon and extension by Interstate of its facilities to its Rock Creek Substation in Clinton County, Iowa, and, upon Iowa's exercise of an option to purchase an interest in the support structures, construction of its facilities to Substation 91 in Scott County, Iowa.

It is stated no fixed charges for facilities of one party for the use by another is involved, and that, as interchanges of power and energy occur under other rate schedules between various of the parties, no rates of charges in respect thereto are effected. Rather, it is contemplated Edison would act as constructor of line terminals at Quad-Cities Station, in which Iowa, contributing to Interstate the incremental cost of double-circuit construction, would hold an option to purchase an interest therein, ultimately to purchase such interest and construct its own circuit. Various future filings under Parts 33 and 35 of the Commission's Regulations are contemplated, it is stated.

Edison states a complete copy of the filing has been mailed to Iowa and Interstate, the Illinois Commerce

Commission, the Iowa State Commerce Commission and the Minnesota Public Utilities Commission.

Comment date: July 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. Commonwealth Edison Company

[Docket No. ER85-601-000]

Take notice that on June 26, 1985, Commonwealth Edison Company (the Company) tendered for filing newly executed sheets of the revised form of an Electric Service Contract between the Company and the City of Batavia, Illinois. This filing complies with the Settlement Agreement between the Company and the Cities of Batavia, Geneva, Naperville, Rock Falls and St. Charles approved by the Commission by letter dated October 2, 1984. This filing also complies with Item 2, Page 3 of the Company's letter to the Commission dated October 31, 1984, which submitted for filing revised contracts between the Company and the Cities.

The new sheets essentially reflect the same information as the original filing for this revision which was previously approved except for modifications required to comply with the Settlement Agreement filing also approved by the Federal Energy Regulatory Commission. The new sheets also provide the actual effective date of the applicable Electric Service Contract.

Comment date: July 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. Duke Power Company

[Docket No. ER85-602-000]

Take notice that on July 1, 1985, Duke Power Company (the Company) tendered for filing a Notice of Cancellation of service under the Company's Electric Power Contract for Resale Service and Resale Schedule for the following customers:

Customer	FERC rate schedule Nos.
City of Abeville	231
City of Clinton	249
City of Easley	241
City of Gaffney	243
City of Greer	226
City of Laurens	244
City of Newberry	268
City of Rock Hill	228
Town of Westminster	256

To the extent that this notice to the Commission does not comply with the Commission's notice requirements, the Company requests waiver of the notice period requirements.

Comment date: July 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. Gulf States Utilities Company

[Docket No. ER85-593-000]

Take notice that Gulf States Utilities Company (Gulf States), on June 27, 1985, tendered for filing an Amendment, executed as of May 10, 1985, to the Power Supply agreement dated June 6, 1980, by and between Gulf States, Sam Rayburn Dam Electric Cooperative, Inc. (SRDE), Sam Rayburn Municipal Agency (SRMA), and Sam Rayburn G&T, Inc. (SRG&T). The Amendment does not provide for a rate increase.

A brief description of the Amendment is that, while it is in effect, a portion of the load of SRDE, SRG&T, and SRMA (the Sam Rayburn Load) that would otherwise be supplied under the Power Supply Agreement by purchases of wholesale electric service from Gulf States pursuant to Article V.A. of that agreement, shall instead be served by power purchased from others and delivered to SRDE, SRG&T and SRMA by transmission service provided by Gulf States. The Amendment would remain in effect for ten years unless terminated earlier pursuant to rights of termination reserved by the parties in the Amendment. While the Amendment is in effect, the percentage of the Sam Rayburn Load that would otherwise have been served by Gulf States and which shall instead be supplied pursuant to the Amendment is 10 percent in 1985. It then increases each calendar year thereafter to a final level of 45 percent in 1990, and continues at that level for the remaining calendar years.

The Amendment provides that the power SRDE, SRG&T, and SRMA will purchase from other electric utilities to supply the agreed to portion of Sam Rayburn Load will be power Gulf States has contracted for and will contract for from other electric utilities and will share, by assignment, with SRDE, SRG&T, and SRMA will be billed for the purchased power at Gulf States' cost as defined in the Amendment. To deliver the purchased power, Gulf States will provide transmission service pursuant to Service Schedule SRSTS of the Power Interconnection Agreement already in existence between the parties. The Power Interconnection Agreement has been designated Rate Schedule FERC No. 131 in a prior filing and is not being amended in this submission. Gulf States has offered or is discussing with many of its other wholesale electric service customers similar purchased power and transmission service arrangements.

The reasons for the Amendment are to accommodate the desire of SRDE, SRG&T, and SRMA to purchase electric power from other electric utilities, and the desire of all the parties for Gulf States to continue to provide reliable wholesale electric service to a significant portion of the Sam Rayburn Load, and the desire of all parties to reduce the administrative and engineering complexities, as well as other problems associated with SRDE, SRG&T, and SRMA receiving electric power from multiple sources within and beyond the Gulf States service area.

Gulf States requests that any necessary waivers be granted so that the Amendment can become effective as of the first day of June 1985.

Copies of the filing have been served upon SRDE, SRMA, SRG&T, and upon the Louisiana Public Service Commission and the Public Utility Commission of Texas.

Comment date: July 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

5. New England Power Company

[Docket No. ER85-596-000]

Take notice that New England Power Company (NEP) on June 28, 1985 tendered for filing as an initial rate schedule an Agreement for Transmission of Firm Power between NEP and the Massachusetts Municipal Wholesale Electric Company, on behalf of various Massachusetts municipal utilities.

NEP submits that the Agreement is for the required transmission across its system of capacity and energy that municipal systems have agreed to purchase from the New York Power Authority for the period July 1, 1985 through June 30, 1995.

The proposed effective date is July 1, 1985 collateral with the commencement of the NYPA power flow. In connection therewith, NEP requests waiver of the Commission's Regulations as to the prior notice period.

Comment date: July 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

6. Orange and Rockland Utilities, Inc.

[Docket No. ER85-598-000]

Take notice that on July 1, 1985 Orange and Rockland Utilities, Inc. (O&R) submitted for filing as an initial rate schedule, a contract dated as of June 27, 1985 between O&R and the county of Rockland, New York through its agent The Rockland County Municipal Distribution Agency ("MDA").

Comment date: July 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

7. Pennsylvania Power & Light Company

[Docket No. ER85-597-000]

Take notice that Pennsylvania Power & Light Company (PP&L) tendered for filing on June 28, 1985 executed Supplements to certain Power Supply Agreements, as supplemented, presently on file with the Commission as Rate Schedule FERC NOs. 50, 51, 58, 63 and 68. PP&L had previously submitted unexecuted supplements which were accepted by the Commission by letter order dated June 25, 1985 in Docket No. ER85-479-000. The instant filing is intended solely to substitute executed supplements for the unexecuted supplements on file with the Commission.

Comment date: July 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

8. Public Service Company of New Mexico

[Docket No. ER85-592-000]

Take notice that on June 25, 1985, Public Service Company of New Mexico (PNM) tendered for filing information regarding the date on which the Interconnection Agreement and Service Schedules A through I ("Agreement") between ("PNM") and the Incorporated County of Los Alamos County, New Mexico (the "County") would commence. PNM said that service under the agreement would commence on July 1, 1985.

In addition, PNM submitted a letter agreement between PNM and the County dated June 7, 1985, entitled "Implementation of the Interconnection Agreement" ("Letter Agreement") which is intended to provide for a smoother transition period in connection with the implementation of the agreement.

Comment date: July 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

9. Southern California Edison Company

[Docket No. ER85-599-000]

Take notice that on July 1, 1985, Southern California Edison Company tendered for filing a Notice of Cancellation of Rate Schedule FERC No. 169. Such cancellation will become effective midnight June 30, 1985.

Notice of the proposed cancellation has been served upon the State of California Department of Water Resources.

Comment date: July 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

10. South Carolina Generating Company

[Docket No. ER85-603-000]

Take notice that on June 27, 1985, South Carolina Generating Company (GENCO), tendered for filing revisions in its Unit Sales Agreement between South Carolina Electric and Gas Company and GENCO, filed with the Commission on December 26, 1984.

Comment date: July 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

11. Vermont Electric Power Company, Inc.

[Docket No. ER85-595-000]

Take notice that Vermont Electric Power Company, Inc. ("VELCO") on June 28, 1985, made six filings regarding transmission service rendered by VELCO to the State of Vermont ("the State"). The filings are as follows:

(1) VELCO filed a notice of cancellation of service under the Power Transmission Contract dated June 13, 1957 (hereinafter referred to as "the 1957 contract") for transmission of power purchased by the State from the New York Power Authority's ("NYPA") St. Lawrence project under purchase contract designated the S-2 contract dated January 25, 1956. The State's purchase of St. Lawrence S-2 power expires on June 30, 1985, and VELCO requests that its notice of cancellation of transmission service for that purchase be permitted to become effective as of the end of that day.

(2) VELCO filed a notice of cancellation of service under the 1957 contract, as supplemented by a March 12, 1980 letter contract, for transmission of power purchased by the State from NYPA's Niagara project under purchase contract dated February 7, 1980. The State's 1980 purchase of Niagara power expires on June 30, 1985, and VELCO requests that its notice of cancellation of transmission service for that purchase be permitted to become effective as of the end of that day.

(3) VELCO filed a notice of cancellation of service under the 1957 contract, as supplemented by a September 24, 1980 letter contract, for transmission of power purchased by the State from Hydro Quebec under purchase contract date June 26, 1979. The State's purchase of Hydro Quebec power expires September 30, 1985, and VELCO requests that its notice of cancellation of transmission service for that purchase be permitted to become effective as of the end of that day.

(4) VELCO filed a commitment to provide service for transmission of power newly purchased by the State from NYPA commencing July 1, 1985. Such transmission service is to be rendered temporarily, while VELCO and Vermont discuss terms of a long-term contract, under the terms and conditions of the 1957 contract, treating the newly purchased power as taking the place of the firm St. Lawrence S-2 power referred to in paragraph 3.3 thereof. The commitment may be terminated by VELCO by giving 60 days written notice to Vermont and filing a superseding rate schedule. VELCO requests that the commitment be permitted to become effective as a supplement to the 1957 contract on July 1, 1985.

(5) VELCO filed the First Amendment dated September 23, 1969 to the 1957 contract. The amendment extended the 1957 contract from June 30, 1985 through June 30, 2000, with an option in the State to extend the contract an additional 10 years. It also effected certain changes in billing provisions. By oversight, the amendment was not filed when it was executed. VELCO requests that the amendment be permitted to become effective as of December 1, 1969, the first month in which it was implemented for billing purposes.

(6) VELCO filed a notice of cancellation of service under the 1957 contract, as supplemented by an August 4, 1961 letter contract, for transmission of power purchased by the State from NYPA's Niagara project under purchase contract dated June 20, 1961. The State's 1961 purchase of Niagara Power expired on December 31, 1979. By oversight, no notice of cancellation of transmission service for that purchase was filed. VELCO requests that the cancellation be allowed to become effective as of the day that service was terminated.

VELCO requests waiver of the Commission's notice provisions to permit the filings designated (1) and (2) above to become effective as of end-of-day June 30, 1985 and the filing designated (4) above to become effective on July 1, 1985. If such waiver is not granted, VELCO requests that those filings be permitted to become effective on August 27, 1985, which is 90 days from the date of the filing.VELCO states that it has served copies of the filing on the Vermont Department of Public Service and the Vermont Public Service Board.

Comment date: July 23, 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 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 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. 85-17178 Filed 7-18-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4700-003]

Montana Department of Natural Resources and Conservation; Surrender of Exemption From Licensing of a Small Hydroelectric Project of Five Megawatts or Less

July 15, 1985.

Take notice that the Montana Department of Natural Resources and Conservation, Exemptee for the Cooney Dam Hydroelectric Project No. 4700, has requested that its exemption be terminated. The exemption from licensing was issued on April 5, 1984. The project would have been located on Red Lodge Creek in Carbon County, Montana. The Exemptee has stated that project construction has not commenced.

The Exemptee filed the request on June 17, 1985. The exemption from licensing of Project No. 4700 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 exemption 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. 85-17180 Filed 7-18-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP72-132-001]

Natural Gas Pipeline Co. of America; Filing of Refund Report and Request for Waiver

July 12, 1985.

Take notice that Natural Gas Pipeline Company of America (Natural), on July 8, 1985, tendered for filing a refund report regarding refunds attributable to the resolution of certain storage tax issues in the captioned dockets. Natural also seeks waivers of the Commission regulations and of certain settlement provisions to permit it to flow through the refunds in its PGA deferred account.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 22, 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 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. 85-17181 Filed 7-18-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-122-001]

Northern Natural Gas Co., Division of InterNorth, Inc.; Tariff Filing

July 12, 1985.

Take notice that on July 9, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), tendered for filing to become a part of Northern Natural Gas Company's (Northern) F.E.R.C. Gas Tariff, Third Revised Volume No. 1:

Second Revised Sheet No. 49b,
First Revised Sheet No. 50.

These sheets reflect a change in term of Northern's EUT-1 Rate Schedule and the cancellation of Northern's AIC-1 Rate Schedule.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice & Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 22, 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 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. 85-17182 Filed 7-18-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP80-136-006 et al.]

Southern Natural Gas Co.; Refund Report

July 12, 1985.

Take notice that on April 29, 1985, Southern Natural Gas Company (Southern) filed a refund report detailing the flowthrough to its jurisdictional customers of a refund Southern received from Southern Energy Company. Additionally, Southern requests approval to credit the refunds due two pipeline producers, Florida Gas Transmission Company and Texas Eastern Transmission Company, against those pipelines' proportionate share of Southern's retroactive Order No. 94 amounts. Pending such approval, Southern has retained the refunds due these pipelines.

Southern's refund report was previously noticed on May 9, 1985 in Docket Nos. RP82-125-014, *et al.* It is being renoticed at this time to give clear public notice of Southern's proposal to retain and credit certain refund amounts against Order No. 94 amounts.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 19, 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 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. 85-17183 Filed 7-18-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA85-2-41-000 and TA85-2-41-001]

Southwest Gas Corp.; Change in Purchased Gas Adjustment Clause Provisions and in Rates Pursuant to Purchased Gas Adjustment Clause Provisions, as Modified

July 12, 1985.

Take notice that Southwest Gas Corporation (Southwest) on July 9, 1985 tendered for filing Twenty-fifth Revised Sheet No. 10, Twenty-sixth Revised Sheet No. 10, Third Revised Sheet No. 28 and Original Sheet Nos. 30A and 30B pursuant to Section 9, Purchased Gas Adjustment Clause (PGAC), as modified by said filing, of the General Terms and Conditions contained in its FERC Gas Tariff, Original Volume No. 1. The purpose of said filing is to reflect a two-part demand/commodity rate structure to be consistent with that of Southwest's northern Nevada sole supplier of gas, Northwest Pipeline Corporation, effective November 1, 1984. This filing also reflects two rate decreases occasioned by a decrease from Northwest effective May 1, 1985 and one proposed to be effective July 1, 1985. Southwest requests that its rates become effective concurrently with Northwest's rates.

Southwest's states that a copy of this filing has been mailed to the Nevada Public Service Commission, the California Public Utilities Commission, Sierra Pacific Power Company and CP National.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 19, 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 be come 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. 85-17184 Filed 7-18-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-170-000]

Texas Eastern Transmission Corp.; Petition for Direct Billing Proposal Approval

July 12, 1985.

Take notice that on July 3, 1985, Texas Eastern Transmission Corporation (Texas Eastern) filed a petition requesting the Commission to approve a direct billing proposal for production-related cost allowances authorized by 18 CFR 271.1104 of the Commission's regulations as promulgated under the Commission's Order No. 94 series. Under the proposed plan, Texas Eastern will bill each customer directly for its share of the Order No. 94 payments made by Texas Eastern for periods from July 25, 1980 to April 30, 1985. Texas Eastern will calculate each customer's share of Order No. 94 payments by month based on the ratio of that customer's purchases from Texas Eastern for such month during the retroactive period to the total of all purchases from Texas Eastern for such respective month during the retroactive period. The sums will be directly billed including interest.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 22, 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 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. 85-17185 Filed 7-18-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-429-001 et al.]

Texas Eastern Transmission Corp. et al.; Availability of the DCQ Pipeline Project Environmental Assessment

July 16, 1985.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC) has prepared an environmental assessment (EA) an the above-referenced dockets. The staff has determined that construction and operation of the proposed facilities would not constitute a major Federal action significantly affecting the quality of the human environment. The DCQ Pipeline Project facilities include 130.26 miles of 10- through 36-inch-diameter pipeline loop, one new 7,660-horsepower compressor station, a 4,000-horsepower addition at one compressor station, a 6,000-horsepower addition at one compressor station, one new meter and regulator station, and appurtenances. The facilities examined in the EA are located in Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, and Georgia. A detailed listing of the counties effected in each state was published in the **Federal Register** on March 15, 1985 (50 FR 10535). Alternatives are also evaluated.

The EA will be used in the regulatory decisionmaking process at the Commission and may be presented as evidentiary matter in formal hearings. Notices of the applications under Docket Nos. CP84-429-001, CP84-654-001, and CP85-294-000 were published in the **Federal Register** on January 18, 1985 (50 FR 2714), February 19, 1985 (50 FR 6985), and March 13, 1985 (50 FR 10099), respectively. The period of time for filing motions to intervene or notices of intervention expired on February 1, 1985; February 22, 1985; and March 28, 1985; respectively. Motions to intervene out of time can be filed with the Commission in accordance with the requirements of Rule 214(d) of the Commission's Rules of Practice and Procedures, 18 CFR 385.214(d). Anyone desiring to file a protest should do so in accordance with 18 CFR 385.211.

The EA has been placed in the public files of the Commission and is available for public inspection in the FERC Division of Public Information, Room 1000, 825 North Capitol Street NE., Washington, DC 20426. Copies have been sent to the public, all parties to the proceeding, and Federal, state, and local officials, and are available in limited quantities from the FERC Division of Public Information.

Anyone wishing to do so may file comments on the EA no later than August 2, 1985. Comments should be sent to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. Additional information about the project is available from Mr. Kenneth D. Frye, Project Manager, Environmental Evaluation Branch, Office of Pipeline

and Producer Regulation, telephone (202) 357-9039.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17179 Filed 7-18-85; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59723; FRL-2866-4]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). 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.

DATE: Close of Review Period:

Y 85-107 and 85-108—July 28, 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, (202-382-2725).

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 85-107

Manufacturer. H.B. Fuller Company.

Chemical. (G) Ethylene, vinyl acetate, methacrylic acid, hydroxy substituted hydrocarbon copolymer.

Use/Production. (G) Industrial adhesive and coating. Prod. range: 20,000-1,000,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: Dermal, a total of 80 workers, up to 2 hrs/da, up to 25 da/yr.

Environmental Release/Disposal. 15 kg/da to 50 kg/batch released to land. Disposal by licensed landfill.

Y 85-108

Manufacturer. Confidential.

Chemcial. (G) Polysiloxane block copolymer.

Use/Production. (G) Additive for magnetic media. Prod. range: Confidential.

Toxicity Data. Hemolysis test: No hemolytic; Agar Overlay Test: Non-cytotoxic.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

Dated: July 12, 1985.

V. Paul Fuschini,

Acting Director, Information Management Division.

[FR Doc. 85-17083 Filed 7-18-85; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51580; FRL-2866-5]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of fifteen PMNs and provides a summary of each.

DATES: Close of Review Period:

P 85-1172 and 85-1173—October 2, 1985.

P 85-1174—October 5, 1985.

P 85-1175, 85-1176, 85-1177, 85-1178, 85-1179, 85-1180, 85-1181 and 85-1182—October 6, 1985.

P 85-1183—October 7, 1985.

P 85-1184, 85-1185, and 85-1186—October 8, 1985.

Written comments by:

P 85-1172 and 85-1173—September 2, 1985.

P 85-1174—September 5, 1985.

P 85-1175, 85-1176, 85-1177, 85-1178, 85-1179, 85-1180, 85-1181 and 85-1182—September 6, 1985.

P 85-1183—September 7, 1985.

P 85-1184, 85-1185 and 85-1186—September 8, 1985.

ADDRESS: Written comments, identified by the document control number "[OPTS-51580]" 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 85-1172

Manufacturer. Confidential.

Chemical. (G) Phosphorotrithioic acid aliphatic ester.

Use/Production. (G) Plastics additive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal.

Environmental Release/Disposal. No release.

P 85-1173

Manufacturer. Confidential.

Chemical. (G) Silica supported transitional metal complex.

Use/Production. (G) Site-limited intermediate in a contained use. Prod. range: Confidential.

Toxicity Data. Irritation: Skin—Non-irritant, Eye—Slight; Ames Test: Mutagenic.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P85-1174

Manufacturer. Confidential.

Chemical. (G) Further clarification needed before information can be released to the public file.

Use/Production. (G) Paint polymer product. Prod. range: 200,000-500,000 kg/yr.

Toxicity Data. No data submitted.
Exposure. Manufacture and processing: Dermal, a total of 36 workers, up to 8 hrs/da, up to 184 da/yr.
Environmental Release/Disposal. 3 to 150 kg/batch released to land. Disposal by incineration and landfill.

P85-1175

Manufacturer. Confidential.
Chemical. (G) Amide of naturally occuring organic acids and fatty amines.
Use/Production. (G) Open, non-dispersive use. Prod. range: 113,400-158,800 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: Inhalation, a total of 2 workers, up to 2 hrs/da, up to 200 da/yr.
Environmental Release/Disposal. Less than 5.0 kg/da released to air with .02 kg/da to land. Disposal by incineration and approved landfill.

P85-1176

Manufacturer. Confidential.
Chemical. (S) Polymer of trimethylol propane triacrylate, jeffamine M600, (polyoxypropylene mono primary amine), maleic anhydride.
Use/Production. (G) The substance will be used as one component of a blend and in a closed system. Prod. range: 2,200-8,800 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: Dermal, a total of 10 workers, up to 8 hrs/da, up to 4 da/yr.
Environmental Release/Disposal. Minimal release to air. Disposal by licensed landfill and biological treatment lagoons.

P85-1177

Manufacturer. Confidential.
Chemical. (G) Cyclooctoamylose.
Use/Import. (G) Inclusion complexating agent. Import range: Confidential.
Toxicity Data. P.O. administration (mice): 16,000 mg/kg; I.V. administration (mice): 4,000 mg/kg; P.O. administration: (rat): 8,000 mg/kg; I.V. administration (rat): 2,400 mg/kg.
Exposure. Confidential.
Environmental Release/Disposal. Confidential Disposal by biological treatment.

P 85-1178

Importer. Confidential.
Chemical. (G) Enzymatically derived starch based syrup.
Use/Import. (G) Inclusion complexating agent. Import range: Confidential.
Toxicity Data. P.O. administration (mice): 16,000 mg/kg; I.V. administation (mice): 4,000 mg/kg; P.O. administration: (rat): 8,000 mg/kg; I.V. administration (rat): 2,400 mg/kg.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by biological treatment.

P 85-1179

Manufacturer. Confidential.
Chemical. (G) Polyacrylate.
Use/Production. (G) Polyacrylate for use in adhesive emulsions. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by publicly owned treatment works (POTW).

P 85-1180

Manufacturer. Confidential.
Chemical. (G) Tert-amyl peroxy alkylene ester.
Use/Production. (S) Curing agent/catalyst for polymerizing unsaturated polyester resins and initiator for polymerizing other vinyl monomers, i.e. ethylene, styrene, etc. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85-1181

Manufacturer. First Chemical Corporation.
Chemical. (S) Dinitroethylbenzene.
Use/Production. (S) Industrial intermediate for manufacturing diaminoethylbenzene. Prod. range: 227,000-1,364,000 kg/yr.
Toxicity Data. Acute oral: 810.27 mg/kg; Acute dermal: >2.0 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant Ames Test: Negative.
Exposure. Manufacture: Dermal, a total of 16 workers, up to 8 hrs/da, up to 15 da/yr.
Environmental Release/Disposal. 0.05 kg/da released to air. Disposal by fume scubber.

P 85-1182

Manufacturer. First Chemical Corporation.
Chemical. (S) Diaminoethylbenzene.
Use/Production. (S) Industrial intermediate for curing epoxy resins and isocyanates. Prod. range: 227,000-1,364,000 kg/yr.
Toxicity Data. Acute oral: 292.69 mg/kg; Acute dermal: >2.0 g/kg; Irritation: Skin—Non-irritant, Eye—Irritant Ames test: Negative; DNA repair test: Not genetically active.
Exposure. Manufacture: Dermal, a total of 20 workers, up to 8 hrs/da, up to 15 da/yr.
Environmental Release/Disposal. No release.

P 85-1183

Manufacturer. Alkaril Chemicals, Inc.
Chemical. (G) N,N-bis(substituted imidazolinium chloride) alkyl steramide.
Use/Production. (G) Textile fabric softner. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

P 85-1184

Manufacturer. The DOW Chemical Company.
Chemical. (G) Substituted pyridine.
Use/Production. (S) Site-limited reaction intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: Between 500-1,000 mg/kg; Irritation: Skin—No irritation, Eye—Slight.
Exposure. Manufacture and use: Dermal.
Environmental Release/Disposal. Release to air and water. Disposal by incineration, on-site industrial waste treatment plant and navigable waterway after treatment.

P 85-1185

Importer. Naarden International.
Chemical. (S) 1-Naphtalenol, 5,6,7,8 tetrahydro-.
Use/Import. (S) Industrial fragrance ingredient. Import range: Confidential.
Toxicity Data. Acute oral: 1,195 mg/kg; Irritation: Skin—Severe, Eye—Severe; Ames Test: Non-mutagenic; Skin sensitization: Weak/mild sensitizer.
Exposure. Use: dermal, a total of 5 workers, up to 6 hrs/da, up to 6 da/yr.
Environmental Release/Disposal. 10 to 20 parts per million (ppm) released to air. Disposal by venting.

P 85-1186

Manufacturer. E. I. du Pont de Nemours and Company, Inc.
Chemical. (G) Monosubstitutedcarbamic acid, methyl ester, salt.
Use/Production. (S) Site-limited and commercial intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: 11,000 mg/kg; Irritation: Mild to minimal.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by waste treatment plant.

Dated: July 12, 1985.

V. Paul Fuschini,

Acting Director, Information Management Division.

[FR Doc. 85-17082 Filed 7-18-85; 8:45 am]

BILLING CODE 6560-50-M

[FRL-2864-2]

Financial Assistance Awards Made Under the Asbestos School Hazard Abatement Act of 1984 (ASHAA)

AGENCY: Environmental Protection Agency

ACTION: Listing of ASHAA Awards.

SUMMARY: The Environmental Protection Agency [EPA] has announced awards totaling $45 million in grants and loans to the nation's most needy schools to help abate asbestos hazards. Under the Asbestos School Hazard Abatement Act of 1984 (ASHAA), EPA makes loans and grants to help public and private schools remove or contain friable abestos-containing materials. The law also provides for Federal scientific and technical assistance to state and local governments to help them identify and assess school abestos hazards.

The following is a listing of the 198 awards made under ASHAA:

Awards Listings by State

Applicant name	City	State
Kodiak Island Boro	Kodiak	AK
City Board of Education of B'ham.	Birmingham	AL
Montgomery County Board of Education.	Montgomery	AL
Selma Public Schools	Selma	AL
Alabama Institute for Deaf and Blind.	Talledega	AL
Arkadelphia School Dist No. 1	Arkadelphia	AR
Special Sch Dist of Fort Smith	Fort Smith	AR
Paris School District No. 7	Paris	AR
Walnut Ridge Public Schools	Walnut Ridge	AR
Sunnyside Unified School Dist. No. 12.	Tucson	AZ
Brea-Olinda Unified School District.	Brea	CA
Cupertino Union School District.	Cupertino	CA
Elk Grove Unif. S.D.	Elk Grove	CA
Central Unified School District	Fresno	CA
Bassett Unified School District	La Puente	CA
Rim of the World Unified School Dist.	Lake Arrowhead.	CA
Oakdale Union Elem School District.	Oakdale	CA
Adams-Arapahoe Joint School Dist 28J.	Aurora	CO
Hartford Public Schools	Hartford	CT
Newtown Board of Education	Newtown	CT
District of Columbia Public Schools.	Washington	DC
Ceasar Rodney School District.	Camden	DE
Capitol School	Dover	DE
Lake Forest School District	Harrington	DE
Holy Spirit School	New Castle	DE
Appoquinimink School	Odessa	DE
Seaford School District	Seaford	DE
St. John the Beloved	Wilmington	DE
St. Mary Magdalene School	Wilmington	DE
School Board of Manatee County.	Bradenton	FL
School District of Taylor County.	Perry	FL

Awards Listings by State—Continued

Applicant name	City	State
Richmond County Board of Education.	Augusta	GA
Diocese of Savannah	Savannah	GA
South Winneshiek Community School.	Calmar	IA
Charles City Comm. Schools	Charles City	IA
Des Moines Independent Comm. School.	Des Moines	IA
Kanawha Comm School District.	Kanawha	IA
New Hampton Community School District.	New Hampton	IA
Blackfoot School District No. 55.	Blackfoot	ID
Joint School District No. 151	Burley	ID
Caldwell School District No. 132.	Caldwell	ID
Bonneville Joint School District No. 93.	Idaho Falls	ID
Independent School District No. 1.	Lewiston	ID
Moscow School District No. 281.	Moscow	ID
Post Falls School District No. 273.	Post Falls	ID
Township High School District 211.	Palatine	IL
Venice Comm. Unit School Dist. No. 3.	Venice	IL
Yorkville Community Unit 115	Yorkville	IL
Diocese of Fort Wayne-South Bend, Inc.	For Wayne	IN
St John's Church	Beloit	KS
Unified School District No. 204.	Bonner Springs	KS
USD, No. 352, Goodland Kansas.	Goodland	KS
Unified School District No. 233.	Olathe	KS
Villa Madonna Academy	Covington	KY
Harlan Co. Board of Education.	Harlan	KY
Laurel County School Division	London	KY
Jefferson County Public Schools.	Louisville	KY
Clay County Public Schools	Manchester	KY
Jessamine County Board of Education.	Nicholasville	KY
Daviess County Board of Education.	Owensboro	KY
Bossier Parish School Board	Benton	LA
New Orleans Public Schools	New Orleans	LA
City of Lynn School Department.	Lynn	MA
Mohawk Trail Reg. School District.	Shelburne Falls	MA
Roman Catholic Diocese of Spg Fld MA.	Springfield	MA
Baltimore, City Schools	Baltimore	MD
Grace & St. Peter's Day School.	Baltimore	MD
Talmudical Academy of Balt. Inc.	Baltimore	MD
Harford County Public Schools.	Bel Air	MD
Brunswick School Department	Brunswick	ME
M.S.A.D. No. 18	Hallowell	ME
Davison Community Schools	Davison	MI
Millington Community Schools	Millington	MI
Oak Park School District	Oak Park	MI
Lamberton Public School	Lamberton	MN
Special School Dist. Number 1.	Minneapolis	MN
North St. Francois County R-I Sch. Dist.	Bonne Terre	MO
Hayti R-2 School District	Hayti	MO
King City R-I School District	King City	MO
Moberly Public School District No. 81.	Moberly	MO
Noxubee County School District.	Macon	MS
Natchez Spc. Mun. Sep. School District.	Natchez	MS
Anaconda School District No 10.	Anaconda	MT
Burlington City Schools	Burlington	NC
Aberdeen Area	Belcourt	ND
Central Cass Public School Dist 17.	Casselton	ND
Elgin Public School	Elgin	ND
Dakota Public School 3	Hunter	ND
Milnor Public School Dist 2	Milnor	ND

Awards Listings by State—Continued

Applicant name	City	State
Oakes Public School District	Oakes	ND
Valley City Public School Dist 2.	Valley City	ND
Walhalla Public School	Walhalla	ND
Chadron City Schools	Chadron	NE
Archbishop Bergan Jr/Sr. Catholic High.	Fremont	NE
Brownell-Talbot School	Omaha	NE
St. Pius X/St. Leo School	Omaha	NE
St. John Lutheran School	Seward	NE
Stanton Community Schools	Stanton	NE
Crotched Mountain Rehab. Center.	Greenfield	NH
Kearsrage Regional School District.	Newport	NH
Newport School District	Newport	NH
Sunapee School District	Sunapee	NH
Camden Board of Education	Camden	NJ
Board of Education of Clifton	Clifton	NJ
Collingswood Board of Education.	Collingswood	NJ
Hanover Park Regional High Sch. Dist.	East Hanover	NJ
Fair Lawn Public Schools	Fair Lawn	NJ
Flemington-Raritan Board of Education.	Flemington	NJ
Newark Board of Education	Newark	NJ
Paramus Board of Education	Paramus	NJ
Paterson Board of Education	Paterson	NJ
Roselle Park Board of Education.	Roselle Park	NJ
Clark County School District	Las Vegas	NV
Lincoln County School District	Panaca	NV
Sacred Heart Church	Bronx	NY
Fredonia Central School District.	Fredonia	NY
Limestone Union Free School District.	Limestone	NY
Nanuet Union Free School District.	Nanuet	NY
Our Lady of Grace Church	New York	NY
St. Philip & James	New York	NY
Ashtabula Area City Schools	Ashtabula	OH
Brunswick City School District	Brunswick	OH
Cleveland City School Dist.	Cleveland	OH
Diocese of Cleveland	Cleveland	OH
Copley-Fairlawn City School	Copley	OH
Fairborn City School District	Fairborn	OH
Labrae Local Schools	Leavitsburg	OH
Madison Board of Education	Mansfield	OH
Fairbanks Local School District.	Milford Center	OH
Nelsonville-York City Schools	Nelsonville	OH
Niles City Schools	Niles	OH
Sylvania City School District	Sylvania	OH
Washington Local Schools	Toledo	OH
Cleve Hts-University Hts School Dist.	University Hts	OH
Vanlue Local Schools	Vanlue	OH
Howland Local Schools	Warren	OH
Sts. Peter and Paul School	Warren	OH
Warren City Schools	Warren	OH
Jefferson Local School District.	West Jefferson	OH
Youngstown City School District.	Youngstown	OH
West Muskingom Schools	Zanesville	OH
Enid Public Schools	Enid	OK
Hooker Public Schools	Hooker	OK
School District No. 1-J	Portland	OR
Sweet Home School District No. 55.	Sweet Home	OR
Canon McMillan School District.	Canonsburg	PA
Our Lady of Peace School	Clarks Green	PA
Coatesville Area School District.	Coatesville	PA
Lake Lehman School District	Dallas	PA
Erie City School District	Erie	PA
School District of Haverford Twp.	Havertown	PA
Keystone School District	Knox	PA
Milton Area School District	Milton	PA
Visitation School	Norristown	PA
Oxford Area School District	Oxford	PA
Port Allegany School District	Port Allegany	PA
Selinsgrove Area School District.	Selinsgrove	PA
Wilkes-Barre Area School District.	Wilkes-Barre	PA
Commonwealth of the Northern Marians I.	Saipan	PI

AWARDS LISTINGS BY STATE—Continued

Applicant name	City	State
Providence School Department.	Providence	RI
Horry County School District	Conway	SC
Hampton School District No. 2	Estill	SC
Lancaster County School District.	Lancaster	SC
S.D. School for the Visually Handicapped.	Aberdeen	SD
Bullhead Day School	Bullhead	SD
Eagle Butte High School	Eagle Butte	SD
Swift Bird Day School	Eagle Butte	SD
Flandreau Indian School	Flandreau	SD
West Central School District No. 49-7.	Hartford	SD
Lead-Deadwood School District 40-1.	Lead	SD
Marty Indian School	Marty	SD
New Underwood School District 51-3.	New Underwood	SD
Pierre Indian Learning Center	Pierre	SD
Scangu Oyate Ho, Inc	St. Francis	SD
SD School for the Deaf	Sioux Falls	SD
Sioux Falls School District No. 49-5.	Sioux Falls	SD
Crow Creek Reservation H.S.	Stephan	SD
Sullivan County Department of Ed.	Blountville	TN
Marion County School Board	Jasper	TN
Memphis City Schools	Memphis	TN
Houston Ind. School District	Houston	TX
San Angelo Independent Sch District.	San Angelo	TX
Burlington Public School	Burlington	VT
Hinesburg Elementary School	Hinesburg	VT
Shelburne School District	Shelburne	VT
Anacortes School District	Anacortes	WA
Richland School District No. 400.	Richland	WA
Eau Claire Area School District.	Eau Claire	WI
Sacred Heart School	Eau Claire	WI
St. Patricks School	Elkhorn	WI
St. Anne Parish	Milwaukee	WI
Harrison County Board of Education.	Clarksburg	WV
Logan County School System	Logan	WV
Wayne County Board of Education.	Wayne	WV
Lewis County School System	Weston	WV
Laramie County School District No. 1.	Cheyenne	WY
Laramie Co. School Dist No. 2.	Pine Bluffs	WY
St. Joseph's School	Rawlins	WY

FOR FURTHER INFORMATION CONTACT: Ellen O'Boyle, Office of Administration and Resources Management, Grants Information and Analysis Branch (PM-216F), 401 M Street SW., Washington, D.C. 20460, (202) 475-8270.

Dated: June 28, 1985.

Thomas Hadd,

Chief, Grants Information and Analysis Branch.

[FR Doc. 85-16730 Filed 7-18-85; 8:45 am]

BILLING CODE 6560-50-M

[OW-6-FRL-2867-4]

Proposed Determination To Prohibit, Deny, or Restrict the Specification, or the Use for Specification, of an Area as a Disposal Site; Extension of Time

Background

On May 17, 1985, EPA published a notice in the **Federal Register** of a proposed determination to invoke the provisions of section 404(c) of the Clean Water Act (CWA) with regard to an area known as the Bayou aux Carpes swamp. The approximately 3,000 acre site is located south of New Orleans, Louisiana, and adjoins the Barataria Unit of the Jean Lafitte National Historical Park. The previous **Federal Register** notice also announced the public hearing, which was held on June 18, 1985, in Gretna, Louisiana. The notice stipulated that the hearing record would remain open for the submittal of written comments until the close of business on July 3, 1985, or possibly a later date as announced at the hearing. Due to the substantial public interest in this issue and the requests by affected landowners for an extension of time in which to provide comments, an extension to August 2, 1985, was announced at the hearing. In a related matter, additional time was afforded EPA by Judge Lansing L. Mitchell, Eastern District Court of Louisiana, for the completion of the Section 404(c) process. This situation made it possible for EPA to allow more time for the submission of public comments. Therefore, this notice serves to announce a further extension of the comment period until August 19, 1985.

Extension of Time

Representatives of numerous landowners, whose property interests will be affected if the provisions of section 404(c) CWA are invoked, requested additional time in which to review and comment on the technical reports and other documents which will be considered in making the recommended determination. Since the request constitutes good cause, within the meaning of 40 CFR 231.8, the period of time available for the public to comment on the proposed determination has been extended through August 19, 1985. Documents post-marked on or before this date will be considered in making the recommended determination.

Submission of Comments

Comments should be sent to the Environmental Protection Agency, Federal Activities Branch, InterFirst Two Building, 1201 Elm Street, Dallas, Texas 75270. All comments should directly address whether the proposed determination should become the recommended determination, according to the criteria set forth in 40 CFR Part 231. These comments will be considered in reaching a decison to either withdraw the proposed determination or prepare a recommended determination to prohibit or deny the specification of the area as a disposal site. If a recommended determination is made, it and the administrative record will be forwarded to the Administrator of EPA in Washington, D.C., for review and the final determination. The procedures to be used by the Administrator in making the final determination are specified in 40 CFR 231.6.

Copies of all comments submitted in response to the proposed determination will be available for public inspection from 8:00 a.m. to 4:00 p.m. weekdays at the EPA address below.

Additional Information

Technical reports and other information regarding this matter are also available for review at the Earl K. Long Library, Louisiana Collection, located at the University of New Orleans, Lakefront Drive, New Orleans, Louisiana.

For further information, contact Clinton Spotts, Federal Activities Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2716.

Dated: July 9, 1985.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 85-17202 Filed 7-18-85; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2866-1]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075. Availability of Environmental Impact Statements filed July 8, 1985 through July 12, 1985 Pursuant to 40 CFR 1506.9.

EIS No. 850286, Draft, CDB, CA, Chinatown Redevelopment Project, Construction, Grants, Alameda County, Due: September 3, 1985, Contact: Ann Raud (415) 273-3941.

EIS No. 850287, Draft, FHW, TN, TN-386 extension, I-65 to Hendersonville Bypass, Construction and Right-of-Way Acquisition, Davidson and Sumner Counties, Due September 3, 1985, Contact: Thomas Ptak (615) 251-5394.

EIS No. 850288, Final, COE, NJ, Lower Saddle River and Sprout Brook, Flood Control Plan, Bergen County, Due: August 19, 1985, Contact: Robert Kurtz (212) 264-3609.

EIS No. 850289, DSuppl, NOA, RI, PRO, Rhode Island Coastal Resources, Management Program, 1985 Program Changes Amendment, Approval, Due: September 3, 1985, Contact: Kathryn Cousins (202) 634-4126.

EIS No. 850290, Draft, COE, AL, Huntsville Spring Branch and Indian

Creek System, DDT Contamination Isolation, Olin's Remedial Action Plan, Permits, Due: September 3, 1985, Contact: Ray Hedrick (615) 251-5026.

EIS No. 850291, Draft, AFS, TX, East Texas National Forests and Caddo and LBJ National grasslands, Land and Resource Management Plan, Due: October 17, 1985, Contact: Gordan Steele (409) 639-8501.

EIS No. 850292, Draft, COE, FL, Upper St. Johns River Basin Flood Damage Reduction Plan, Due: September 3, 1985, Contact: Dr. Gerald Atmar (904) 791-2615.

EIS No. 850293, Draft, COE, LA, Aloha-Rigolette Area Agricultural Flood Control Plan, Due: September 14, 1985, Contact: Dr. Steve Mathies (504) 838-2525.

EIS No. 850294, Revised, AFS, MT, ID, Kootenai National Forest, Land and Resource Management Plan, Due: October 15, 1985, Contact: Ed Hiest (406) 329-3011.

EIS No. 850295, Draft, UAF, GA, Winnersville Air-to-Surface Weapons Range, Construction and Operation, 347 Tactical Fighter Wing, Lanier and Lowndes Counties, Due: September 3, 1985, Contact: Alton Chavis (804) 764-4430.

EIS No. 850296, Final, NOA, PR, VI, Shallow-Water Reeffish Fishery Management Plan, Implementation and Adoption, Due: August 19, 1985, Contact: William Gordan (202) 634-7283.

EIS No. 850297, Draft, COE, VA, James City County Dam and Water Supply Reservoir, Construction and Development, 404 Permit, Ware Creek, James City County, Due: September 3, 1985, Contact: Bob Hume (804) 441-3657.

EIS No. 850298, Final, BIA, NM, Norton to Tesuque 115kV Overhead Transmission Line and Substation Construction, Right-of-Way Grant and Approval, Santa Fe County, Due: August 19, 1985, Contact: Bruce Blanchard (202) 343-3891.

EIS No. 850299, Final, AFS, OK, TX, NM, Cibola National Forest and Kiowa, Rtia Blanca, Black Kettle and McClellan Creek National Grasslands, Land and Resource Management Plan, Due: August 19, 1985, Contact: C. Phil Smith (505) 766-2185.

EIS No. 850300, Draft, CDB, MA, Tent City Development, Parcells 11A and 11B, South End Urban renewal Area, UDAG, Suffolk County, Due: September 3, 1985, Contact: Richard Mertens (617) 722-4300.

Amended Notices

EIS No. 731616, Draft, COE, FL, Upper St. Johns River Basin Flood Damage Reduction Plan—Officially withdrawn.

EIS No. 850114, Draft, AFS, MT, ID, Bitterroot National Forest, Land and Resource Management Plan, Missoula and Ravalli Cos., MT and Idaho Co., ID, Due: August 15, 1985, Published FR 4-19-85—Review extended.

EIS No. 850115, Draft, AFS, MT, Gallatin National Forest, Land and Resource Management Plan, Due: August 15, 1985, Published FR 4-19-85—Review extended.

EIS No. 850258, Draft, FHW, AR, US 65 Bypass Construction, US 65/US 270 Interchange and Bryant Street Intersection to US 65/US 65B, Pine Bluff, Jefferson County, Due: August 16, 1985, Published FR 6-28-85—Review extended.

Dated: July 16, 1985.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 85-17263 Filed 7-18-85; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2866-2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared July 1, 1985 through July 5, 1985 pursuant to the Environmental Review Process (ERP), under secitn 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 FR dated October 19, 1984 (49 FR 41108).

Draft EISs

ERP No. D-AFS-F65013-WI, Rating LO, Chequamegon Nat'l Forest, Land and Resource Mgmt. Plan, WI. **SUMMARY:** EPA's review of the DEIS did not identify any significant environmental impacts requiring changes to the proposed project.

ERP No. DS-AFS-K61081-CA, Rating LO, Peppermint Mtn. Resort Development, Permit, Slate Mtn., Sequoia Nat'l Forest, Calif. Condor Survival, CA. **SUMMARY:** EPA continues to have environmental reservations regarding potential air and water quality impacts, as were expressed in its comment letter on the DEIS.

ERP No. D-AFS-K65092-CA, Rating EC2, Cleveland Nat'l Forest Land and Resource Mgmt. Plan, CA. **SUMMARY:** EPAs review raised concerns with potential water quality impacts from non-point sources. EPA recommended that proposals to increase range, recreation, and development of riparian areas be included and consider specific mitigation measures to protect water quality.

ERP No. D-AFS-L65093-ID, Rating EO2, Nezperce Nat'l Forest, Land and Resource Mgmt. Plan, ID. **SUMMARY:** EPA was concerned about the water quality implications of the Forest Plan, particularly in light of the unresolved issue of the definition of "serious injury" in the State of Idaho water quality standards. EPA also felt that impacts to fish and fish habitat were understated and suggested new information regarding combined and cumulative impacts of planned activities on the forests' various resources. Conflicts with the resource management plans and policies of other agencies were also of concern. Overall, EPA believes that modified alternatives may have to be presented in the FEIS so that more emphasis is placed on managing for water quality.

ERP No. DS-COE-F32023-00, Rating EC2, Mississippi and Illinois Rivers, Pools 24, 25, and 26, Operation and Maintenance Permits, Shoreline Mgmt. Plan for Fleeting on Pool 26, MO and IL. **SUMMARY:** EPA believes that additional information needs to be provided on three topics: mussel beds, characteristics of side channel and channel border sediments, and the fleeting area located near Lock and Dam No. 26R (which currently is under construction). Additional substantiation of the claim that no significant mussle beds occur in the project area needs to be included in the FSEIS. Analysis of grain size of the sediments in the areas identified as acceptable for fleeting would aid in determining the need for pollutant analysis before a permit application is submitted. EPA believes that the environmental analysis in the FSEIS should include the left shore area of the pool that would be formed by the closure of Lock and Dam No. 26R. This area could be used as a mitigation site for some of the more sensitive areas proposed in the current REM Plan.

ERP No. DS-COE-F36075-WI, Rating LO, State Rd. and Edner Coulees Flood Control Project, Modifications, WI. **SUMMARY:** EPA's review of the DEIS did not identify any significant environmental impacts requiring changes to the proposed project.

ERP No. D-FRC-L05193-WA, Rating EC2, Hamma Hamma Hydroelectric Project, Construction and Operation, Licenses, WA. **SUMMARY:** EPA expressed primary concerns about the project's impacts on water quality. EPA

agreed with the DEIS that improperly designed or implemented erosion control measures could result in significant adverse impacts and that an aggressive mitigation program is needed. The expected temperature increase from the reservoir will exceed water quality standards and should be re-evaluated and mitigated if needed. EPA also asked that entrainment of resident fish through the turbines be mitigated.

ERP No. D-GSA-K81017-CA, Rating EC2, Los Angeles Federal Center Development, Construction, Metropolitan Detention Ctr., VA Outpatient Clinic, and Federal Bldg. Courthouse, CA. SUMMARY: EPA expressed concerns with the project's contribution to existing poor air quality and the EIS's failure to fully analyze project alternatives.

ERP No. D-JUS-A82113-00, Rating LO, Cannabis Eradication on Non-Federal and Indian Lands in the Contiguous US and HI. SUMMARY: EPA has no objections to the proposed eradication program, provided that all appropriate mitigation measures are fully implemented and site-specific analyses are undertaken prior to initiation of individual projects.

Final EISs

ERP No. F-FHW-F40152-MI, Logan St. and Dewitt Rd. Reconstruction, Kalamazoo St. to I-69, Improvements, MI. SUMMARY: EPA's review of the FEIS did not identify any significant environmental impacts requiring changes to the proposed project.

ERP No. F-FHW-F40267-OH, OH-79 Improvement, OH-79 to OH-16 Expressway, Construction, OH. SUMMARY: EPA's review of the FEIS did not identify any significant environmental impacts requiring changes to the proposed project.

Dated: July 16, 1985.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 85-17264 Filed 7-18-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Requirements Approved by OMB

July 11, 1985.

The following information collection requirements have been approved by the Office of Management and Budget. For further information contact Doris Peacock, FCC, (202) 632-7513.

OMB No.: 3060-0141

Title: Renewal Notice and Certification in the Private Operational Fixed Microwave Radio Service

Form No.: FCC 402-R

The approval of FCC 402-R has been extended through 7/31/88. The January 1983 edition with an OMB expiration date of 7/31/85 will remain in use until the forms are updated.

OMB No.: 3060-0127

Title: Assignment of Authorization

Form No.: FCC 1046

The approval on FCC 1046 has been extended through 7/31/88. The August 1982 edition with an OMB expiration date of 8/31/85 will remain in use until updated forms are available.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85-17147 Filed 7-18-85; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

July 11, 1985.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of the submission are available from Jerry Cowden, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact David Reed, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395-7231.

OMB Number: 3060-0254

Title: Section 74.433, Temporary Authorizations

Action: Extension

Respondents: Licensees of remote pickup broadcast stations

Estimated Annual Burden: 600 Responses; 2,400 Hours

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85-17148 Filed 7-18-85; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No. 202-002744-056.

Title: Atlantic and Gulf/West Coast of South America Conference.

Parties:

Compania Chilena de Navigacion Interoceania, S.A.

Compania Sud Americana de Vapores, S.A.

Lykes Bros. Steamship Co., Inc.

Compania Peruana de Vapores

Lineas Navieras Bolivianas, S.A.M.

United States Lines (S.A.), Inc.

Synopsis: The proposed amendment would reduce the required security deposit from $50,000 to $25,000 and would substitute United States Lines, (S.A.) Inc. for United States Lines, Inc. as a party to the Agreement. The parties have requested a shortened review period.

Agreement No. 207-009973-012.

Title: Johnson ScanStar Service Agreement.

Parties:

Blue Star Line Limited

The East Asiatic Company Ltd. A/S

Johnson Line Aktiebolag

Synopsis: The proposed amendment would restate the agreement to conform with the Commission's format, organization and content requirements and would make certain nonsubstantive changes to the language of the agreement.

Agreement No. 213-010719-002.

Title: The EAC Lines Transpacific Service, Ltd. and Mitsui O.S.K. Lines, Ltd. Space Charter and Sailing Agreement.

Parties:

EAC Lines Transpacific Service, Ltd.

Mitsui O.S.K. Lines, Ltd.

Synopsis: The proposed amendment would midify the agreement to allow the parties to share operational expenses with respect to vessel calls of a party made at ports where there is no corresponding vessel call by the other party due to the implementation of changes in vessel rotation. It would delete the East Asiatic Company, Ltd. (EAC), as a party to the agreement and

substitute EAC Lines Transpacific Service, Ltd. It would also delete provisions allowing EAC to assign its rights and obligations to an affiliated company as provided in Agreement No. 203-010752. The parties have requested a shortened review period.

Dated: July 16, 1985.

By Order of the Federal Maritime Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-17193 Filed 7-18-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Citadel Bankshares, Inc., et al., Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 9, 1985.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Citadel Bankshares, Inc.*, Wichita, Kansas; to acquire 86.7 percent of the voting shares of Augusta Bank and Trust, Augusta, Kansas and 99.8 percent of the voting shares of Montgomery County Financial Corporation, Independence, Kansas, thereby indirectly acquiring Independence State Bank, Independence, Kansas.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Atlanta Bancshares, Inc.*, Atlanta, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of The First National Bank of Atlanta.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Alaska Northern Banc Corp.*, Fairbanks, Alaska; to become a bank holding company by acquiring 100 percent of the voting shares of Alaska National Bank of the North, Fairbanks, Alaska.

Board of Governors of the Federal Reserve System, July 15, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-17172 Filed 7-18-85; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules; Bairnco Corp. et al.

The attached notice is to correct the **Federal Register** publication of July 12, 1985 which listed transactions granted early termination of the waiting period.

Transaction 85-0719 was listed with an incorrect file number; the file number should be 85-0710.

Transaction 85-0701 was listed with an effective termination date of June 25, 1985; the correct effective termination date is June 28, 1985.

The two corrected transactions should read as follows:

Transaction	Waiting period terminated effective
(1) 85-0710—Bairnco Corporation's proposed acquisition of assets of The Frankelite Company and voting securities of Diaman-Mexo held by Diamond F.	June 20, 1985.
(2) 85-0701 Transco Energy Company's proposed acquisition of assets of Paramont Coal Company.	June 28, 1985.

For further information contact: Sandra M. Peay, Legal Technician, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 85-17190 Filed 7-18-85; 8:45 am]

BILLING CODE 6750-01-M

Line of Business Program: Notice of Publication of the 1977 Annual Line of Business Report

AGENCY: Federal Trade Commission.

ACTION: Publication of the 1977 Annual Line of Business Report on or after August 8, 1985.

FOR FURTHER INFORMATION CONTACT: David F. Lean, Deputy Manager, Line of Business Program, Room LL01, 2120 L Street NW., Washington, D.C. 20037. Telephone: (202) 634-7332.

The Federal Trade Commission has authorized publication of the 1977 Annual Line of Business Report (ALBR), which contains aggregates of data reported by individual companies, but which does not contain any information by which individual company data can be identified. Publication will take place on or after twenty days following the date of this announcement, at which time copies will be available for examination in the Commission's public reference room (Room 130, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580). Within approximately eight weeks afterwards, copies will be available for public distribution.

This is the last in the series of five ALBRs to be published by the Commission. The series began in 1973 with publication of industry data compiled from a partial sample of the reporting companies. Industry aggregates for ALBRs 1974, 1975, 1976, and 1977 are based on the full sample of reporting companies.

The 1977 ALBR is virtually identical in format to the 1976 ALBR. About 50 financial line items of data are reported for about 250 industry categories. The data were gathered from the approximately 450 largest manufacturing companies.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 85-17189 Filed 7-18-85; 8:45 am]

BILLING CODE 6750-01-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 July 12, 1985.

Social Security Administration

Subject: Statement Regarding Date of Birth and Citizenship—SSA–702—Extension (0960–0016)
Respondents: Individuals
Subject: Reconsideration Disability Report—SSA–3441—Extension (0960–0144)
Respondents: Individuals
OMB Desk Officer: Judy A. McIntosh

Public Health Service

Food and Drug Administration

Subject: Weight-Loss Practices Study—Concept Clearance
Respondents: Individuals or households
Subject: Food Canning Establishment Registration and Process Filing—Extension (0910–0037)
Respondents: Businesses or other for-profit, small businesses or organizations
Subject: Nutrition Labeling—Reinstatement (0910–0177)
Respondents: Businesses or other for-profit, small businesses or organizations
Subject: New Animal Drug Application—Reinstatement (0910–0032)
Respondents: Individuals or households, businesses or other for-profit, small businesses or organizations
OMB Desk Officer: Bruce Artim

Health Resources and Service Administration

Subject: Study of Public Health and Environmental Health Personnel—New
Respondents: Individuals or households
Subject: Reporting Requirements for Limitation on Federal Participation of Capital Expenditures under Section 1122 of the Social Security Act—Revision (0915–0071)
Respondents: State/local governments, businesses or other for-profit, non-profit institutions, small businesses or organizations

Centers for Disease Control

Subject: Investigation of Workers Exposed to Methylenebis Chloroaniline (MBOCA)—New
Respondents: Individuals or households
Subject: Regulation–45 CFR 96–Preventive Health and Health Services Block Grant—Extension (0920–0106)
Respondents: State/local governments

National Institutes of Health

Subject: Public Health Service Policy on Humane Care and Use of Laboratory Animals by Awardee institutions—Existing Collection
Respondents: Institutions that receive a Public Health Service grant or contract support for research involving animals
OMB Desk Officer: Fay S. Iudicello

Health Care Financing Administration

Subject: Physician/Suppliers Over Payment Report—HCFA–496—Existing Collection
Respondents: Businesses, non-profit institutions
Subject: Health Insurance Claims Form—FCFA–1500—Revision (0938–0008)
Respondents: Individuals or households
OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Office on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address:

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503
Attn: (name of OMB Desk Officer)

Dated: July 15, 1985.

Peter D. Gness,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 85–17093 Filed 7–18–85; 8:45 am]
BILLING CODE 4150–04–M

Food and Drug Administration

[Docket No. 83N–0260]

Availability of Dental X-Ray Patient Selection Criteria Draft Report

AGENCY: Food and Drug Administration.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft report entitled "The Selection of Patients for Dental X-Ray Examinations: Routine Dental X-Ray Examinations." The report, developed by a panel of dentists, discusses the utility of dental x-rays are used on the asymptomatic dental patient.

DATE: Comments by August 19, 1985.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane Rockville, MD 20857; a copy of the draft report is available for public review at the Docket Management Branch. Request for single copies of the draft report should be made in writing to Lireka P. Joseph, Center for Devices and Radiological Health (HFZ–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lireka P. Joseph, Center for Devices and Radiological Health (HFZ–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4600.

SUPPLEMENTARY INFORMATION: Through the Center for Devices and Radiological Health, FDA conducts and supports research and training to minimize unproductive radiation exposure from diagnostic radiological examinations, including nuclear medicine procedures. One possible source of unproductive radiation exposure is radiological examinations that are not likely to affect patient management. To reduce the use of ineffective examinations, dentists need up-to-date information as to when a given radiological study is likely to provide needed diagnostic data. This information, which can take the form of decision guides bases on patient signs, symptoms, or history,is termed here "patient selection criteria" or "high-yield criteria."

To assist in making this type of information development, testing has establishing a program to facilitate the development, testing, and use of patient selection criteria for diagnostic radiological procedures (The **Federal Register** of June 9, 1981 (46 FR 30568), provides a detailed description of the x-ray referral criteria development and process.) The agency believes that such information about the utility of radiological procedures can (1) assist dentists in using limited health care and diagnostic radiological resources more effectively, and (2) help minimize unnecessary radiation to the population.

Draft Dental X-Ray Patient Selection Criteria Panel Report

In its role as facilitator, FDA has provided logistical support to the Dental X-Ray Patient Selection Criteria Panel, a panel of dentists expert in dental radiography as used in the evaulation of the asymptomatic dental patient. The panel consisted of dentists in private practice, representatives appointed by the American Dental Association, the American Academy of Dental Radiology, the American Academy of Oral Medicine, the American Academy of General Dentistry, the American Academy of Periodontology, and the American Academy of Pedodontics, as well as dental radiology investigators. The panel held its first meeting on September 7 and 8, 1983, and reviewed the status of dental radiography in the evaluation and management of the asymptomatic dental patient.

An overview report on the subject (Ref. 1) prepared by FDA staff and results of a grant report funded by the Center for Devices and Radiological Health (Ref. 2) were presented to members of the panel. Since the first meeting, the panel has convened two additional times. During the course of these meetings, the panel (1) reviewed studies in the literature on the use of dental radiography, (2) sought data from the dental practice community on the use of dental radiography protocols, (3) sought data from the dental schools in North America and selected schools in Europe and Asia on the use of dental radiography protocols, and (4) was addressed by researchers on other subjects which were of special concern to panel members.

The panel specifically considered the issues of overuse of dental x-ray examinations for the asymptomatic dental patient, the relationship between the clinical progression of dental caries and its radiographic appearance, the effectiveness of various x-ray technologies, and the biological effects and risks from the use of radiation. The panel was especially conerned with missed occult (obscure) lesions that could result in adverse effects. Based on a review of available literature, the panel was able to resolve these concerns and recommend guidelines for prescribing dental radiographs for the asymptomatic child, adolescent, and adult dental patient.

The panel has submitted its draft report entitled "The Selection of Patients for Dental X-Ray Examinations: Routine Dental X-Ray Examinations" for review by appropriate professional organizations and by interested members of the public. The American Academy of Dental Radiology is coordinating the review of the draft report by professional organizations. By this notice, FDA invites and encourages interested members of the public to provide to the agency, and in turn to the panel, additional data and comments on the draft report. Single copies of the draft report are available from the contact person listed above.

References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m. Monday through Friday.

1. Manny, E. F., et al., "An Overview of Dental Radiology," National Center for Health Care Technology, 1980.

2. White, S. C., A. B. Forsythe, and L. P. Joseph, "High-Yield Criteria for Panoramic Radiography," HHS Publication FDA 82-8186, June 1982.

Interested persons may on or before August 19, 1985, submit written comments to the Dockets Management Branch (address above). Two copies of any comments should be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. FDA wil refer all comments to the panel for consideration in developing a final report. The draft report and comments received in response to this notice may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 15 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-17167 Filed 7-18-85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83N-0095; DESI 11935]

Brompheniramine Maleate in Combination with Phenylephrine Hydrochloride and Phenylpropanolamine Hydrochloride; Withdrawal of Approval of Pertinent Parts of the New Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Notice

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of pertinent parts of the new drug applications (NDA's) for Dimetapp Elixir and Dimetapp Extentabs. The original three-ingredient formulations of these drugs lack substantial evidence of effectiveness. Specifically, each of the two nasal decongestants contained in these combination products has not been shown to contribute to the effectiveness of the products. Reformulations of the products have been approved as safe and effective.

EFFECTIVE DATE: August 19, 1985.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific product should be identified with the DESI number 11935 and directed to the Division of Drug Labeling Compliance (HFN-310), Center for Drugs and Biologics, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David T. Read, Center for Drugs and Biologics (HFN-366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: On December 14, 1973 (38 FR 34481), FDA granted a temporary exemption to certain oral prescription drugs offered for relief of cough, cold, allergy, and related symptoms. The exemption was from the time limits established for completing certain phases of the Drug Efficiency Study Implementation (DESI) program, and covered the two products described below.

1. NDA 12-436; Dimetapp Extentabs containing 12 milligrams (mg) brompheniramine maleate, 15 mg phenylephrine hydrochloride, and 15 mg phenylpropanolamine hydrochloride; A. H. Robins, Co., Inc., 1407 Cummings Dr., Richmond, VA 23220.

2. NDA 13-087; Dimetapp Elixir containing in each 5 milliliters 4 mg brompheniramine maleate, 5 mp phenylephrine hydrochloride, and 5 mg phenlypropanolamine hydrochloride; A. H. Robins.

In a notice published in the Federal Register of December 23, 1983 (48 FR 56854), FDA revoked the exemption and proposed to withdraw approval of the original three-ingredient formulations of the Dimetapp products. FDA also announced conditions for approval and marketing of two-ingredient reformulations of these products that were found to be effective. In response to the December 1983 notice, Robins requested a hearing for its three-ingredient products and submitted data, information, and analysis in support of its hearing request. FDA subsequently approved supplemental applications providing for the reformulation products.

Robins has since withdrawn its hearing request. Accordingly, FDA is now withdrawing approval of those parts of NDA's 12-436 and 13-087

pertaining to the original three-ingredient formulations of Dimetapp Extentabs and Elixir, described above.

Any drug product that is identical, related, or similar to these products and is not the subject of an approved new drug application or of a pending hearing request is covered by these new drug applications and is subject to this notice (21 CFR 310.6). Hearing requests submitted by other manufacturers for identical, similar, or related products will be addressed in a future notice. Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance at the address given above.

The Director of the center for drugs and Biologics, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053 as amended (21 U.S.C. 355)) and under the authority delegated to him (21 CFR 5.82) finds that, on the basis of new information before him with respect to the products, evaluated together with the evidence available to him when the applications were approved, there is a lack of substantial evidence that the products will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing finding, approval of those parts of NDA's 12–436 and 13–087 that provide for the three-ingredient formulations of Dimetapp Extentabs and Elixir described above and all the amendments and supplements that provide for those three-ingredient products is withdrawn effective August 19, 1985. Shipment in interstate commerce of the above products or any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: July 15, 1985.

Harry M. Meyer, Jr.,

Director, Center for Drugs and Biologics.

[FR Doc. 85–17165 Filed 7–18–85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 78F–0034]

Distributors Processing, Inc.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal without prejudice of a petition (MF–3712) proposing that the food additive regulations be amended to provide for the safe use of dried pulverized stems of *Yucca schidigera* in poultry feed to reduce ammonia emissions from decomposing poultry manure.

FOR FURTHER INFORMATION CONTACT: William D. Price, Center for Veterinary Medicine (HFV–221), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5362.

In the **Federal Register** of March 14, 1978 (43 FR 10621), FDA published notice that it had filed a petition (MF 3712) from Distributors Processing, Inc., 17626 Avenue 168, Porterville, CA 93257, that proposed to provide for the safe use of dried pulverized stems of *Yucca schidigera* in poultry feed to reduce ammonia emissions from decomposing poultry manure. Distributors Processing, Inc., has withdrawn the petition without prejudice to a future filing (21 CFR 571.7).

Dated: July 15, 1985.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 85–17168 Filed 7–18–85; 8:45 am]

BILLING CODE 4160-01-M

[FDA–225–85–8401]

Memorandum of Understanding With the Federal Office for Foreign Economic Affairs, Federal Department of Public Economy of the Swiss Confederation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding (MOU) with the Swiss Federal Office for Foreign Economic Affairs, formalizing an agreement which affords reciprocal recognition to each country's good laboratory practice program, and provides for the mutual acceptance of safety test data collected in either country.

DATE: The agreement became effective April 29, 1985.

FOR FURTHER INFORMATION CONTACT: Paul D. Lepore, Office of Enforcement (HFC–230), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2390.

SUPPLEMENTARY INFORMATION: In accordance with § 20.108(c) (21 CFR 20.108(c)) which states that all agreements and memoranda of understanding between FDA and others shall be published in the **Federal Register**, the agency is publishing the memorandum of understanding as set forth below. As a consequence of this MOU, it is expected that it will not be necessary for either party to conduct nonclinical surveillance laboratory inspections in the other country. However, each country reserves the authority to refuse to consider a nonclinical laboratory study in support of an application for a research or marketing permit if the sponsor, the testing facility or the competent authority refuses a request made under Section III.B.3 of the MOU to permit participation of the other party in an audit of the subject study. Each party to this MOU agrees to notify the other party of any changes in the respective good laboratory practice programs of the country before the effective date of such change.

Memorandum of Understanding Between the Federal Office for Foreign Economic Affairs, Federal Department of Public Economy of the Swiss Confederation and the Food and Drug Administration, U.S. Department of Health and Human Services

I. Purpose

The signatory agencies of Switzerland and the United States have a concern for assuring the quality and integrity of safety evaluation data that support the approval of applications for research and/or marketing permits for human and animal drugs. The agencies recognize that such data must be collected under principles of good laboratory practice that are internationally recognized and that are monitored by mutually acceptable national inspection programs. Accordingly, this memorandum affords reciprocal recognition to each country's good laboratory practice program, provides for the mutual acceptance of safety test data collected in either country, and sets forth procedures for continuing cooperative efforts for achieving quality safety data. As a consequence, it will not be necessary for either party to conduct nonclinical laboratory inspections in the other country.

II. Background

On March 5, 1980, the agencies signed a Memorandum of Understanding that constituted a statement of intent to develop standards or guidelines of good laboratory practice applicable to nonclinical laboratories and to establish national programs of inspection to implement those standards or guidelines. Subsequently, each agency has endeavored to satisfy the intent of the Memorandum. Sufficient progress has been made to permit the following

comparisons of the respective national programs.

A. Good Laboratory Practices

Both Agencies have published comparable standards of good laboratory practice (GLP) that encompass nonclinical laboratory studies for safety evaluation of human and animal drugs. These standards also satisfy the Principles of Good Laboratory Practice recommended by the Organization for Economic Cooperation and Development (OECD), and are adequate to foster the collection of quality data.

The Swiss Intercantonal Office for the Control of Medicaments (IKS) has published the GLPs as guidelines whereas the U.S. Food and Drug Administration (FDA) has published them as regulations.

B. National Inspection Programs

Both agencies assess adherence to the principles of good laboratory practice through the conduct of periodic laboratory inspections approximately every two years by a trained government inspectorate. The inspection programs permit assessment of current laboratory operations (surveillance) as well as the audit of final reports of selected studies. Laboratories are pre-notified and inspectional procedures are mutually acceptable and consistent with those adopted as a recommendation on July 26, 1983, by the OECD. The product of an inspection is a report that describes laboratory operations and addresses compliance with good laboratory practice standards.

C. Compliance

Both agencies have established satisfactory procedures for obtaining compliance with the principles of good laboratory practice. The procedures include, notifying a laboratory of the deficiencies observed and requesting corrective action within a specified time frame. Failure to correct deficiencies is dealt with by the FDA in a variety of ways that include the rejection of specific studies from scientific consideration to the disqualification of the laboratory. IKS denies statements of compliance to deficient laboratories that fail to take corrective action.

III. Substance of the Understanding

A. The parties understand that:

1. Adherence to adequate principles of good laboratory practice is essential to the conduct of high quality safety testing;

2. A national program of periodic inspections conducted by a trained inspectorate is required to monitor adherence to the standards of good laboratory practice;

3. Appropriate compliance procedures are necessary to assure adherence to the standards of good laboratory practice; and

4. Studies conducted in accordance with the respective standards of good laboratory practice promulgated by either country shall be acceptable to both parties to satisfy regulatory requirements.

B. Each party will:

1. Inform the other party of significant changes in their good laboratory practice standards and their national inspection program;

2. Provide the other party, annually, with the names and addresses of nonclinical laboratories operating within their national boundaries, which are inspected under the good laboratory practice program, along with the dates of inspection;

3. Upon request, provide the other party with information regarding whether or not a specific laboratory or study is in compliance with the good laboratory practice standards. In exceptional situations, in which the requesting party can justify a special concern, the other party may invite, with the consent of the sponsor, the test facility, and the competent authorities, a scientist of the requesting country to participate as an observer in the audit of a study. The parties recognize the need to protect the confidentiality of trade secrets and commercial information.

IV. Liaison

The parties respectively appoint the following officials to serve as liaisons for all communications regarding matters relative to this Memorandum of Understanding.

A. For the Federal Office for Foreign Economic Affairs: Through the Embassy of Switzerland, 2900 Cathedral Avenue NW., Washington, DC 20008.

On behalf of: The Federal Office for Health Affairs (currently Dr. Bertino Somaini), for serums and vaccines.

The Intercantonal Office for the Control of Medicaments (currently Director Dr. Peter Fischer), for pharmaceutical products.

B. For the Food and Drug Administration: Office of Regulatory Affairs (currently Dr. Paul D. Lepore), 5600 Fishers Lane, Rockville, MD 20857.

V. Duration

This Memorandum shall become effective on the date of the last signature and shall continue in effect unless modified by mutual written consent of the two parties. Either party may withdraw from this Memorandum by written notice to the other party.

Approved and Accepted for the Federal Office for Foreign Economic Affairs
By: s/ K. Jacobi; Title: Ambassador; Date: 29 April 1985.

Approved and Accepted for the Food and Drug Administration
By: s/ Frank E. Young; Title: Commissioner FDA; Date: April 29, 1985.

Dated: July 15, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-17166 Filed 7-18-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-85-1544]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC. 20410, telephone (202) 755-6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours

needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Application for Insurance—Supplementary Loan
Office: Housing
Form Number: HUD-93201A
Frequency of submission: On Occasion
Affected public: Businesses or Other For-Profit and Non-Profit Institutions
Estimated burden hours: 10
Status: Reinstatement
Contact: C. Edward Lewis, HUD, (202) 755-6223; Robert Fishman, OMB, (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 25, 1985.

Dennis F. Geer, Director

Office of Information Policies and Systems.

[FR Doc. 85-17272 Filed 7-18-85; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Availability of Draft Policy Statement; Riparian Area Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability for Public Review and Comment of Draft Policy Statement on Riparian Area Management.

SUMMARY: This notice is to advise the public of the availability of a draft policy statement regarding the management of riparian areas on public lands administered by the Bureau of Land Management. Specifically, the draft statement is intended to: (1) Provide a definition for riparian areas that will apply to different geographic areas; (2) communicate the Bureau's long-term commitment to the management of riparian areas as unique public land resources; (3) recognize the function of soil, water, and vegetation as key components of riparian areas; and (4) recognize the benefits from proper management of riparian areas.

DATE: Comments received by August 30, 1985, will be considered in developing a final policy statement.

ADDRESS: Copies of the draft policy statement may be obtained by writing: Director (220), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Individuals desiring additional information may contact: Donald R. Cain (202) 653-9195, Bureau of Land Management.

Dated: July 15, 1985.

James M. Parker,

Acting Director, Bureau of Land Management.

[FR Doc. 85-17164 Filed 7-18-85; 8:45 am]

BILLING CODE 4310-84-M

Proposed Amselco and California Gold Properties Colosseum Gold Mining and Milling Project; Final Environmental Impact Statement and Report

AGENCY: Bureau of Land Management, California Desert District.

ACTION: Notice of Availability of the Final Environmental Impact Statement and Environmental Impact Report (EIS/EIR).

SUMMARY: Pursuant to section 102(C) of the National Environmental Policy Act of 1969, a Final EIS/EIR has been prepared for the proposed Amselco Colosseum Project.

SUPPLEMENTARY INFORMATION: A Final EIS/EIR has been prepared by the BLM, in cooperation with the County of San Bernardino, California, for the Amselco Colosseum Project.

Amselco's proposed Colosseum Project would be located about 10 miles north of Interstate Highway 15 in California, about 50 miles southwest of Las Vegas. It would be in the Clark Mountain Range. The project would consist of a 60-acre open pit, 130-acre waste rock dumps, 15 acres for low grade ore storage, 275 acres for tailings disposal facility and associated areas, 16 acres for the crusher, mill, office complex, and 60 acres for roads, transmission and water lines corridors and substations. Approximately 6 million tons of material would be removed from the pit each year over the 9-year life of the project. The material would be processed at the mill site. The project is expected to yield about 750,000 ounces of gold over the 9-year period.

The Final EIS/EIR was prepared under contract by Environmental Monitoring and Services, Inc.

The Final EIS/EIR will need to be supplemented by the original Draft EIS/EIR for a complete understanding of the Amselco Project Proposal. The Final EIS/EIR will contain the following: (1.0) Summary, (2.0) Consultation and Coordination, including Draft EIS/EIR review, Public Hearing review, letter comments and responses, (3.0) Modifications and Corrections, (4.0) Appendices.

FOR FURTHER INFORMATION CONTACT: Roger Britton, Project Leader, Bureau of Land Management, Needles Resource Area, 901 3rd Street, Needles, CA 92363, telephone (619) 326-3896.

A limited number of copies of the FEIS/EIR may be obtained by contacting the Needles Resource Area at the above address.

Copies of the Final EIS/EIR may be inspected at the following locations:

Bureau of Land Management, California Desert District, 1695 Spruce Street, Riverside, CA 92507
Bureau of Land Management, Needles Resource Area, 901 3rd Street, Needles, CA 92363
County of San Bernardino, Office of Planning, 3rd Floor, 385 N. Arrowhead, San Bernardino, CA 92415
Clark County Library, 1401 Flamingo Avenue, Las Vegas, NV 89101
Los Angeles City Central Library, 630 West 5th, Los Angeles, CA 90071
San Bernardino Central Library, 401 North Arrowhead, San Bernardino, CA 92415
Bureau of Land Management, Public Affairs, Interior Bldg., 18th and C Streets, NW., Washington, D.C. 20240
Bureau of Land Management, State Office, Federal Bldg., 1800 Cottage Way, Rm E-2841, Sacramento, CA 95825

DATE: The review period runs for 30 days from the date of this notice.

ADDRESS: Comments will be received during the review period. These will be used by the decision maker in preparing the Record of Decision.

Send all comments to: Roger Britton, Project Leader, Bureau of Land Management, Needles Resource Area, 901 3rd Street, Needles, CA 92363. Telephone (619) 326-3896.

Dated: July 15, 1985.

Gerald E. Hillier,

District Manager.

[FR Doc. 85-17161 Filed 7-18-85; 8:45 am]

BILLING CODE 4310-40-M

Realty Action; Competitive Sale of Public Lands; Idaho Falls District

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Realty Action, Competitive Sale of Public Lands in Jefferson, Fremont and Teton Counties.

Competitive sale summary: Based on public support land use plans, the following lands have been examined and identified for disposal under section 203(a) of the Federal Land Policy and Management Act of 1976, for no less than the appraised fair market value (FMV):

Tract	Legal description	Acres
I-21375	T. 7 N., R. 39 E., B.M., sec. 1: SW¼SW¼.	40
I-21376	T. 6 N., R. 43 E., B.M., sec. 24: NW¼NE¼.	40
I-21371	T. 8 N., R. 33 E., B.M., sec. 2: E½SE1¼NE¼	20

All sales will be subject to a reservation for ditches and canals, valid and existing rights and reservations of record. In addition the following reservations will be made:

I-21375: All leasable minerals. Right-of-way I-2224 for an observation well to the Bureau of Reclamation. Reservation to the U.S. for two 30 feet wide existing access roads that cross the parcel. These roads are located (1) north-south along the eastern edge of the parcel and (2) beginning at the paved road, midway on the southern boundary and running in a northwesterly direction to the northwest corner of the parcel.

I-21376: All leasable minerals. The successful bidder agrees to take the real estate subject to the existing grazing use of Potter Enterprizes, c/o David L. Nissen, holder of grazing authorization No. 3799. The rights of Potter Enterprizes to graze domestic livestock on the real estate according to the conditions and terms of grazing authorization No. 3799 shall cease on February 28, 1989. The successful bidder is entitled to receive annual grazing fees from Potter Enterprizes in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the **Federal Register**.

I-21371: Oil and gas material estates. Road right-of-way I-13423 issued to the Idaho Department of Transportation.

Sealed bids only are solicited for each tract offered. Acceptable bids must meet the FMV or higher and include a deposit of 30 percent of the full price bid. In addition, a bid will constitute an application for conveyance of all minerals except those reserved. The declared high bidder will be required to deposit a $50 non-refundable filing fee to process the conveyance. Failure to do so will result in disqualification as high bidder. Fair market value appraisals will be available after August 23, 1985.

Upon publication in the **Federal Register** the tracts are segregated from all forms of appropriation under the public land laws including the mining laws, but excepting the mineral leasing laws as provided by 43 CFR 2711.1-2(a), for a period of 270 days, or until patent is issued.

DATE: *Dates and addresses:* Bids should be submitted to the District Manager, Idaho Falls District, 940 Lincoln Road, Idaho Falls, Idaho 83401 prior to the sale time. Bids will be opened on September 24, 1985, at 1 p.m. in the District Office at the above address. Any unsold parcels will be reoffered for sale beginning October 1, 1985 at 1 p.m. and continuing thereafter on October 8, 15 and 22, at 1 p.m. If no qualifying bids are received by the October 22, 1985 date, the sales will be cancelled. All bids will be opened at the Idaho Falls District Office.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning reservations, conditions, terms, appraised price, bidding procedures and other items should be obtained by contacting Scott Powers, realty specialist at the above address or by calling (208) 529–1020 during office hours.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the day of this notice, interested parties may submit comments to the District Manager at ehe above address.

July 12, 1985.

O'dell A. Frandsen,

District Manager.

[FR Doc. 85–17177 Filed 7–18–85; 8:45 am]

BILLING CODE 4310-GG-M

[N-42005]

Realty Action; Non-Competitive Lease/Sale of Public Land; Nevada

Correction

In FR Doc. 85–15974, beginning on page 27697 in the issue of Friday, July 5, 1985, the legal description under *Mount Diablo Meridian*, in the first column of page 27698, should have read:

Mount Diablo Meridian

T. 20 S., R. 60 E.,

Sec. 15, NE¼NE¼, NW¼NE¼, SW¼NE¼, W½SE¼NE¼, W½NE¼SE¼NE¼, SE¼NE¼SE¼NE¼, E½SE¼SE¼NE¼, SW¼SE¼SE¼NE¼, S½N½N½SW¼, S½N½SW¼, N½SW¼SW¼, SE¼SW¼SW¼, N½SW¼SW¼SW¼, SE¼SW¼, N½SE¼, N½S½SE¼, W½SW¼SW¼SE¼, N½S½SE¼SE¼, SE¼SW¼SE¼SE¼, SW¼SE¼SE¼SE¼.

Comprising 430 acres (gross).

BILLING CODE 1505-01-M

Bureau Forms 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, 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's Clearance Officer and to the Office of Management and Budget Interim Department Desk Officer, Washington, D.C. 20503, Telephone (202) 395–7340.

Title: Road Use Fee Paid Report 43 CFR 2812.0–6g

Abstract: These forms are used by timber purchasers to indicate payment of road use and maintenance fees to third parties.

Bureau Form Number: 5450–8

Frequency: Occasionally

Description of Respondents: Individuals, companies and corporations bidding on or entering into a timber sale contract with the Bureau of Land Management.

Annual Responses: 100

Annual Burden Hours: 25

Bureau Clearance Officer (alternate): Rebecca Daugherty (202) 653–8853

Dated: June 19, 1985.

Billy R. Templeton,

Acting Assistant Director.

[FR Doc. 85–17223 Filed 7–18–85; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Notice of Availability of the Final Environmental Assessment; Oil and Natural Gas Exploration and Production Operations on the Upper Ouachita National Wildlife Refuge, Union and Morehouse Parishes, LA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Final Environmental Assessment *"Oil and Natural Gas*

Exploration and Production Operations on the Upper Ouachita National Wildlife Refuge, Union and Morehouse Parishes, Louisiana", is available for public distribution. The Service determined that the special conditions relating to the exploration and production of oil and natural gas on the refuge that are included in the Preferred Action are reasonable and necessary to minimize adverse impacts of such activities on fish and wildlife and other surface resources. These special conditions do not constitute a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969; therefore, a Finding of No Significant Impact decision was made.

DATE: The EA is available to the public.

ADDRESS: Requests for the EA should be addressed to: Regional Director, U.S. Fish and Wildlife Service, 75 Spring Street, SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Butts, Chief, Branch of Planning and Coordination, U.S. Fish and Wildlife Service, 75 Spring Street, SW., Atlanta, Georgia 30303; Commercial (404) 221-3543 or FTS 242-3543.

Dated: July 12, 1985.

James W. Pulliam, Jr.,

Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 85-17160 Filed 7-18-85; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Outer Continental Shelf (OCS) Oil and Gas Information Program; Availability of Summary Reports and Indexes

Notice: Availability of Summary Reports and Indexes.

Summary: The OCS Information Program has published eight documents in accordance with the OCS Lands Act Amendments of 1978 and 30 CFR 252.4:

Summary Reports and Indexes

Arctic (Jan 1985)—Alaska (May 1983–Jan 1985)
Atlantic (Dec 1984)—Atlantic (Jun 1983–May 1984)
Bering Sea (Sep 1984)—Gulf of Mexico (Aug 1983–Oct 1984)
Gulf of Mexico (Jul 1984)—Pacific (Apr 1983–Oct 1984)

The Summary Reports are syntheses of recent data concerning OCS leasing activities including oil and gas resource estimates, magnitude and timing of offshore development, oil and gas transportation strategies, and nature and location of nearshore and offshore facilities.

The Indexes present detailed information on (1) OCS minerals leasing activities; (2) the 5-year OCS oil and gas leasing schedule process; (3) four programs that generate, review, or report OCS-related data used on a continuous basis from prelease activities up through post-lease activities (those programs are the Minerals Management Service's geological and geophysical surveys and analyses, the Regional Technical Working Group, the Environmental Studies Program, and the OCS Oil and Gas Information Program); and (4) listings of Federal and State agencies involved in the OCS leasing process and a list of Federal depository libraries.

The next revisions of the Arctic, Bering Sea, and Gulf of Alaska Summary Reports will be combined and published as one document called the Alaska Summary Report, with a projected publication date of March 1986. The Gulf of Mexico and Pacific Summary Reports are scheduled for publication in July 1985 and September 1985, respectively.

Note: The OCS Information Program has moved to a new location, the new address and phone number are listed below.

Addresses: Copies of the documents may be obtained free of charge from the OCS Information Program, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180, telephone (703) 285-2285.

For further information contact: William S. Cook, Chief, OCS Information Program, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180, telephone (703) 285-2285.

Dated: July 11, 1985.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 85-17220 Filed 7-18-85; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Agricultural Cooperatives; Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: July 16, 1985.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

*(1) Dawn Transport, Inc.

(2) 117 W. San Ysidra Blvd. CFP #13, San Ysidro, CA 92073.

(3) 1590 Reforma Ave., Mexicali Baja, CA.

(4) H. Jackson, 117 W. San Ysidro Blvd. CFP #13, San Ysidro, CA 92073.

(1) Land O'Lakes, Inc.

(2) P.O. Box 116, Minneapolis, MN 55440.

(3) 4001 Lexington Avenue No., Arden Hills, MN 55112.

(4) Herb Sorvik, P.O. Box 116, Minneapolis, MN 55440.

(1) Northwest Agricultural Cooperative Association, Inc.

(2) P.O. Box 1, Ontario, OR 97914.

(3) 920 Southeast Ninth Ave., Ontario, OR 97914.

(4) Ted Hoots, P.O. Box 1, Ontario, OR 97914.

James H. Bayne,

Secretary.

[FR Doc. 85-17247 Filed 7-18-85; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

1. Parent Corporation—Alamo Group, 609 N. 123 Bypass, P.O. Box 549, Seguin, Texas 78156-0549.

2. Subsidiaries

Terrain King Corporation—Nevada
OEM Parts, Inc.—Texas
Mott Corporation—Illinois
Triumph Corporation—New Jersey

1. Parent corporation and address of principal office: Bechtold Excavating,

Inc.—a North Dakota corporation, Rural Route 5—Box 7, Minot, ND 58701.

2. Wholly owned subsidiary which will participate in the operations, and State of incorporation: Low Boy Service, Inc.—a North Dakota corporation, Rural Route 5—Box 7, Minot, ND 58701.

A. Parent corporation and address of principal office: Browning-Ferris Industries, Inc., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

B. Wholly-owned subsidiaries which will participate in the operations, address of their respective principal offices, and States of Incorporation:

(1) Active Disposal Company, 32600 Five Mile Road, Livonia, Michigan 48154 (Michigan Corp.)

(2) American Waste Removal, Inc., 979 Channel Avenue, Memphis, Tennessee (Tennessee Corp.)

(3) Atkinson Enterprises, Inc., 1401 Newman Street, Indianapolis, Indiana 46201 (Indiana Corp.)

(4) Beach Disposal, Inc., Route 34, Box 501, Pine Ridge Road, Fort Meyers Beach, Florida 33931 (Florida Corp.)

(5) BFI Acquisition, Inc., 14701 St. Mary's, Houston, Texas 77079 (Delaware Corp.)

(6) BFI Aviation Services, Inc., 14701 St. Mary's, Houston, Texas 77079 (Delaware Corp.)

(7) BFI Constructors, 1417 North Harper Street, Santa Ana, California 92703 (California Corp.)

(8) BFI Energy Systems, Inc., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

(9) BFI Energy Systems of Bergen County, Inc., Post Office Box 3151, Houston, Texas 77253 (New Jersey Corp.)

(10) BFI Energy Systems of Boston, Inc., Post Office Box 3151, Houston, Texas 77253 (Massachusetts Corp.)

(11) BFI Energy Systems of Broward County, Inc., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

(12) BFI Energy Systems of Essex County, Inc. Post Office Box 3151, Houston, Texas 77253 (New Jersey Corp.)

(13) BFI Energy Systems of Fresno, Inc., Post Office Box 3151, Houston, Texas 77253 (California Corp.)

(14)BFI Energy Systems of Hennepin County, Inc., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

(15) BFI Energy Systems of Los Angeles, Inc., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

(16) BFI Energy Systems of Plymouth, Inc., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

(17)BFI Energy Systems of Texas, Inc., Post Office Box 3151, Houston, Texas 77253 (Texas Corp.)

(18) BFI Suburban Michigan, Inc., 2201 Hamlin Road, Utica, Michigan 48087 (Michigan Corp.)

(19) BFI Waste Systems, Inc., 14701 St. Mary's, Houston, Texas 77079 (Texas Corp.)

(20) BFI Waste Systems of Indiana, Inc., 10 North West Street, Crown Point, Indiana (Indiana Corp.)

(21) Black Hawk Industrial Disposal, Inc., 2135 West Bennett, Springfield, Missouri 65807 (Missouri Corp.)

(22) Browning-Ferris, Inc., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

(23) Browning-Ferris, Inc., 1800 Parkway Drive, Hanover, Maryland 21076 (Maryland Corp.)

(24) Browning-Ferris Industries Chemical Services, Inc., Post Office Box 3151, Houston, Texas 77253 (Nevada Corp.)

(25) Browning-Ferris Industries Waste Control, Inc., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

(26) Browning-Ferris Industries, Inc., 100 Hallet Street, Boston, Massachusetts 02124 (Massachusetts Corp.)

(27) Browning-Ferris Industries of Alabama, Inc., 3950 50th Street, SW., Birmingham, Alabama 35202 (Alabama Corp.)

Also 4649 Commercial Drive, NW., Huntsville, Alabama 35805.

Also 920 Navco Road, Mobile, Alabama 36606.

(28) Browning-Ferris Industries of Arizona, Inc., 2240 W. Shangri-la, Phoenix, Arizona 85029 (Delaware Corp.)

(29) Browning-Ferris Industries of Arkansas, Inc., 1911 West 65th Street, Little Rock, Arkansas 72209 (Arkansas Corp.)

(30) Browning-Ferris Industries of California, Inc., 55 Almaden Blvd. 4th Floor, San Jose, California 95113 (California Corp.)

(31) Browning-Ferris Industries of Central Jersey, Inc., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

(32) Browning-Ferris Industries of Colorado, Inc., 5590 East 55th Avenue, Commerce City, Colorado 80022 (Colorado Corp.)

(33) Browning-Ferris Industries of Connecticut, Inc., 49 Burtville Avenue, Derby, Connecticut 06418 (Delaware Corp.)

(34) Browning-Ferris Industries of Elizabeth, N.J., Inc., Post Office Box 508, 714 Division Street, Elizabeth, New Jersey 07207 (New Jersey Corp.)

(35) Browning-Ferris Industries of Florida, Inc., Post Office Box 16966, 7580 Phillips Highway, Jacksonville, Florida 32216 (Delaware Corp.)

Also 5002 Southwest, 41st Boulevard, Gainesville, Florida 32608.

(36) Browning-Ferris Industries of Georgia, Inc., 2 Peachtree Street, NW., Atlanta, Georgia 30383 (Georgia Corp.)

(37) Browning-Ferris Industries of Hawaii, Inc., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

(38) Browning-Ferris Industries of Idaho, Inc., Post Office Box 1037, 117 East 37th, Boise, Idaho 83701 (Idaho Corp.)

Also Post Office Box 985, Nampa, Idaho 83651.

(39) Browning-Ferris Industries of Illinois, Inc., 1827 Walden Office Square, Suite 107, Schaumburg, Illinois 60195 (Delaware Corp.)

(40) Browning-Ferris Industries of Indiana, Inc., Post Office Box 2269, 801 East Michigan, Evansville, Indiana 47714 (Indiana Corp.)

(41) Browning-Ferris Industries of Iowa, Inc., 4487 Delaware Street, Des Moines, Iowa 50313 (Iowa Corp.)

(42) Browning-Ferris Industries of Kansas, Inc., 3920 West Walker, Wichita, Kansas 67213 (Kansas Corp.)

(43) Browning-Ferris Industries of Kansas City, Inc., Post Office Box 15200 3150 North 7th, Kansas City, Kansas 66115 (Missouri Corp.)

(44) Browning-Ferris Industries of Kentucky, Inc., 2605 Nonconnah Boulevard, Suite 165, Memphis, Tennessee 38132 (Delaware Corp.)

(45) Browning-Ferris Industries of Louisiana, Inc., 808 L & A Road, Metairie, Louisiana 70001–6289 (Louisiana Corp.)

(46) Browning-Ferris Industries of Louisville, Inc., Post Office Box Drawer A, Sellersburg, Indiana 47172 (Indiana Corp.)

(47) Browning-Ferris Industries of Michigan, Inc., 5400 Cogswell Road, Wayne, Michigan 48184 (Michigan Corp.)

(48) Browning-Ferris Industries of Minnesota, Inc., 9813 Flying Cloud Drive, Eden Prairie, Minnesota 55344 (Minnesota Corp.)

(49) Browning-Ferris Industries of Mississippi, Inc., Post Office Box 267, Biloxi, Mississippi 39533 (Mississippi Corp.)

Also Post Office Box 1638, 1035 Old Brandon Road, Jackson, Mississippi 39205.

(50) Browning-Ferris Industries of Montana, Inc., 1819 South Avenue West, Missoula, Montana 59870 (Nevada Corp.)

(51) Browning-Ferris Industries of Nebraska, Inc., 2121 South 24th Street, Omaha, Nebraska 68108 (Nebraska Corp.)

(52) Browning-Ferris Industries of New Hampshire, Inc., Post Office Box 466, Portsmouth, New Hampshire 02801 (New Hampshire Corp.)

(53) Browning-Ferris Industries of New Jersey, Inc., 714 Division Street, Elizabeth, New Jersey 07207 (New Jersey Corp.)

(54) Browning-Ferris Industries of North Jersey, Inc., 54 Montesano Road, Fairfield, New Jersey 07006 (New Jersey Corp.)

(55) Browning-Ferris Industries of New York, Inc., 136 Sicker Road, Latham, New York 12110 (New York Corp.)

(56) Browning-Ferris Industries of Ohio, Inc., 33 N. Wickliffe Circle, Youngstown, Ohio 44515 (Delaware Corp.)

(57) Browning-Ferris Industries of Ohio and Michigan, Inc., Post Office Box 5069, Pt. Place Station, Toledo, Ohio 43611 (Ohio Corp.)

(58) Browning-Ferris Industries of Oregon, Inc., P.O. Box 3151, Houston, Texas 77253 (Oregon Corp.)

(59) Browning-Ferris Industries of Paterson, N.J., Inc., 54 Montesano Road, Fairfield, New Jersey 07006 (New Jersey Corp.)

(60) Browning-Ferris Industries of Pennsylvania, Inc., West Noblestown Road, Post Office Box 448, Carnegie, Pennsylvania 15106 (Delaware Corp.)

(61) Browning-Ferris Industries of Puerto Rico, Inc., 65th Infantry Station, Rio Piedras, Puerto Rico 00929 (Puerto Rico Corp.)

(62) Browning-Ferris Industries of Quincy, Illinois, Inc., Post Office Box 3124, 1704 North 24th, Quincy, Illinois 62301 (Iowa Corp.)

(63) Browning-Ferris Industries of Rochester, Inc., 2117 Marion road, SE., Rochester, Minnesota 55901 (Minnesota Corp.)

(64) Browning-Ferris Industries of South Jersey, Inc., Cranbury Station Road, Post Office Box 437, Cranbury, New Jersey 08512 (New Jersey Corp.)

(65) Browning-Ferris Industries of South Atlantic, Inc., 2605 Nonconnah Boulevard, Suite 105, Memphis, Tennessee 38132 (North Carolina Corp.)

(66) Browning-Ferris Industries of Springfield, Inc., 2115 West Bennett, Springfield, Missouri 65807 (Missouri Corp.)

(67) Browning-Ferris Industries of St. Louis, Inc., 11506 Bowling Green, Creve Coeur, Missouri 63141 (Delaware Corp.)

(68) Browning-Ferris Industries of Staten Island, Inc., Post Office Box 3151, Houston, Texas 77253 (New York Corp.)

(69) Browning-Ferris Industries of Tennessee, Inc., 530 Gay Street, c/o CT Corporation System, Knoxville, Tennessee 37902 (Tennessee Corp.)

(70) Browning-Ferris Industries of Utah, Inc., Post Office Box 26333, Salt Lake City, Utah 84125 (Utah Corp.)

(71) Browning-Ferris Industries of Vermont, Inc., Post Office Box 121, Springfield, Vermont 05156 (Vermont Corp.)

(72) Browning-Ferris Industries of Washington, Inc., Post Office Box 3151, Houston, Texas 77253 (Washington Corp.)

(73) Browning-Ferris Industries of West Virginia, Inc., 97 10th Street, Fairmount, West Virginia 26554 (Delaware Corp.)

(74) Browning-Ferris Industries of Wisconsin, Inc., 3083 Highway MM, Madison, Wisconsin 53711 (Wisconsin Corp.)

(75) Browning-Ferris Industries of Wyoming, Inc., Post Office Box 3151, Houston, Texas 77253 (Wyoming Corp.)

(76) Browning-Ferris Services, Inc., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

(77) Captiva Disposal, Inc., Route 34, Box 501, Pine Ridge Road, Ft. Meyers Beach, Florida 33931 (Florida Corp.)

(78) Cardinal Land Corp., 32600 Five Mile Road, Livonia, Michigan 48154 (Michigan Corp.)

(79) CECOS Environmental, Inc., 2321 Kenmore Avenue, Buffalo, New York 14207 (Texas Corp.)

(80) CECOS International, Inc., 2321 Kenmore Avenue, Buffalo, New York 14207 (New York Corp.)

(81) CECOS Environmental, Inc., 2321 Kenmore Avenue, Buffalo, New York 14207 (New York Corp.)

(82) CECOS Treatment Corporation, 51 Broderick Road, Bristol, Connecticut 06010 (Connecticut Corp.)

(83) Comet Enterprises, Inc., Post Office Box 3151, Houston, Texas 77253 (Ohio Corp.)

(84) Dallas Refuse Service, Inc., 2617 Willowbrook Road, Dallas, Texas 7520 (Texas Corp.)

(85) Disposal Specialists, Inc., Post Office Box 121, Springfield, Vermont 05156 (Vermont Corp.)

(86) Dooley Equipment Corporation, 164 Market Street, Brighton, Massachusetts 02135 (Massachusetts Corp.)

(87) Econowaste Trash Corporation, 5105 Creston Street, Tuxedo, Maryland 20781 (District of Columbia Corp.)

(88) Empire Sweeping Company, Post Office Box 7189, Sta. A, 1929 36th Street, Canton, Ohio 44705 (Ohio Corp.)

(89) Environmental Equipment Corp., Post Office Box 3151, Houston, Texas 77253 (Texas Corp.)

(90) ESI, Inc., Post Office Box 3151, Houston Texas 77253 (Pennsylvania Corp.)

(91) Heavy Equipment Leasing Services Co., Inc., 2321 Kenmore Avenue, Buffalo, New York 14207 (New York Corp.)

(92) Highway 36 Land Development Company, 5590 East 55th Avenue, Commerce City, Colorado (Colorado Corp.)

(93) HL-NIW, Inc., 2321 Kenmore Avenue, Buffalo, New York 14207 (New York Corp.)

(94) Indoco, Inc., Post Office Box 3151, Houston, Texas 77253 (Texas Corp.)

(95) International Disposal Corp., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

(96) International Disposal Corp., Post Office Box 3151, Houston, Texas 77253 (Texas Corp.)

(97) International Disposal Corp. of California, Post Office Box 1987, San Jose, California 95109 (California Corp.)

(98) International Disposal Corporation of Indiana, Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

(99) International Disposal Corporation of Kansas, Post Office Box 3151, Houston, Texas 77253 (Kansas Corp.)

(100) Isler's Refuse Service, Inc., Post Office Box R, Station C, Canton, Ohio 44708 (Ohio Corp.)

(101) Jeffco Land Reclamation Company, 8480 Tower Road, Commerce City, Colorado 80290 (Colorado Corp.)

(102) Jeffco Land Reclamation, Inc., 11506 Bowling Green, Creve Coeur, Missouri 63141 (Missouri Corp.)

(103) Joe Ball Sanitation Service, Inc., 4053 Mile Strip Road, Blasdell, New York 14219 (New York Corp.)

(104) Karas Trucking Co., Inc., 16200 Brookpark Rd., Cleveland, Ohio 44135 (Ohio Corp.)

(105) Kas-Sol Corporation, 1539 North Lincoln Avenue, Pasadena, California 91103 (California Corp.)

(106) Landfill, Inc., 8480 Tower Road, Commerce City, Colorado 80022 (Colorado Corp.)

(107) Landfill, Inc., Post Office Box 15200, Kansas City, Kansas 66115 (Missouri Corp.)

(108) Land Reclamation, Inc., 2321 Kenmore Avenue, Buffalo, New York 14207 (New York Corp.)

(109) Lanham Waste Control, Inc., 2 Peachtree Street, NW., c/o CT Corporation System, Atlanta, Georgia 30383 (Georgia Corp.)

(110) Louis Kmito & Son, Inc., 95 Liberty Street, Randolph, Massachusetts 02368 (Massachusetts Corp.)

(111) Lyon Development Company, 5380 South Milford Road, New Hudson, Michigan 48165 (Michigan Corp.)

(112) Mickey McGuire Sanitation, Inc., Post Office Box 758, Frankfort, Kentucky 40601 (Kentucky Corp.)

(113) Modern Waste Removal, Inc., 12001 Mack Avenue, Detroit, Michigan 48215 (Michigan Corp.)

(114) Multi-Packer Incorporated, 3 Baconsfield Office Park, Macon, Georgia 31211 (Georgia Corp.)

(115) National Disposal Service of Nebraska, Inc., 212 South 24th Street, Omaha, Nebraska 68108 (Nebraska Corp.)

(116) Newco Waste Systems, Inc., 2321 Kenmore Avenue, Buffalo, New York 14207 (New York Corp.)

(117) Newco Waste Systems of New Jersey, Inc., Mt. Airy Avenue, Linwood, New Jersey 08221 (New Jersey Corp.)

(118) Niagara Landfill, Inc., River Road, Tonawanda, New York 14150 (New York Corp.)

(119) Niagara Recycling, Inc., 2321 Kenmore Avenue, Buffalo, New York 14207 (New York Corp.)

(120) Niagara Sanitation Company, Inc., 262 Woodward Avenue, Kenmore, New York 14217 (New York Corp.)

(121) Northwest Sweepers, Inc., 14701 St. Mary's, Houston, Texas 77079 (Texas Corp.)

(122) Orchard Mesa Landfill, Inc., 2724 Highway 50, Grand Junction, Colorado 81503 (Colorado Corp.)

(123) Pasadena Repair Company, Inc., 1539 North Lincoln Avenue, Pasadena, California 91103 (California Corp.)

(124) Pine Bend Landfill, Inc., 2495 East 117th Street, Inner Grove Hights, Minnesota 55075 (Minnesota Corp.)

(125) Prince William Trash Service, Inc., Post Office Box 45, Manassas, Virginia 22110 (Virginia Corp.)

(126) Recra Environmental and Health Sciences, Inc., 4248 Ridge Lea Road, Amherst, New York 14226 (Tennessee Corp.)

(127) Recra Research, Inc., 4248 Ridge Lea Road, Amherst, New York 14226 (New York Corp.)

(128) Reliable Refuse Service, Inc., 2135 West Bennett, Springfield, Missouri 65807 (Missouri Corp.)

(129) Removal, Inc., Post Office Box 2348, Gardena, California 90247 (California Corp.)

(130) Residential Service, Inc., 14701 St. Mary's, Houston, Texas 77079 (Nebraska Corp.)

(131) Resource Recovery Corporation, 115 Washington Street, Holliston, Massachusetts 01746 (Massachusetts Corp.)

(132) Resource Recovery, Inc., Post Office Box 3151, Houston, Texas 77253 (Texas Corp.)

(133) RHF, Inc., Post Office Box 3151, Houston, Texas 77253 (Texas Corp.)

(134) Rick's Repair and Mfg. Co., 2605 Nonconnah Boulevard, Suite 165, Memphis, Tennessee 38132 (Missouri Corp.)

(135) River City Refuse Removal, Inc., 1102 Menomonie Street, Eua Claire, Wisconsin 54701 (Wisconsin Corp.)

(136) Rot's Disposal Service, Inc., Post Office Box 0, Downers Grove, Illinois 60515 (Illinois Corp.)

(137) RWCGP, Inc., Post Office Box 3151, Houston, Texas 77253 (Texas Corp.)

(138) Sanibel Disposal, Inc., Route 34, Box 501, Pine Ridge Road, Ft. Meyers Beach, Florida 33931 (Florida Corp.)

(139) Springfield Relay Systems, Inc., 2135 West Bennett, Springfield, Missouri 65807 (Missouri Corp.)

(140) Trans-World Hospital Consultants, Inc., 3 Baconsfield Office Park, Macon, Georgia 31211 (Georgia Corp.)

(141) Wasteco, Inc., 1600 North Lincoln Avenue, Pasadena, California 91103 (California Corp.)

(142) Waste Disposal, Inc., Post Office Box 15200, Kansas City, Kansas 66115 (Kansas Corp.)

(143) West Roxbury Crushed Stone Co., 10 Grove Street, West Roxbury, Massachusetts 02132 (Massachusetts Corp.)

(144) Westowns Disposal Systems, Inc., 2583 Bryan Evansville Road, Casper, Wyoming 82601 (Wyoming Corp.)

(145) Woodlake Sanitary Service, Inc., 9813 Flying Cloud Drive, Eden Prairie, Minnesota 55344 (Minnesota Corp.)

L. Parent corporation and address of principal office: Fabrica Industrial de Tijuana, S.A., Calle Industrial No. 102, Col. 20 de Nov., Tijuana, B.C.

2. Wholly-owned subsidary which will participate in the operation and State of incorporation: Fitsa Transportation Inc.—California.

1. The name and address of the principal office of the parent corporation are as follows: Structural Steel Services, Inc., South Industrial Park, Highway 11 South, Meridian, Mississippi 39301.

2. The names of the wholly-owned subsidary corporations who are to participate in the compensated intercorporate hauling operation and the states where they are incorporated are as follows:

T.H. Webb Construction Co., Inc.—Delaware

SSS Trucking, Inc.—Mississippi

1. Parent corporation: Texaco Inc., 2000 Westchester Avenue, White Plains, NY 10650 (Delaware)

2. Wholly-owned subsidiaries as follows:

(I) Texaco Refining and Marketing Inc., 1111 Rusk Avenue, Houston, TX 77052 (Delaware)

(II) Arbuckle Pipe Line Company, 1670 Broadway, Denver, CO 80202 (Delaware)

(III) Texaco Chemical Company, 4800 Fournace Place, Bellaire, TX 77401 (Delaware)

(IV) Wesco Pipe Line Company, 1670 Broadway, Denver, CO 80202 (Oklahoma)

(V) Texaco Trading and Transportation Inc., 1670 Broadway, Denver, CO 80202 (Delaware)

(VI) Texaco Producing Inc., 1111 Rusk Avenue, Houston, TX 77052 (Delaware)

(VII) Wes Shore Corporation, 1670 Broadway, Denver, CO 80202 (Michigan)

(VIII) The Texas Pipe Line Co., 9700 Richmond Avenue, Houston, TX 77042 (Texas)

James H. Bayne,

Secretary.

[FR Doc. 85-17246 Filed 7-18-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket Nos. AB-33 and AB-35; Sub-32X and -8X]

Union Pacific Railroad Company; Discontinuance of Service Exemption; in Los Angeles County, CA; and Los Angeles and Salt Lake Railroad Company; Abandonment Exemption in Los Angeles County, CA; Exemption

The Union Pacific Railroad Company (UP) and the Los Angeles & Salt Lake Railroad Company (LASL) have filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments and Discontinuance of Service and Trackage Rights.* Applicants seek to discontinue service and trackage rights over a line of railroad owned by LASL and operated by UP, extending from milepost 1.76 to the end at milepost 3.10 at Pasadena, CA, a distance of approximately 1.34 miles in Los Angeles, County, CA.

Applicant has certificed (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the discontinuance of trackage rights shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective August 8, 1985, (unless stayed pending reconsideration). Petitions to stay must be filed by July 29, 1985, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by August 8, 1985, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Joseph D. Anthofer, 1416 Dodge St., Omaha, NE 68179.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: July 11, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-17248 Filed 7-18-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-15,919]

Health-Tex, Inc., Cowpens, SC; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 16, 1985 in response to a worker petition received on April 5, 1985 which was filed by the Amalgamated Clothing and Textile Workers Union, AFL–CIO on behalf of workers at Health-Tex, Incorporated, Cowpens, South Carolina.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C., this 12th day of July 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 85-17245 Filed 7-18-85; 8:45 am]

BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 85-124; Exemption Application No. D-5367 et al.]

Grant of Individual Exemptions; Century Graphics Corporation Thrift Retirement Plan et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Century Graphics Corporation Thrift Retirement Plan (the Plan) Located in Metairie, Louisiana

[Prohibited Transaction Exemption 85-124; Exemption Application No. D-5367]

Exemption

The restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the loans by the Plan of amounts not to exceed 25% of its total assets to Century Graphics Corporation (the Plan Sponsor) on a recurring basis over a five-year period, provided that the terms of the loans are no less favorable to the Plan then those obtainable in an arm's-length transaction with an unrelated third party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 14, 1985 at 50 FR 20152.

Temporary Nature of Exemption: This exemption is effective for five years from the date this grant is published in the **Federal Register.** Subsequent to the expiration of the exemption, the Plan may hold the loans provided they were made during the five-year period.

For Further Information Contact: Ms. Linda Shore of the Department, telephone (202) 523-8196. (This is not a toll-free number.)

Haines & Dolgash, D.D.S., P.S. Profit Sharing Plan and Trust (the Profit Sharing Plan) and Pension Plan and Trust (the Pension Plan) Located in Olympia, Washington

[Prohibited Transaction Exemption 85-125; Exemption Application Nos. D-5995 and D-5996]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the purchase by the Pension Plan of an undeveloped parcel of real property from Dr. and Mrs. Gerald Dolgash for $47,800 in cash, and the purchase of another undeveloped parcel of real property by the Pension

Plan from Dr. and Mrs. Michael Haines for $47,200 in cash, provided the purchase prices are not greater than the fair market values of the parcels of real property on the date of the acquisitions.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 14, 1985 at 50 FR 20153.

For Further Information Contact: Mr. Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Columbus Obstetricians & Gynecologists, Inc. Profit Sharing Plan (the Plan) Located in Columbus, Ohio

[Prohibted Transaction Exemption 85–126; Exemption Application No. D–6023]

Exemption

The restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed loan of $73,000 by the Plan to Columbus Obstetricians & Gynecologists, Inc. (the Employer), the sponsor of the Plan; and the guarantee of the proposed loan by the shareholders of the Employer, provided that the terms of the loan are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 14, 1985 at 50 FR 20154.

For Further Information Contact: Mr. E.F. Williams of the Department, telephone (202) 523–8195. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed in Washington, D.C., this 16th day of July 1985.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 85–17265 Filed 7–18–85; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–5120 et al.]

Proposed Exemptions; Lesman Instrument Company Profit Sharing Plan et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register.** Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Lesman Instrument Company Profit Sharing Plan (the Plan) Located in Berkeley, IL

[Application No. D–5720]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the

sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed lease (the New Lease) of a parcel of improved real property (the Property) by the Plan to the Lesman Instrument Company, the employer and sponsor of the Plan (the Employer) provided that the terms of the New Lease are at least as favorable to the Plan as those obtainable by the Plan in an arm's-length transaction with an unrelated party.

Effective Date: If the proposed exemption is granted, it will be effective on May 1, 1985.

Summary of Facts and Representations

1. The Plan is a discretionary profit-sharing plan with an estimated 15 participants and total assets of $661,413.21 as of September 30, 1983. It is represented that Mr. Robert Delacluyse (Mr. Delacluyse), as the president of the Employer which is the Plan administrator and named fiduciary in the Plan documents, has discretionary authority to make investment decisions on behalf of the Plan. It is also represented in the Trust Agreement that the Heritage Pullman Bank (the Bank) located at 1000 E. 111th St., Chicago, Illinois, has, since July 11, 1967, been the directed trustee for the Plan.

2. The Plan, on July 17, 1969, purchased from an unrelated party the Property located at 5642 St. Charles Road, Berkeley, Illinois at a cost of $65,000. Subsequently, the Plan entered into a lease (the Old Lease) with the Employer for the period between August 1, 1969 to May 31, 1974, at a rent of $40,600 payable in monthly installments of $700. Thereafter, the Plan and the Employer entered into a series of leases (the Successor Leases) of the Property from January 1, 1973 through December 31, 1984, at an increasing monthly rental rate of between $850–$1,300.[1] The Bank represents that approximately 24 percent of the Plan's assets are attributed to the Property which has been leased to the Employer.

3. It is now proposed that the Property be leased to the Employer under the New Lease. The New Lease will be for a period of five years beginning May 1, 1985 and ending April 30, 1990 with provisions for the rent to be adjusted for each of the last three years to equal the fair market appraisal of the rent as determined by Coldwell Banker Commercial Group, Inc. For the first two years of the New Lease, the rental rate will be $1,450 per month as determined on April 23, 1985, by Mr. Bruce E. Poetter, (Mr. Poetter) MAI, SRPA, the vice president and manager of Coldwell Banker Commercial Group, Inc., located at 1900 Spring Road, Suite 400, Oak Brook, Illinois and as approved by the Bank. The Employer will pay all insurance premiums, taxes, maintenance, and utilities during the term of the New Lease. The terms of the New Lease provide for eviction and confession of judgment in the event the Employer defaults. The Bank has stated its intention not to waive any rights under the default provisions of the New Lease and to commence enforcement proceedings for all legal rights of the Plan in the event a default has not been cured within two months. The Bank notes that the form of the New Lease is oriented toward the Plan as lessor and expresses its belief that the Employer is a good tenant who will pay promptly and maintain the Property. It is represented that the Employer has no current plans to move from the Property at the end of two years or at any set future time.

4. Mr. Gerald F. Walker (Mr. Walker), the trust officer for the Bank represents that the Bank will serve as the independent fiduciary for the Plan with respect to the New Lease, rather than as the directed trustee. It is also represented that since the Bank's trust department administers an estimated $94,000,000 in assets owned by approximately 350 qualified employee trusts, it is qualified to act as the fiduciary for the Plan. Mr. Walker states in the application that as of February 7, 1985, the Employer's business dealings with the Bank do not constitute a major account, the trust department's decisions are independent of other departments in the Bank, and the determinations of the trust department are not the sole decision of one individual but are subject to a monthly review procedure by a committee. The ongoing relationship between the Employer and Bank which has assets as of December 31, 1984, totalling $220,000,000 consists of (1) a line of credit of $200,000 from which in recent years the Employer has borrowed approximately $80,000; and (2) a general daily balance for the Employer of approximately $50,000. Accordingly, Mr. Walker maintains that the Bank is independent of the Employer.

Mr. Walker represents that the Bank has been advised by counsel of the duties of a fiduciary under the Act as to the format of the New Lease. Mr. Walker further represents that the Bank has, as of the proposed date of relief, accepted all duties under the Act as trustee and fiduciary with respect to the negotiation of the New Lease of the Property between the Plan and the Employer and the collection of fair market rents.

5. The Bank represents that it is in the best interest of the Plan to have a five year term on the New Lease with an escalation of the rental based on a fair market appraisal of the rent in each of the last three years. Mr. Walker states that early in 1984 the Bank initiated action either to sell the Property or to file the exemption request for the subject transaction. Because the Bank determined the New Lease was a good investment for the participants of the Plan, the Bank concurred in the exemption filing. Further, Mr. Walker represents that the trust department of the Bank has and will continue to closely monitor the marketability of the Property under review.

In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 408(a) of the Act because:

(1) The Bank has determined that the New Lease is in the interest of and protective of the Plan and its participants and beneficiaries;

(2) Mr. Poetter has established that the rental rate of the Property under the terms of the New Lease is at least as favorable to the Plan as an arm's-length transaction with an unrelated party; and

(3) The Plan will pay no expenses relating to the Property.

For Further Information Contact: Ms. Angelena C. Le Blanc of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Wick Homes Inc. Profit Sharing Plan (the Plan) Located in Bellevue, Washington

[Application No. D–5834]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and

[1] The applicant represents that the Old Lease and the Successor Leases between the Plan and the Employer did not involve prohibited transactions because they were entered into before July 1, 1974, the date specified in the transitional rules under sections 414 and are covered by the statutory exemption provided by section 414(c)(2) of the Act until June 30, 1984. The applicant represents that within 60 days of the date of the granting of this proposed exemption, he will file the 5330 form with the Internal Revenue Service, and he will pay any excise tax due on the applicable rents received by the Plan for the period of July 1, 1984, through May 1, 1985.

the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale of a parcel of real property by the Plan to Wick Homes, Inc. (the Employer) for $25,000, provided that the terms and conditions of sale were at least as favorable to the Plan as an arm's-length transaction with an unrelated person.

Effective Date: This proposed exemption, if granted, will be effective July 21, 1983.

Summary of Facts and Representations

1. The Plan is a profit sharing with 19 participants and total assets as of 2/28/83 of approximately $950,966. Messrs. Herbert Chaffey and Robert E. Ferguson, officers of the Employer, serve as the Plan's trustees. The Employer is a real estate development and construction firm.

2. On June 18, 1979 the Plan purchased a parcel of real property (the Property) from an unrelated party for $18,185.09. The Property, containing approximately 4.2 acres, consists of 3 undeveloped lots located on the North side of Sedgewick Road in Port Orchard, Washington. The applicant represents that the Property was purchased because it was felt to be an attractive investment. Also, the Property because of its size was eligible for the short plating process. This process allows a developer to subdivide property and develop it into residential building lots without having to go through certain administrative procedures, such as a public hearing, which would otherwise be required. The Plan, in order to market the Property, had preliminary engineering work performed on the Property and had the Property appraised. The Plan incurred costs for the engineering work and for real estate taxes on the Property amounting to $2,235.09. The Property was appraised by Mr. Tim S. Arnold of Bradley Scott, Inc., Bremerton, Washington as having a fair market value of $24,750 as of 4/20/83.

3. In the spring of 1983, the Plan decided to sell the Property. The applicant represents that the Plan decided to sell the Property because it had already had the engineering and appraisal work done to prepare the Property for short plating and because the market had begun to pick up. It was felt that the Property would be attractive to an appropriate builder or developer at this time and could be sold at a fair profit.

4. In April 1983, the Plan received an offer for the Property from Living Systems Inc., an unrelated party, for $18,950. The Plan made a counter offer of $23,500 which was rejected. On July 21, 1983, the Plan sold the Property to the Employer for $25,000 in cash.

5. The applicant represents that the sale of the Property was in the Plan's best interests because it enabled the Plan to dispose of a non-income producing asset for a profit. The applicant also represents that due to the seasonal nature of the building and real estate industries, if the Property was not sold to the Employer it was felt that the Plan would have been forced to hold the Property for another year before it could have been sold.

6. In summary, the applicant represents that the transaction satisfied the statutory criteria of section 408(a) of the Act because:

(a) It was a one time cash transaction;

(b) The Plan received an amount in excess of its appraised value;

(c) The Plan was able to dispose of a non-income producing asset for a profit; and

(d) The Plan's trustees determined that the transaction was in the best interest and protective of Plan participants and beneficaries.

For Further Information Contact: Mr. Alan H. Levitas of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Altmeyer Home Stores, Inc. Employees' Profit Sharing Plan (the Plan) Located in New Kensington, Pennsylvania

[Application No. D-6056]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed sale by the Plan to Altmeyer Home Stores, Inc. (the Employer), the Plan sponsor, of certain real property (the Real Property) for the cash consideration of $86,000, provided that the price paid for the Real Property is not less than its fair market value at the time the transaction is consummated.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with approximately 56 participants and total assets of $304,135 as of May 1, 1985. The trustees of the Plan responsible for the Plan's investment decisions are Rod Altmeyer, sole shareholder of the Employer, and his wife, Judith Altmeyer. The Employer is primarily engaged in the retail sale of furniture and home furnishings.

2. On January 21, 1963, the Plan purchased the Real Property from an unrelated third party for $75,000. The Real Property consists of a two-story commercial brick building, with basement and built-up roof, located in New Kensington, Pennsylvania, and is used by the Employer as its principal place of business.

3. On September 4, 1984, Richard L. Walley, IFAS, an independent appraiser located in New Kensington, Pennsylvania, placed the fair market value of the Real Property at $86,000. On May 28, 1985, Mr. Walley stated that a reappraisal of the Real Property could possibly show a decrease in the fair market value.

4. The applicant seeks an administrative exemption for the Plan to sell an administrative exemption for the Plan to sell the Real Property to the Employer for cash at $86,000, the fair market value as established by Mr. Walley on September 4, 1984. The Plan will not be required to pay any real estate commissions or fees in connection with the sale.

5. The applicant represents that if the Plan were to sell the Real Property to an unrelated third party it would not receive fair market value because of the depressed economy of the area. The independent appraiser, Mr. Walley, represents that the oversupply of buildings for sale or rent and the many vacant stores in the downtown section of New Kensington tend to depress prices. This, together with a 12.7 percent decrease in the population of New Kensington between 1970 and 1980, and the recent closings of several major employers in the area, has resulted in there being no appreciation in real estate values in the past several years, a condition likely to continue into the near future. The applicant notes that another building owned by the Plan was sold to an unrelated third party on February 20, 1985 for $42,500. That property had been appraised on November 16, 1984 at $45,000. Accordingly, the applicant concludes that the proposed transaction is the only option which would permit the Plan to receive fair market value for the Real Property. The proposed transaction would also increase the Plan's liquidity and diversification of assets, as well as provide greater return on investment.

6. The applicant represents that the Plan, following the purchase of the Real Property on January 21, 1963, leased it to

the Employer for successive terms of one year each, up to the present time. The applicant further represents that the Employer has prepared Form 5330 (Return of Initial Excise Tax) with respect to the lease beyond June 30, 1984 of the Real Property, and will file this return and pay all applicable excise taxes within 60 days from the date of the grant of this exemption.[2]

7. In summary, it is represented that the proposed transaction will satisfy the statutory criteria for an exemption under section 408(a) of the Act because: (a) The sale will be a one-time transaction for cash; (b) the sales price for the Real Property will be not less than its fair market value as determined by an independent appraiser; (c) the Plan will not incur any expenses with respect to the sale; (d) within 60 days of the granting of the proposed exemption the Employer will pay all applicable excise taxes with respect to the past leasing of the Real Property; and (e) the Plan trustees have determined that the proposed transaction is in the interests and protective of the Plan and of its participants and beneficiaries.

For Further Information Contact: Joseph L. Roberts III of the Department, telephone (202) 523-7222. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 16th day of July, 1985.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 85-17286 Filed 7-18-85; 8:45 am]

BILLING CODE 4510-29-M

[2] The Department is expressing no opinion herein as to the applicability of section 414(c)(2) of the Act to the lease prior to June 30, 1984.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: Comments on this information collection must be submitted 30 days from date of this notice.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506 (202) 786-0233 or Mr. Joseph Lackey, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, D.C. 20503 (202) 395-6880.

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506 (202) 786-0233 from whom copies of the form and supporting documents are available.

SUPPLEMENTARY INFORMATION:

Category: Extension of OMB Expiration Date
Title: NEH Performance Reporting Requirements
Form Number: n/a
Frequency of Collection: Varies—Occasional, Quarterly, Semi-Annually and Annual
Respondents: All NEH Grantees
Use: Provide information on project expenditures
Estimated Number of Respondents: 3,000 maximum
Estimated Hours for Respondents to Provide Information: 3

This entry is not subject to 44 U.S.C. 3504(h).

Susan Metts,

Acting Director of Administration.

[FR Doc. 85-17199 Filed 7-18-85; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on Long Range Plan for NRC; Meeting

The ACRS Subcommittee on Long Range Plan for NRC will hold a meeting on August 7, 1985, Room 1046, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, August 7, 1985—8:30 a.m. until the conclusion of business

The Subcommittee will continue discussions on developing comments on a long range plan for the NRC. Topics under discussion are primarily technical issues related to the regulation of nuclear power plant safety and safety regulation over the next 5 to 10 years. The outline of a comprehensive long range plan being developed by the EDO and OPE will also be reviewed.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its

consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Richard Major (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: July 15, 1985

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85-17231 Filed 7-18-85; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Qualification Program for Safety-Related Equipment; Meeting

The ACRS Subcommittee on Qualification Program for Safety-Related Equipment will hold a meeting on August 6, 1985, Room 1046, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, August 6, 1985—8:30 a.m. until the conclusion of business

The Subcommittee will discuss NRC Staff resolution of USI A-46, "Seismic Qualification of Equipment in Operating Plants."

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. A Cappucci (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: July 15, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85-17232 Filed 7-18-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., et al. Crystal River Unit No. 3 Nuclear Generating Plant; Exemption

I

The Florida Power Corporation (the licensee) and eleven other co-owners are the holders of Facility Operating License No. DPR-72 which authorizes operation of the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) at steady-state power levels not in excess of 2544 megawatts thermal. This license provides, among other things, that it is subject to all rules and regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility is a pressurized water reactor at the licensee's site located in Citrus County, Florida.

II

On December 2, 1981, the Commission published a revised Section 10 CFR 50.44, "Standards for Combustible Gas Control System in Light-Water-Cooled Power Reactors" (46 FR 58484). Section 10 CFR 50.44(c)(3)(iii) of the regulation requires:

> To provide improved operation capability to maintain adequate core cooling following an accident, by the end of the first scheduled outage beginning after July 1, 1982, and of sufficient duration to permit required modifications, each light-water nuclear power reactor shall be provided with high point vents for the reactor coolant system, for the reactor vessel head, and for other systems required to maintain adequate core cooling if the accumulation of noncondensible gases would cause the loss of function of these systems.

By letter dated October 12, 1982, the licensee requested an exemption from the requirement of 10 CFR 50.44(c)(3)(iii) to install a reactor vessel head vent. Installation of high point vents at the top of the hot leg U-bends and the pressurizer for CR-3 was accomplished during the 1983 refueling outage. The licensee's justification for the exemption request, contained in the licensee's letter dated January 30, 1981, was based upon the ability to perform a plant depressurization to cold shutdown (following a small-break Loss of Coolant Accident (LOCA)) "even with a gas bubble in the reactor vessel (RV) head, without interrupting natural circulation". In a letter dated April 29, 1983, the licensee committed to implementing procedures and training for use of the high point vents in venting noncondensible gases trapped in the reactor vessel head.

On July 21, 1983, the Commission issued an interim exemption to defer the implementation date for installation of a reactor vessel head vent until December 31, 1985. At that time, the Commission was unable to conclude that noncondensible gases could be safely vented by the hot leg high point vents alone. The primary reason for the Commission's conclusion was the lack of integral system test data which would demonstrate the feasibility of the proposed venting procedure. The interim exemption was granted in order to allow the licensee to perform the necessary integral system testing.

On October 22, 1984, the licensee provided the results of testing performed in the Once-Through Integral System (OTIS) test facility which was performed to demonstrate that a reactor vessel head vent is not necessary to ensure adequate core cooling in the presence of significant quantities of

noncondensible gases. Based upon these test results, the licensee requested a permanent exemption from the requirement to install a reactor vessel head vent.

III

The OTIS facility is an experimental test facility at Babcock & Wilcox's (B&W's) Alliance Research Center in Alliance, Ohio. The OTIS facility was designed to evaluate the thermal/hydraulic conditions in the reactor coolant system and steam generator of a raised-loop B&W reactor, during the natural circulation phases of a small-break LOCA. The OTIS facility is a portion of the Integral Systems Test Program sponsored by the Commission, EPRI, B&W Owners Group and B&W.

The Commission has reviewed the OTIS test results and the licensee's proposed procedures and found that:

—The hot leg vent can be used to remove noncondensible gases from the reactor vessel head during a plant cooldown and depressurization without interrupting natural circulation.

—Even if noncondensible gases in the reactor vessel head expanded into the hot leg U-bend and interrupted natural circulation, feed-and-bleed cooling can be used to assure core cooling. In addition, opening of the hot leg vent will also allow the restoration of natural circulation.

—Venting procedures have been developed to limit gas expansion rates from the reactor vessel head in order to ensure that natural circulation is continuously maintained during a plant cooldown.

—Procedures would specify initiation of feed-and-bleed cooling of the core, should natural circulation become interrupted, while attempting to recover natural circulation by leaving the hot leg vents open.

—The reactor vessel head gas bubble which would remain following plant cooldown to actuation of the decay heat removal system will not interfere with core cooling. The licensee has developed various means to remove this gas bubble in the long term.

—The OTIS tests were performed in a manner which assures that the results bound the expected CR-3 plant performance.

Based on the above discussion, we conclude that an exemption to 10 CFR 50.44(c)(3)(iii) can be granted. Details of the review may be found in the Commission's related Safety Evaluation dated July 10, 1985, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Crystal River Public Library, 668 N.W. First Avenue, Crystal River Florida.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants an exemption with respect to the requirements of 10 CFR 50.44(c)(3)(iii), as follows:

The licensee is not required to install a reactor vessel head vent at Crystal River Unit 3.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the exemption will have no significant impact on the environment (50 FR 26422, June 26, 1985).

Dated at Bethesda, Maryland, this 10th day of July 1985.

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Hugh L Thompson, Jr.,

Director Division of Licensing Office of Nuclear Reactor Regulation.

[FR Doc. 85-17230 Filed 7-18-85; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22-13898]

Application and Opportunity For Hearing; Amax, Inc.

July 15, 1985.

Notice Is Hereby Given that Amax, Inc. (the "Applicant") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of United States Trust Company of New York ("United States Trust") under two existing indentures and the trusteeship of United States Trust as successor trustee under three indentures of the Applicant, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify United States Trust from acting as trustee under the indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such section provides, in effect, with certain exceptions, that a trustee under qualified indentures shall be deemed to have a conflicting interest if such trustee is trustee under other indentures under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indentures and such other indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under the indentures.

The Applicant alleges that:

(1) United States Trust, as Trustee, has entered into an Indenture, dated as of December 1, 1984 (the "1984 Indenture"), pursuant to which the Applicant's 14½% Notes, in the principal amount of $150,000,000 due December 1, 1994 were issued and outstanding. These Notes are wholly unsecured. The Notes were registered under the Securities Act of 1933 (File No. 2-94336), and the 1984 Indenture was qualified under the Act.

(2) United States Trust has agreed to act as Trustee under an Indenture, dated as of March 15, 1985 (the "1985 Indentures"), pursuant to which Senior Debt Securities of the Applicant may be issued from time to time in one or more series. If any such Senior Debt securities are issued, they will be wholly unsecured. The Senior Debt Securities were registered under the Securities Act of 1933 (File No. 2-96438) pursuant to Rule 415 thereunder, and the 1984 Indenture was qualified under the Act. As of May 23, 1985, no Senior Debt Securities of the Applicant have been issued under the 1985 Indenture. The 1984 and 1985 Indentures are hereinafter collectively the "U.S. Trust Indentures".

(3) Chase Manhattan Bank (National Association) ("Chase"), as Trustee, has entered into an Indenture, dated as of Jaunary 15, 1975 (the "1975 Indenture"), under which the Applicant's 9⅜% Sinking Fund Debentures due January 15, 2000 were issued. These Debentures are wholly unsecured. The Debentures were registered under the Securities Act of 1933 (File No. 2-52542), and the 1975 Indenture was qualified under the Act. As of May 23, 1985, $31,937,000 principal amount of the Applicant 9⅜% Sinking Fund Debentures is outstanding.

(4) Chase, as Trustee, has entered into an Indenture, dated as of December 15, 1980 (the "1980 Indenture"), pursuant to which the Applicant's 14¼% Notes due December 15, 1990 were issued. These Notes are wholly unsecured. The Notes were registered under the Securities Act of 1933 (File No. 2–68391), and the 1980 Indenture was qualified under the Act. As of May 23, 1985, $150,000 principal amount of the Applicant's 14¼% Notes is outstanding; and

(5) National Bank of North America ("NBNA"), as Trustee, entered into an Indenture, dated as of March 15, 1982 (the "1982 Indenture"), under which the Applicant's Zero Coupon Notes due March 15, 1992 were issued. Chase accepted the successor trusteeship from NBNA on April 29, 1982. These Notes are wholly unsecured. The Notes were registered under the Securities Act of 1933 (File No. 2–76363), and the 1982 Indenture was qualified under the Act. As of May 23, 1985, $71,602,000 principal amount (net of unamortized discount of $128,398,000) of the Applicant's Zero Coupon Notes due March 15, 1992 was outstanding. The 1975, 1980 and 1982 Indentures are hereinafter collectively the "Chase Indentures".

(6) On May 16, 1985, Chase notified the Applicant that it had resigned as Trustee under the Chase Indentures, such resignation to be effective upon the appointment of a successor trustee and the acceptance of such appointment by such successor trustee, all as provided in the Chase Indentures. The Applicant has appointed United States Trust to act as successor Trustee under the Chase Indentures, subject to United States Trust executing an instrument accepting such appointment and the issuance of the finding sought by this Application under section 310(b)(1) of the Act.

(7) The Applicant's Indentures are wholly unsecured and rank *pari passu inter se*.

(8) The Applicant's obligation to make payments on the Notes and Senior Debt Securities issued or issuable under the U.S. Trust Indentures is not or will not be superior or inferior in right of payment to the Applicant's obligation to make payments on the Notes and Debentures issued under the Chase Indentures.

(9) The Company is not in default under any of the Indentures.

(10) Such differences as exist between the U.S. Trust Indentures and the Chase Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify United States Trust from acting as Trustee under the U.S. Trust Indentures and the Chase Indentures.

(11) Applicant has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the office of the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549.

Notice Is Further Given that any interested person may, not later than August 8, 1985, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85–17250 Filed 7–18–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–14633 (File No. 811–3929)]

DMC Corporate Dividend Fund, Inc.; Application for Order Declaring That Applicant Has Ceased To Be an Investment Company

July 15, 1985.

Notice is hereby given that DMC Corporate Dividend Fund, Inc. ("Applicant"), Ten Penn Center Plaza, Philadelphia, PA 19103, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on March 5, 1985, for an order of the Commission, pursuant to section 8(f) of the Act, declaring that Applicant 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 applicable provisions thereof.

Applicant states that it filed a registration statement pursuant to section 8(b) of the Act on December 28, 1983, and registered an indefinite number of shares under the Securities Act of 1933 on January 6, 1984. Applicant states in the application that it made a public offering of its securities, but determined subsequently that continuation of the public offering was inadvisable. Applicant thereafter contacted all shareholders other than its investment adviser and each shareholder voluntarily liquidated their shares.

Applicant represents that it has fewer than 100 securityholders for purposes of section 3(c)(1) of the Act and the rules thereunder, and does not propose to make another public offering or engage in business of any kind. Applicant represents further that it has one remaining securityholder, its investment adviser named Delaware Management Company, Inc., with common stock valued at $10,456.11. Applicant anticipates that liquidation expenses will not exceed $10,000. According to the application, Applicant is not a party to any litigation or administrative proceeding and does not intend to engage in business activities other than those necessary for the winding up of its affairs. Finally, Applicant represents that it is presently a Maryland corporation but intends to file a certificate of dissolution following deregistration.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 9, 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. 85–17254 Filed 7–18–85; 8:45 am]

BILLING CODE 8010–01–M

[File No. 22-14001]

Application and Opportunity for Hearing; Exxon Corp. and Exxon Pipeline Co.

July 15, 1985.

Notice is Hereby given that Exxon Pipeline Company ("Pipeline") and Exxon Corporation ("Exxon") have filed a joint application pursuant to section 310(b)(1)(ii) of the Trust Indenture Act of 1939 (the "1939 Act") for a finding that the trusteeship of Manufacturers Hanover Trust Company ("Manufacturers") under (i) an Indenture dated as of June 1, 1967 (the "Pipeline Indenture") between Pipeline and The Chase Manhattan Bank N.A. ("Chase"), (ii) an Indenture dated as of November 1, 1967 (the Exxon Indenture") between Exxon Corporation ("Exxon") and Manufacturers and (iii) an Indenture dated as of September 15, 1982 (the "Finance Indenture") between Exxon Finance N.V. ("Finance") and Manufacturers would not, despite a prior guarantee by Exxon of obligations of Pipeline under the Pipeline Indenture and the current appointment of Manufacturers as a successor trustee under the Pipeline Indenture, be so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Manufacturers from acting as trustee under the Pipeline Indenture were it to continue to act as trustee under the Exxon Indenture and the Finance Indenture after such appointment as successor trustee.

Section 310(b) of the 1939 Act provides in part that if a trustee under an indenture qualified under the 1939 Act has or shall acquire any conflicting interest it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides in effect, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

In support of the application Pipeline and Exxon set forth the following:

(1) Pipeline had outstanding as of December 31, 1984 $8,280,000 aggregate principal amount of its 5-⅝% Guaranteed Sinking Fund Debentures due 1997 issued under the Pipeline Indenture. The Pipeline Indenture was filled by Pipeline as an exhibit to Registration No. 2-26573 under the Securities Act of 1933 (the "1933 Act") which was declared effective May 31, 1967 and was contemporaneously qualified under the 1939 Act. Pursuant to a supplemental indenture dated as of December 15, 1983, Exxon has guaranteed the due and punctual payment of the principal of and premium, if any, and interest on such debentures issued under the Pipeline Indenture.

(2) Exxon had outstanding as of December 31, 1984 $156,500,000 aggregate principal amount of its 6% Debentures due 1997 issued under the Exxon Indenture. The Exxon Indenture was filed by Exxon as an exhibit to Registration No. 2-27470 under the 1933 Act which was declared effective on October 25, 1967 and was contemporaneously qualified under the 1939 Act.

(3) Finance had outstanding as of December 31, 1984 $300,000,000 aggregate principal amount of its 11% Guaranteed Notes due 1987 and $200,000,000 aggregate principal amount of its 10-½% Guaranteed Notes due 1989, both issued under the Finance Indenture. The Finance Indenture was filed by Exxon as an exhibit to Registration No. 2-77345 under the 1933 Act which was declared effective on September 10, 1982 and was contemporaneously qualified under the 1939 Act.

(4) The Pipeline Indenture, the Exxon Indenture and the Finance Indenture each contain the provisions required by section 310(b) of the 1939 Act.

(5) Pipeline, Manufacturers and Chase intend to enter into an agreement pursuant to which Chase will resign as trustee under the Pipeline Indenture and Manufacturers will be appointed successor trustee under the Pipeline Indenture. Manufacturers would not be qualified to continue to act as trustee under the Pipeline Indenture, the Exxon Indenture and the Finance Indenture after such agreement is executed unless Manufacturers is deemed not to have such a conflict of interest by reason of a finding by the Commission after opportunity for a hearing that acting as trustee under the Pipeline Indenture, the Exxon Indenture and the Finance Indenture is not so likely to involve a material conflict of interest or for the protection of investors to disqualify Manufacturers from so acting.

(6) The obligations of Pipeline, Exxon and Finance under the Pipeline Indenture, the Exxon Indenture and the Finance Indenture are wholly unsecured and each such obligation ranks equally with the other.

(7) If Manufacturers had been named as trustee under the Pipleine Indenture when such Indenture was qualified, the Exxon Indenture and the Finance Indenture could have made reference to the Pipeline Indenture and in such event the trusteeship thereunder of Manufacturers would not have constituted a conflict under the provisions of the Exxon Indenture, the Finance Indenture, or section 310(b) of the Trust Indenture Act of 1939.

(8) Neither Pipeline, Exxon nor Finance is now in default under the Pipeline Indenture, the Exxon Indenture or the Finance Indenture, nor would the execution of the aforementioned agreement cause such a default.

(9) Such differences as exist among the Pipeline Indenture, the Exxon Indenture and the Finance Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Manufacturers from acting as trustee under each such indenture after execution of the aforementioned agreement.

(10) Pipeline and Exxon waived the notice of hearing, the hearing and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is on file in the offices of the Commission's Public Reference Section at 450 Fifth Street NW., Washington, D.C. 20549.

Notice is further given that any interested person, may not later than August 12, 1985 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. At any

time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-17249 Filed 7-18-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC 14631 (811-3510)]

Parkway U.S. Government Trust; Application for an Order Declaring That Applicant Has Ceased To Be an Investment Company

July 16, 1985.

Notice is hereby given that Parkway U.S. Government Trust ("Applicant"), Rodney Building, 3411 Silverside Road, Wilmington, DE 19810, registered under the Investment Company Act of 1940 as a face amount certificate company, filed an application on February 27, 1984, for an order of the Commission pursuant to section 8(f) of the Act, declaring that Applicant 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.

According to the application, on December 14, 1983, the trustees of Applicant executed a unanimous consent authorizing the termination of Applicant. Applicant states that as of December 29, 1983, it had 489,016 shares outstanding with an asset value of $489,016. Applicant states that on December 30, 1983, it liquidated all of its existing 55 shareholder accounts and that the total amount liquidated as of that date was $338,261.99. Applicant further states that as of January 16, 1984, the only open account of Applicant is the account of its investment adviser, Parkway Management Company ("Adviser"). Applicant states that as of January 3, 1984, it had net assets of $105,827.90 which consisted of $71,934.30 in cash, $62,053.86 in unamortized organization expenses, and accrued liabilities of $28,160.26. Applicant states that it subsequently, paid $23,064.86 in cash of the $28,160.26 in accrued liabilities, thereby reducing its cash balance to $48,869.44 and accrued liabilities to $5,095.40, but leaving its net assets unchanged. Finally, Applicant states that upon final liquidation, unamortized organization expenses and accrued liabilities were charged to capital, and the remaining cash of $48,869.44 was distributed to the Adviser, which had originally contributed $100,000 upon formation of the Trust.

Applicant represents that it does not propose to engage in any business activities other than those necessary for the winding up of its affairs, is not a party to any litigation or administrative proceeding, and has not within the past 18 months transferred any of its assets to a separate trust.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 9, 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. 85-17251 Filed 7-18-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14632 (812-6043)]

Liberty U.S. Government Money Market Trust (Formerly AARP U.S. Government Money Market Trust) et al.; Application for Order Permitting Purchase of Fidelity Bond From Affiliate and Settlement of Any Claims Arising Therefrom

July 16, 1985.

Notice is hereby given that American Leaders Fund, Inc., Automated Cash Management Trust, Automated Government Money Trust, EGT Money Market Trust, Federated Corporate Cash Trust, Federated Exchange Fund, Ltd., Federated GNMA Trust, Federated Growth Trust, Federated High Income Securities, Inc., Federated High Yield Trust, Federated Income Trust, Federated Intermediate Government Trust, Federated Master Trust, Federated Mortgage Securities Income Fund, Federated Short-Intermediate Government Trust, Federated Short-Intermediate Municipal Trust, Federated Stock Trust, Federated Stock and Bond Fund, Inc., Federated Tax-Free Income Fund, Inc., Federated Tax-Free Trust, Fort Washington Money Market Fund, FT International Trust, Fund for U.S. Government Securities, Inc., High Yield Cash Trust, Edward D. Jones & Co. Daily Passport Cash Trust, Legg Mason Cash Reserve Trust, Liberty U.S. Government Money Market Trust, Liquid Cash Trust, Lutheran Brotherhood Fund, Inc., Lutheran Brotherhood Income Fund, Inc., Lutheran Brotherhood Money Market Fund, Lutheran Brotherhood Municipal Bond Fund, Inc., Money Market Instruments Trust, Money Market Management, Money Market Trust, Morgan Keegan Daily Cash Trust, New York Tax-Free Trust, SUTRO Money Market Fund, Tax-Free Instruments Trust, Trust for Cash Reserves, Trust for Short-Term U.S. Government Securities, Trust for U.S. Treasury Obligations, and all future investment companies (collectively, "Funds") advised or underwritten by subsidiaries or affiliates of Federated Investors, Inc. ("Federated" and together with the Funds, "Applicants"), each at 421 Seventh Avenue, Pittsburgh, PA 15219, filed an application on March 8, 1985, and an amendment thereto on June 26, 1985, for a Commission order, pursuant to section 17(b) of the Investment Company Act of 1940 ("Act"), granting an exemption from the provisions of section 17(a) of the Act to the extent necessary to allow (i) an affiliate of Applicants to provide the Funds with all or a portion of the fidelity insurance required pursuant to section 17(g) of the Act and Rule 17g-1 ("Rule") thereunder, and (ii) the Funds to accept any settlement which might arise from a claim made pursuant to that insurance. 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 applicable provisions.

According to the application, since March 1980, the Funds have been joint insureds under a fidelity bond issued by The Aetna Casualty and Surety Company "(Aetna"), a subsidiary of Aetna Life and Casualty Company ("Aetna Life"). Aetna became an affiliated person (or an affiliated person of an affiliated person) of Applicants in November 1982, when Aetna Life acquired 87% of Federated. (In June 1985, Aetna Life agreed to acquire the

remaining 13% interest of Federated.) Further, Applicants state that this bond was allowed to continue to its term pursuant to a no-action letter granted by the Division of Investment Management, Ref. No. 83–128–CC (Pub. Avail. Oct. 21, 1983).

Applicants state that the Rule requires the Funds to maintain fidelity insurance in excess of $31 million to cover the existing gross assets of the Funds. Applicants represent that they solicited the advice of an unaffiliated insurance broker to determine whether it would be advisable to purchase fidelity insurance from an insurer other than Aetna. According to the application, all insurers able to write all or a significant portion of the required coverage were contacted. Applicants represent that Aetna is the only insurer able to provide the entire amount of the required coverage. Applicants also represent that no combination of insurers which would exclude Aetna could provide the required amount of coverage.

Applicants submit that it is in the best interests of the Funds to continue to purchase fidelity insurance from Aetna because Aetna has (i) a sound understanding of the Funds' operations and fidelity insurance requirements and (ii) tailored the insurance to the specific needs of the Funds such as providing coverage for computer fraud. Further, Applicants represent that Aetna will not charge the Funds a higher premium for the provided coverage than it would charge funds similarly situated to the Funds for like coverage. Applicants also state that they will use other insurers in combination with Aetna if such combination would provide the best possible protection and allow the Funds to incur the lowest costs consistent with such coverage.

According to the application, in order to insure fairness and eliminate any possibility of overreaching with respect to settlement of any claims arising under an Aetna bond, the officers of each Fund would be required to report all losses covered by the bond to the board of directors ("Board") of the concerned Fund. Such Board, including the directors who are not "interested persons" of the Fund as that term is defined under the Act ("Disinterested Directors"), would, upon unanimous agreement as to the amount of the loss, submit the claim to Aetna. Applicants state that if Aetna offered to settle for less than the amount submitted, the Disinterested Directors of the concerned Fund, with the advice of their independent counsel, would determine the adequacy of any such offer, taking into consideration the requirements of section 17(b) of the Act. Additionally, Applicants believe that the regular review performed by their independent auditors provide further safeguards to insure that the requirements of section 17(b) of the Act are met.

Applicants believe that the interests of the Funds would be best served by allowing Aetna to continue to provide fidelity insurance to them by allowing the Boards to accept extra-judicial settlements of claims, without further exemptive orders, subject to the representations set forth above. On the basis of the foregoing, Applicants submit that the requested exemption is fair and reasonable, does not involve overreaching, and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 6, 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. 85–17252 Filed 7–18–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–22238; File No. SR–NASD–85–14]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

The National Association of Securities Dealers, Inc. ("NASD"), submitted on May 29, 1985, a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder to add Section 66 to the NASD's Uniform Practice Code, which requires the settlement of syndicate accounts by the syndicate manager within 120 days following the syndicate settlement date.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 22124, June 7, 1985) and by publication in the **Federal Register** (50 FR 24853, June 13, 1985). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of Section 15A, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: July 15, 1985.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85–17253 Filed 7–18–85; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice CM–8/867]

Study Group CMTT of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group CMTT of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on August 14, 1985, in Conference Room 922, 9th Floor, AT&T Building, 1120 20th Street, NW., Washington, D.C. The meeting will begin at 9:30 a.m.

Study Group CMTT deals with the specifications to be satisfied by telecommunication systems for transmission of radio and television programs over long distances. The agenda for the meeting is as follows:

1. Review of foreign contributions to the meeting of international Study Group CMTT, Geneva, October 21–November 5, 1985;
2. Meeting strategies;
3. Trip preparations.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Requests for further information should be directed to Mr.

Richard Shrum, State Department, Washington, D.C. 20520; telephone (202) 632–2592.

Dated: July 1, 1985.

Richard E. Shrum,

Chairman, U.S. CCIR National Committee.

[FR Doc. 85–17214 Filed 7–18–85; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice CM–8/868]

Soviet and Eastern European Studies Advisory Committee; Meeting

The Department of State announces that the Soviet and Eastern European Studies Advisory Committee will meet on August 5–6, 1985 starting at 10:00 a.m. in Room 1107, Department of State, 2201 C Street NW., Washington, D.C.

The Advisory Committee will issue a call for applications for FY–86. The agenda will include: opening statements by the Chairman of the Committee and its members; oral statements by interested members of the public and receipt of written statements; interim oral/written progress reports of FY–85 grant recipients and questioning by Committee members; and within the Committee discussion, approval and recommendation for negotiation of supplementary grant agreements to FY–85 recipients and guidelines for FY–86 applications to "national organizations with an interest and expertise in conducting research and training concerning Soviet and Eastern European countries and in disseminating the results of such research."

Members of the general public may attend the meeting to make and/or submit statements, and to observe the Committee's deliberations subject to the instructions of the Chairman.

Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry must be arranged in advance of the meeting. It is required that prior to the meeting, persons who plan to attend or to make or submit statements, so advise Paul K. Cook, Executive Director, Soviet-Eastern European Studies Advisory Committee, INR, Department of State, Room 6747, Washington, D.C. 20520, (202) 653–5144. All attendees must use the C Street entrance to the building.

Dated: July 5, 1985.

Paul K. Cook,

Executive Director, Soviet and Eastern European Studies Advisory Committee.

[FR Doc. 85–17213 Filed 7–18–85; 8:45 am]

BILLING CODE 4710–32–M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q (See 14 CFR 302.1701 et seq.); Week Ended July 12, 1985.

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without futher proceding.

Date filed	Docket No.	Description
July 8, 1985	43201	Tropical Airways, Inc., Larry Singh, President & Chief Executive Officer, 111–09 101st Avenue, Richmond Hill, New York 11419. Amendment to the Application of Tropical Airways, Inc. pursuant to 14 CFR 302.1701 et seq., Subpart Q submitting additional information. Conforming Applications, Motions to Modify Scope and Answers may be filed by August 5, 1985.
July 8, 1985	43250	Servicio Aereo de Honduras, S.A., c/o Philip Schleit, Esq., 1660 L Street, NW., Suite 1100, Washington, D.C. 20036. Application of Servicio Aereo de Honduras, pursuant to section 402 and § 302.1704 of Subpart Q of the Regulations for renewal of its foreign permit authorizing it to engage in foreign air transportation with respect to persons, property and mail as follows: Between a point or points in Honduras; the intermediate point Belize City, Belize; and the coterminal points Houston, Texas, New Orleans, Louisiana and New York, New York Answers may be filed by August 6, 1985.

[FR Doc. 85–17195 Filed 7–18–85; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

[Summary Notice No. PE–85–18]

Petition for Exemption; Summary of Petitions Received, Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: July 29, 1985.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Petition Docket No. ——, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–204), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on July 15, 1985.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought
24699	National Airlines, Inc. and Peninsula Seafoods, Inc.	14 CFR 91.303.	To allow petitioner to operate one Stage 1 DC-8-55 aircraft until hush kits are installed.

[FR Doc. 85-17162 Filed 7-18-85; 8:45 am]

BILLING CODE 4910-13-M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in June 1985. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1-Motor vehicle, 2-Rail freight, 3-Cargo vessel, 4-Cargo-only aircraft, 5-Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
2709-P	DOT-E 2709	Atlas Powder Company, Dallas, TX	49 CFR 173.52, 173.93, 177.821, 177.834(L)(1), 177.835(k).	To become a party to Exemption 2709. (mode 1)
2709-P	DOT-E 2709	Trojan Corporation, Salt Lake City, UT	49 CFR 173.52, 173.93, 177.821, 177.834(L)(1), 177.835(k).	To become a party to Exemption 2709. (mode 1)
2981-P	DOT-E 2981	IRECO Incorporated, Salt Lake City, UT.	49 CFR 173.64(a), 173.93(a)	To become a party to Exemption 2981. (modes 1, 2)
4482-P	DOT-E 4482	IRECO Incorporated, Salt Lake City, UT.	49 CFR 172.101, 173.114a, 173.93(a)	To become a party to Exemption 4482. (mode 1)
4453-P	DOT-E 4453	H. L. & A. G. Balsinger, Inc., Bridgeville, PA.	49 CFR 173.114a(h)(3)	To become a party to Exemption 4453. (mode 1)
4453-P	DOT-E 4453	Ren-Loi, Inc., Bridgeville, PA	49 CFR 173.114a(h)(3)	To become a party to Exemption 4453. (mode 1)
4453-P	DOT-E 4453	Mountaineer Explosives, Inc., Kingwood, WV.	49 CFR 173.114a(h)(3)	To become a party to Exemption 4453. (mode 1)
4453-P	DOT-E 4453	Explo, Inc., Bridgeville, PA	49 CFR 173.114a(h)(3)	To become a party to Exemption 4453. (mode 1)
4719-X	DOT-E 4719	Dow Chemical U.S.A., Freeport, TX	49 CFR 173.314(c), 173.315(a)(1), 179.102-11.	To authorize shipment of certain compressed gases not listed in 49 CFR 173.314 and 173.315, in DOT Specification MC-330 and MC-331 cargo tanks or 105A300W, 112A340W, 114A340W, 106A500, 106A500X and 110A500W tank car tanks. (modes 1, 2)
5206-P	DOT-E 5206	Amos L. Dolby Company, Corsica, PA	49 CFR 173.114a	To become a party to Exemption 5206. (mode 1)
5243-P	DOT-E 5243	IRECO Incorporated, Salt Lake City, UT.	49 CFR 173.103(a), 173.66(g)(1), 177.835(g).	To become a party to Exemption 5243. (modes 1, 2, 3)
5704-P	DOT-E 5704	IRECO Incorporated, Salt Lake City, UT.	49 CFR 173.62, 173.93(e)	To become a party to Exemption 5704. (modes 1, 2, 3)
5895-X	DOT-E 5895	Explosive Technology, Inc., Fairfield, CA.	49 CFR 173.100(cc), 173.104(b), 175.3	To authorize use of non-DOT specification inner container overpacked in a DOT Specification 12H fiberboard box, or a wooden box, for shipment of class C explosives. (modes 1, 2, 3, 4)
6126-X	DOT-E 6126	Aceto Chemical Co., Inc., Flushing, NY	49 CFR 173.253(a)	To authorize shipment of chloracetyl chloride in DOT Specification 6D/2S or 2SL composite packaging. (modes 1, 3)
6126-P	DOT-E 6126	Daicel Chemical Industries, Ltd., Osaka, Japan.	49 CFR 173.253(a)	To become a party to Exemption 6126. (modes 1, 3)
6126-X	DOT-E 6126	D & O Chemicals, Inc., Fort Lee, NJ	49 CFR 173.253(a)	To authorize shipment of chloracetyl chloride in DOT Specification 6D/2S or 2SL composite packaging. (modes 1, 3)
6232-X	DOT-E 6232	U.S. Department of Defense, Washington, DC.	49 CFR 172.101, 173.102, 173.108, 173.176, 173.87, 175.3.	To authorize shipment of nonflammable and flammable gases, and flammable solid in the same outside packages. (modes 1, 3, 4)
6232-X	DOT-E 6232	U.S. Department of Defense, Falls Church, VA.	49 CFR 172.101, 173.102, 173.108, 173.176, 173.87, 175.3.	To authorize a magnesium fire starter to replace butane lighter to be contained in a survival vest. (modes 1, 3, 4)
6293-P	DOT-E 6293	IRECO Incorporated, Salt Lake City, UT.	49 CFR 173.21(b), 173.248	To become a party to Exemption 6293. (mode 1)
6614-P	DOT-E 6614	Bison Laboratories, Inc., Buffalo, NY	49 CFR 173.263(a)(28), 173.277(a)(6)	To become a party to Exemption 6614. (mode 1)
6759-X	DOT-E 6759	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.87, 177.835(g)(2)	To authorize transport of Class A or B explosives in an IME 22 container or compartment on the same vehicle with non-mass detonating blasting caps. (mode 1)
6759-P	DOT-E 6759	IRECO Incorporated, Salt Lake City, UT.	49 CFR 173.87, 177.835(g)(2)	To become a party to Exemption 6759. (mode 1)
6759-X	DOT-E 6759	Austin Powder Company, Cleveland, OH	49 CFR 173.87, 177.835(g)(2)	To authorize transport of Class A or B explosives in an IME 22 container or compartment on the same vehicle with non-mass detonating blasting caps. (mode 1)
6759-X	DOT-E 6759	Atlas Powder Company, Dallas, TX	49 CFR 173.87, 177.835(g)(2)	To authorize transport of Class A or B explosives in an IME 22 container or compartment on the same vehicle with non-mass detonating blasting caps. (mode 1)
6759-X	DOT-E 6759	Mesabi Powder Company, Hibbing, MN	49 CFR 173.87, 177.835(g)(2)	To authorize transport of Class A or B explosives in an IME 22 container or compartment on the same vehicle with non-mass detonating blasting caps. (mode 1)
6762-X	DOT-E 6762	Aquaphase Laboratories, Inc., Adrian, MI.	49 CFR 173.286(b)(2), 175.3	To authorize transport of chemical kits in plastic inside bottles, packed in plastic boxes overpacked in fiberboard boxes. (modes 1, 2, 3, 4)
6762-X	DOT-E 6762	National Chemical, Atlanta, GA	49 CFR 173.286(b)(2), 175.3	To authorize transport of chemical kits in plastic inside bottles, packed in plastic boxes overpacked in fiberboard boxes. (modes 1, 2, 3, 4)
6806-P	DOT-E 6806	Stone & Webster Engineering Corporation, Boston, MA.	49 CFR 173.302(a), 175.3	To become a party to Exemption 6806. (mode 5)
6824-X	DOT-E 6824	GPS Industries, City of Industry, CA	49 CFR 173.217(a)	To authorize packagings not provided for in the Hazardous Materials Regulations, for shipment of certain oxidizing materials. (modes 1, 2, 3)
6824-X	DOT-E 6824	Bio-Lab, Incorporated, Conyers, GA	49 CFR 173.217(a)	To authorize packagings not provided for in the Hazardous Materials Regulations, for shipment of certain oxidizing materials. (modes 1, 2, 3)
7052-P	DOT-E 7052	Tracor, Inc., Austin, TX	49 CFR 172.101, 175.3	To become a party to Exemption 7052. (modes 1, 2, 3, 4)
7052-P	DOT-E 7052	IRECO Incorporated, Salt Lake City, UT.	49 CFR 172.101, 175.3	To become a party to Exemption 7052. (modes 1, 2, 3, 4)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7052-P	DOT-E 7052	Flow Research Corporation, Houston, TX.	49 CFR 172.101, 175.3	To become a party to Exemption 7052. (modes 1, 2, 3, 4)
7052-P	DOT-E 7052	Micro Memory, Inc., Chatsworth, CA	49 CFR 172.101, 175.3	To become a party to Exemption 7052. (modes 1, 2, 3, 4)
7063-X	DOT-E 7063	Twin Lake Chemical, Co., Lockport, NY	49 CFR 173.191(a)	To authorize use of a removable-head non-DOT specification polyethylene pail, for transportation of corrosive materials. (modes 1, 2, 3)
7476-X	DOT-E 7476	Thompson Tank & Manufacturing Co., Inc., Long Beach, CA.	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.340-8(c), 178.342-5, 178.343-5.	To modify cargo tank overturn protection; to authorize an 8 inch diameter inlet and outlet valve configuration and to authorize compartmented tanks (mode 1)
7476-X	DOT-E 7476	Thompson Tank & Manufacturing Co., Inc., Long Beach, CA.	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.340-8(c), 178.342-5, 178.343-5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks designed and constructed in full compliance with DOT Specification MC-307 or MC-312 with certain exceptions, for transportation of flammable, corrosive and poisonous waste materials. (mode 1)
7489-X	DOT-E 7489	Micor Company, Inc., Milwaukee, WI	49 CFR 172.312, 173.249	To authorize shipment of a corrosive liquid in specified non-DOT specification metal container having a capacity of 1 quart or less, in a DOT Specification 37A metal drum. (modes 1, 2, 3)
7616-P	DOT-E 7616	South Pacific, Transportation Company, San Francisco, CA.	49 CFR 172.204(a), 172.204(d)	To become a party to Exemption 7616. (mode 2)
7700-X	DOT-E 7700	Forest Service, U.S. Department of Agriculture, Washington, DC.	49 CFR 175.310(d)	To authorize transport of gasoline in the baggage and/or passenger compartment of helicopters. (mode 5)
7735-X	DOT-E 7735	Rheem Manufacturing Company, Edison, NJ.	49 CFR 173.119, 173.264(a), 173.272(g), 173.346, 173.358, 173.359.	To authorize manufacture, marking and sale of DOT Specification 34 containers, for shipment of flammable liquids and corrosive materials. (modes 1, 2, 3)
7754-P	DOT-E 7754	IRECO Incorporated, Salt Lake City, UT.	49 CFR 173.103(a), 173.66, 177.835(g)(2)(i)	To become a party to Exemption 7754. (mode 1)
7835-P	DOT-E 7835	Synthatron Corporation, Parsippany, NJ	49 CFR 177.848, Part 107 Appen. B(1)	To become a party to Exemption 7835. (mode 1)
7835-P	DOT-E 7835	AGA Burdox, Inc., Cleveland OH	49 CFR 177.848, Part 107 Appen. B(1)	To become a party to Exemption 7835. (mode 1)
7857-X	DOT-E 7857	Makhteshim Darom (Ramat Hovav) Ltd., Beer Sheva, Israel.	49 CFR 173.315	To authorize use of certain non-DOT specification portable tanks, for shipment of certain flammable gases. (modes 1, 3)
7951-P	DOT-E 7951	Beatrice Cheese, Inc., New Berlin, WI	49 CFR 173.306(b)(1), 175.3, 178.33	To become a party to Exemption 7951 (mode 1, 2, 3, 4, 5)
8016-X	DOT-E 8016	Forest Service, U.S. Department of Agriculture, Washington, DC.	49 CFR 175.3, 175.30, 175.35, 175.40, 175.75, 175.85.	To authorize transport of detonating cord and exploding bridge wire detonators in passenger-carrying aircraft and helicopters. (mode 5)
8096-X	DOT-E 8096	Pressure-Pak Container Company, Incorporated, East Hampton, CT.	49 CFR 173.302(a)(1) 175.3, 178.42	To renew and to authorize ethylene, classed as a flammable gas, as an additional commodity. (modes 1, 2, 3, 4, 5)
8196-X	DOT-E 8196	GCS Container Service SA, Chiasso, Switzerland.	49 CFR 173.119, 173.315(a)	To authorize use of a non-DOT specification portable tank, for transportation of certain compressed gases. (modes 1, 2, 3)
8196-X	DOT-E 8196	Allied Chemical, Morristown, NJ	49 CFR 173.119, 173.315(a)	To authorize use of a non-DOT specification portable tank, for transportation of certain compressed gases. (modes 1; 2, 3)
8196-X	DOT-E 8196	Societe Auxiliarie de Transports et d'Industries, Paris, France.	49 CFR 173.119, 173.315(a)	To authorize use of a non-DOT specification portable tank, for transportation of certain compressed gases. (modes 1, 2, 3)
8196-X	DOT-E 8196	ANF-Industrie, Paris, France	49 CFR 173.119, 173.315(a)	To authorize use of a non-DOT specification portable tank, for transportation of certain compressed gases. (modes 1, 2, 3)
8209-X	DOT-E 8209	Coastal Planes Airways, Incorporated, Warner Robins, GA.	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of certain Class A, B and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (mode 4)
8228-X	DOT-E 8228	Bureau of Alcoho, Tobacco and Firearms, Washington, DC.	49 CFR 173.100(bb), 173.113(a)(1), 173.86	To authorize transport of packages containing not in excess of 35 grams of one type of explosive material or one explosive device, not exceeding 35 grams, in a pasteboard carton packed in a DOT Specification 12H fiberboard box or a non-DOT specification corrugated fiberboard box. (mode 1)
8232-X	DOT-E 8232	ANF-Industrie, Paris, France	49 CFR 173.123(a), 173.315	To authorize use of a non-DOT specification portable tank, for transportation of certain compressed gases and a flammable liquid. (modes 1, 2, 3)
8232-X	DOT-E 8232	GCS Container Service, SA, Chiasso, Switzerland.	49 CFR 173.123(a), 173.315	To authorize use of a non-DOT specification portable tank, for transportation of certain compressed gases and a flammable liquid. (modes 1, 2, 3)
8232-X	DOT-E 8232	Societe Auxiliarie de Transports et d'Industries, Paris, France.	49 CFR 173.123(a), 173.315	To authorize use of a non-DOT specification portable tank, for transportation of certain compressed gases and a flammable liquid. (modes 1, 2, 3)
8397-X	DOT-E 8397	Mauser Packaging, Ltd., New York, NY	49 CFR 173.154, 173.160, 173.191, 173.217, 173.245b, 173.945, 178.16.	To authorize an additional 40 gallon capacity drum, for shipment of certain oxidizers or corrosive solids. (modes 1, 2, 3)
8445-P	DOT-E 8445	Southern Illinois University, Carbondale, IL.	49 CFR 173, Subpart D, E, F, & H	To become a party to Exemption 8445. (mode 1)
8450-P	DOT-E 8450	Atlantic Research Corporation, Camden, AR.	49 CFR 173.92	To become a party to Exemption 8450. (mode 1)
8523-X	DOT-E 8523	Dehon and Prochimac, Paris, France	49 CFR 173.304, 173.315	To authorize use of non-DOT IMCO Type 5 portable tanks, for transporation of flammable and nonflammable gases. (modes 1, 2, 3)
8554-X	DOT-E 8554	Everson Explosives, Morris, IL	49 CFR 173.114a, 173.154, 173.93	To authorize transport of propellant explosives, blasting agents and oxidizers, in a DOT Specification MC-306, MC-307 and MC-312 cargo tank. (mode 1)
8554-P	DOT-E 8554	CTL Distribution, Inc., Mulberry, FL	49 CFR 173.114a, 173.154, 173.93	To become a party to Exemption 8554. (mode 1)
8563-X	DOT-E 8563	Ashland Oil, Inc., Columbus, OH	49 CFR 173.266(a) 177.848(a)	To authorize shipment of an oxidizer and a corrosive material in compartmented DOT Specification MC-307 or MC-312 cargo tanks, with double bulkheads and completely separate loading and unloading systems. (mode 1)
8573-X	DOT-E 8573	All Pure Chemical Company, Inc., Tracy, CA.	49 CFR 173.217(a)(8)	To authorize transport of certain solid oxidizers in non-DOT specification polyethylene bottles packed in a DOT Specification 12B double-wall corrugated fiberboard box. (modes 1, 2, 3)
8573-X	DOT-E 8573	Alstar Company, Tracy, CA	49 CFR 173.217(a)(8)	To authorize transport of certain solid oxidizers in non-DOT specification polyethylene bottles packed in a DOT Specification 12B double-wall corrugated fiberboard box. (modes 1, 2, 3)
8573-X	DOT-E 8573	Hasa Chemicals, Inc., Saugus, CA	49 CFR 173.217(a)(8)	To authorize transport of certain solid oxidizers in non-DOT specification polyethylene bottles packed in a DOT Specification 12B double-wall corrugated fiberboard box. (modes 1, 2, 3)
8585-X	DOT-E 8585	Bergen Barrel and Drum Company, Kearny, NJ.	49 CFR 173.247, 173.266, 178.19, Part 179 Subpart D, Subpart F, H.	To authorize manufacture, marking and sale of non-DOT specification reuseable, rotationally molded, polyethylene container, for shipment of certain corrosive, flammable, class B poisonous liquids, and oxidizer. (modes 1, 2, 3)
8621-X	DOT-E 8621	Atlantic & Gulf Stevedores of Alabama, Mobile, AL.	49 CFR 176.415(c)(2)	To authorize loading or unloading of ammonium nitrate mixtures containing more than 60% ammonium nitrate with no organic coating at a non-isolated facility. (mode 3)
8673-X	DOT-E 8673	MarkAir, Inc., Anchorage, AK	49 CFR 172.101(6)(b), 175.30	To authorize shipment of inhibited acid solution in DOT Specification 60 rubber lined portable tanks. (mode 4)
8685-P	DOT-E 8685	IRECO Incorporated, Salt Lake City, UT.	49 CFR 173.182(b)(6)(ii)	To become a party to Exemption 8685. (modes 1, 2, 3)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8691-P	DOT-E 8691	Witco Chemical Corporation, Pearsall Division, New York, NY.	49 CFR 173.333	To become a party to Exemption 8691. (modes 1, 2, 3)
8723-P	DOT-E 8723	CTL Distribution, Inc., Mulberry, FL	49 CFR 173.114a(h)(3)	To become a party to Exemption 8723. (mode 1)
8862-X	DOT-E 8862	ABERCO Inc., Seabrook, MD	49 CFR 173.119, 173.305	To authorize shipment of propylene oxide, classed as a flammable liquid, in DOT Specification 5P lagged steel drums. (mode 1)
8901-X	DOT-E 8901	Hopkins Agricultural Chem. Co., Madison, WI.	49 CFR 173.357	To authorize shipment of chloropicrin, in polyethylene bottles overpacked in non-DOT specification triple-wall, corrugated fiberboard boxes. (mode 1)
8901-X	DOT-E 8901	Soweco, Inc., Amarillo, TX	49 CFR 173.357	To authorize shipment of chloropicrin, in polyethylene bottles overpacked in non-DOT specification triple-wall, corrugated fiberboard boxes. (mode 1)
8901-X	DOT-E 8901	Great Lakes Chemical Corporation, El Dorado, AK.	49 CFR 173.357	To authorize shipment of chloropicrin, in polyethylene bottles overpacked in non-DOT specification triple-wall, corrugated fiberboard boxes. (mode 1)
8914-X	DOT-E 8914	Amerijet International, Fort Lauderdale, FL.	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107 Appendix B.	To authorize carriage of certain Class A, B and C explosives that are not permitted for air shipment or are in quantities greater than those prescribed for shipment by air. (mode 4)
8917-X	DOT-E 8917	Morrison-Knudsen Company, Inc., Boise, ID.	49 CFR 173.182, 176.400	To authorize transport of ammonium nitrate prills in a large, lined steel container. (modes 1, 2, 3)
8936-X	DOT-E 8936	Great Lakes Chemical Corp., El Dorado, AR	49 CFR 173.357(b)(2)	To authorize shipment of a mixture containing 57% chloropicrin and 43% 1,3-dichloropropene, 1,2-dichloropropane and related hydrocarbons, respectively, by weight, in non-authorized DOT Specification 5B metal drums. (modes 1, 2, 3)
8958-P	DOT-E 8958	Track of the Wolf, Inc., Osseo, MN	49 CFR 172.101, 173.60	To become a party to Exemption 8958. (modes 1, 2)
8960-X	DOT-E 8960	Sunshine Aero Industries, Inc. Crestview, FL	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107 Appendix B.	To authorize carriage of certain Class A, B and C explosives that are not permitted for air shipment or are in quantities greater than those prescribed for shipment by air. (mode 4)
8977-X	DOT-E 8977	Eurotainer, S.A. Paris, France	49 CFR 173.315, 178.245	To authorize use of a non-DOT specification IMO-Type 5 portable tank, for transportation of liquefied compressed gases. (modes 1, 2, 3)
9004-X	DOT-E 9004	Metrix Corporation, Tulsa, OK	49 CFR 173.119, 173.304, 173.315	To authorize manufacture, marking and sale of non-DOT specification containers, for transportation of flammable liquids and flammable gases. (mode 1)
9010-X	DOT-E 9010	United Technologies Chemical Systems, San Jose, CA.	49 CFR 173.68(e)(2)(ii), 173.92	To authorize transport of a large rocket motor with or without igniter installed and which may be in a propulsive state, or a rocket motor igniter. (mode 1)
9011-X	DOT-E 9011	Van Leer Containers, Inc., Chicago, IL	49 CFR 175.3, 178.100, 178.115, 178.116, 178.117, 178.118, 178.80, 178.81, 178.82, 178.98, 178.99.	To authorize certain DOT Specification 5, 6 and 17 series drums constructed of stainless steel, nickel or monel to be exempt from certain steel drum test requirements, for shipment of those commodities presently authorized for each drum. (modes 1, 2, 3, 4)
9023-X	DOT-E 9023	ANF-Industrie, Paris, France	49 CFR 173.315, 178.245	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of liquefied compressed gases. (modes 1, 2, 3)
9023-X	DOT-E 9023	Eurotainer, S.A., Paris, France	49 CFR 173.315, 178.245	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of liquefied compressed gases. (modes 1, 2, 3)
9030-X	DOT-E 9030	LND Incorporated, Oceanside, NY	49 CFR 173.302, 175.3	To authorize use of non-DOT specification, metal, single trip, inside container, for shipment of a nonflammable gase. (modes 1, 2, 3, 4, 5)
9069-X	DOT-E 9069	Ford Aerospace & Communications Corp., Palo Alto, CA.	49 CFR 172.101 Column 6(b)	To authorize shipment of four rocket motors having excess gross weight, with other authorized hazardous and nonhazardous materials. (mode 4)
9110-P	DOT-E 9110	QueNord Inc., Magog, Quebec, Canada	49 CFR 173.163	To become a party to Exemption 9110. (modes 1, 2, 3)
9330-X	DOT-E 9330	MarkAir, Inc., Anchorage, AK	49 CFR 172.101 column 6, 173.315, 175.30.	To authorize use of non-DOT specification portable tank of 1,000 to 2,200 gallon capacity, for transportation of nitrogen refrigerated liquid. (mode 4)
9401-P	DOT-E 9401	Parlefer S.A.R.L., Paris, France	49 CFR 173.315, 178.245, 178.245	To become a party to Exemption 9401. (modes 1, 2, 3)
9401-P	DOT-E 9401	ATOCHEM, Paris, France	49 CFR 173.315, 178.245, 178.245	To become a party to Exemption 9401. (modes 1, 2, 3)
9402-P	DOT-E 9402	NAACO S.A., Paris, France	49 CFR 173.315	To become a party to Exemption 9402. (modes 1, 2, 3)
9402-P	DOT-E 9402	ALGECO, Paris, France	49 CFR 173.315	To become a party to Exemption 9402. (modes 1, 2, 3)
9402-P	DOT-E 9402	Exploitation De Services Industriels ET DE Forets, Paris, France.	49 CFR 173.315	To become a party to Exemption 9402. (modes 1, 2, 3)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9283-N	DOT-E 9283	Varian Associates, Palo Alto, CA	49 CFR 173.302, 173.306(f)(3), 175.3	To authorize use of a refrigeration system and components that consists of accumulators exempt from the retest requirements prescribed in 49 CFR 173.306(a)(2). (modes 1, 2, 4, 5)
9323-N	DOT-E 9323	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.119(a)	To authorize shipment only by the U.S. Department of Defense of gasoline and JP-4 and JP-5 fuel, classed as flammable liquids, in non-DOT specification collapsible, fabric reinforced rubber drums of 500 gallon capacity. (mode 1)
9338-N	DOT-E 9338	Allied Corporation, Morristown, NJ	49 CFR 179.302(a)	To authorize use of DOT Specification 106A500X and 110A500W multi-unit tank car tanks without a gas tight valve protection housing, for transportation of a corrosive material. (modes 1, 2)
9401-N	DOT-E 9401	Fauvet-Girel, St. Laurent-Blangy France	49 CFR 173.315, 178.245, 178.245	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of flammable and nonflammable liquefied compressed gases. (modes 1, 2, 3)
9402-N	DOT-E 9402	Fauvet-Girel, St. Laurent-Balngy France	49 CFR 173.315	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of flammable and nonflammable liquefied compressed gases (modes 1, 2, 3)
9416-N	DOT-E 9416	CIBA-GEIGY Corporation, Ardsley, NY	49 CFR 173.359	To authorize shipment of organophosphorous pesticide, liquid, in a DOT Specification 12P fiberboard box containing two inside DOT Specification 2U polyethylene containers of 2-½ gallons capacity. (mode 1)
9418-N	DOT-E 9418	West Texas Fabrication, Odessa, TX	49 CFR 173.119, 173.245, 178.253	To authorize manufacture, marking and sale of non-DOT specification portable tank assemblies manifolded together within a frame and securely mounted on a truck chassis, for transportation of flammable liquids and corrosive liquids. (mode 1)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 9437-N	DOT-E 9437	Eagle Enterprises, Inc., Anchorage, AK	49 CFR 172.101(6)(b), 175.30	To authorize shipment of corrosive liquid, n.o.s. in 55 gallon capacity DOT Specification 34 polyethylene containers. (mode 4)
EE 9438-N	DOT-E 9438	U.S. Department of Defense, Alexandria, VA.	49 CFR 173.31(a)(7), 174.3	To authorize use of DOT Specification 103W tank cars, equipped with old style couplers for transportation of a flammable liquid.
EE 9447-N	DOT-E 9447	American Recovery Co., Inc., Baltimore, MD.	49 CFR 177.834(k), Part 173, Subpart D, E, F, H, Subpart K, L, M, O.	To authorize shipment of certain hazardous waste placed in compressed gas cylinders which are overpacked into intermediate containers than placed in removable head drums and completely surrounded by absorbent material. (mode 1)
EE 9451-N	DOT-E 9451	U.S. Department of Defense, Washington, DC.	49 CFR 174.101(n), 174.101(o)	To authorize use of containers equipped with tarpaulins for shipment of a class A explosive by rail. (mode 1)
EE 9452-N	DOT-E 9452	E. I. du Pont de Nemours Inc., Co., Wilmington, DE.	49 CFR 173.292, 179.200-19	To authorize the use of non-DOT specification tank cars which conform to DOT Specification 111A100W1 except for certain prescribed bracket reinforcing pads, for transportation of a corrosive material. (mode 2)
EE 9453-N	DOT-E 9453	Alaska Automated Systems, Inc., Anchorage, AK.	49 CFR 172.101(6)(b), 175.30	To authorize a one time shipment of bromotrifluoromethane in two DOT Specification 4BW500 cylinders, containing 410 pounds of gas which exceeds the weight limitations authorized for cargo aircraft. (mode 4)
EE 9454-N	DOT-E 9454	Dow Chemical Co., Midland, MI	49 CFR 173.119, 173.123, 173.245, 173.249, 173.294	To authorize use of non-DOT specification tank cars which conform to DOT Specifications 105A300W, 111A100W1 or 111A100W6, except for certain prescribed bracket reinforcing pads, for transportation of flammable liquids, corrosive liquids, or poison B liquids. (mode 2)
EE 9455-N	DOT-E 9455	Petrochem Services, Inc., Lemont, IL	49 CFR Part 173, Subpart D, E, F, H, Subpart K, L, M, O.	To authorize shipment of certain hazardous waste materials placed in compressed gas cylinders which are overpacked in specially fabricated metal packagings. (mode 1)
EE 9457-N	DOT-E 9457	Arco Chemical Company, Philadelphia, PA.	49 CFR 173.119, 179.200-19	To authorize the use of non-DOT specification tank cars which conform to DOT Specification 111A60W1, 111A100W1 or 111A100W3, except for certain prescribed bracket reinforcing pads. (mode 2)
EE 9458-N	DOT-E 9458	Diamond Shamrock Chemicals Company, Deer Park, TX.	49 CFR	To authorize the use of non-DOT specification tank cars which conform to DOT Specifications 105A300W, 111A100W1 or 111A100W6 except for certain prescribed bracket reinforcing pads. (mode 2)
EE 9459-N	DOT-E 9459	Monsanto Company, St. Louis, MO	49 CFR 173.119, 173.190, 173.292, 179.200-19.	To authorize use of non-DOT specification tank cars which conform to DOT Specification 111A100W1 except for certain prescribed bracket reinforcing pads, for transportation of flammable liquids, flammable solids and corrosive materials. (mode 2)

WITHDRAWALS

Application No.	Applicant	Regulations(s) affected	Nature of exemption thereof
6984-P	IRECO Incorporated, salt Lake City, UT	49 CFR 173.103(a), 173.66(g), 177.835(g)(2)(i)	To become a party to Exemption 6984. (mode 1)
8481-X	Northrop Services, Inc., Research Trangle Park, NC.	49 CFR Parts 100-199	To authorize shipment of small quantities (no greater than 100 milligrams) of various poison B liquids, flammable liquids, corrosive and ORM-A materials shipped as analytical standards when packed in specially designed packaging. (modes 1, 2, 3, 4, 5)

Denials

8982-X—Request by Olin Corp., Stamford, CT to authorize shipment of calcium hypochlorite, hydrated, classed as an oxidzer in DOT Specification 56 steel portable tanks denied June 3, 1985.

9393-N—Request by Sexton Can Company, Inc., Everett, MA to manufacture, mark and sell non-DOT Specification nonreusable steel containers, patterned after DOT Specification 2Q, for shipment of (mono) chlorodifluoromethane (R-22) classed as nonflammable gas denied June 18, 1985.

Issued in Washington, DC, on July 10, 1985.

J.R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 85-17194 Filed 7-18-85; 8:45 am]

BILLING CODE 4910-60-M

VETERANS ADMINISTRATION

Geriatrics and Gerontology Advisory Committee; Meeting

The Veterans Administration gives notice under Pub. L. 92-463 that a meeting of the Geriatrics and Gerontology Advisory Committee will be held in Room 119 at the Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, DC, on August 14 and 15, 1985. The purpose of the Geriatrics and Gerontology Advisory Committee is to advise the Administrator and the Chief Medical Director relative to the care and treatment of the aging veterans, and to evaluate the Geriatric Research, Education and Clinical Centers established by the Department of Medicine and Surgery.

The sessions will convene at 8:30 a.m. both days. These sessions will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Mrs. Jacqueline Holmes, Program Assistant, Office of the Assistant Chief Medical Director for Geriatrics and Extended Care, Veterans Administration Central Office (phone 202/389-3781) prior to August 7, 1985.

Dated: July 15, 1985.

Rosa Maria Fontanez,

Committee Management Officer

[FR Doc. 85-17188 Filed 7-18-85; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 139
Friday, July 19, 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

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, August 2, 1985.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-17346 Filed 7-17-85; 3:14 pm]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, August 9, 1985.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-17347 Filed 7-17-85; 3:14 pm]

BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, August 16, 1985.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-17348 Filed 7-17-85; 8:45 am]

BILLING CODE 6351-01-M

4

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, August 23, 1985.

PLACE: 2033 K Street, NW., Washington, D.C. 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-17349 Filed 7-17-85; 3:14 pm]

BILLING CODE 6351-01-M

5

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m. Friday, August 30, 1985.

PLACE: 2033 K street, NW. Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveilllance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-17350 Filed 7-17-85 3:14 p.m.]

BILLING CODE 7590-01-M

6

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Monday, July 29, 1985. 2:00 p.m. eastern time).

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200-C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, D.C. 20507.

STATUS: Closed to the public.

Closed

Litigation Authorization; General Counsel Recommendations

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat at (202) 634-6748.

Dated: July 17, 1985.

Cynthia C. Matthews,

Executive Officer.

This Notice Issued July 17, 1985.

[FR Doc. 85-17369 Filed 7-17-85; 3:51 pm]

BILLING CODE 6750-06-M

7

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, July 30, 1985, 9:30 AM (Eastern Time).

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200-C on the 2nd Floor of the Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Vote(s)
2. A Report on Commission Operations (Optional)
3. Request for Consideration of an Opinion Letter Under the ADEA
4. Recommended 3rd Quarter Modifications to FEP Agency FY '85 Title VII and ADEA Contracts

Closed

Litigation Authorization; General Counsel Recommendations

Note. Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews,

Executive Officer, Executive Secretariat at (202) 634–6748.

Dated: July 17, 1985.

Cynthia C. Matthews,

Executive Officer.

This Notice Issued July 17, 1985.

[FR Doc. 85–17370 Filed 7–17–85; 3:51 pm]

BILLING CODE 6750–51–M

8

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 50 FR 28682, July 15, 1985.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., July 17, 1985.

CHANGE IN THE MEETING: The following docket numbers have been added:

Item No., Docket No., and Company

CAG–2.—CP85–672–000, CP85–487–000 and CP85–488–000, Distrigas of Massachusetts Corporation

CI–2.—CI80–151–000, Mitchell Energy Corporation

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–17291 Filed 7–17–85; 11:19 am]

BILLING CODE 6717–02–M

9

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, July 24, 1985.

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. 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: July 16, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85–17268 Filed 7–16–85; 5:10 pm]

BILLING CODE 6210–01–M

10

LEGAL SERVICES CORPORATION

(Board of Directors Meeting; Tentative Agenda)

TIME AND DATE: An executive session will be held at 8:00 p.m., Wednesday, July 31, 1985. The public portion of the meeting will commence at 10:00 a.m., Friday, August 2, 1985, and continue until all official business is completed.

PLACE:

July 31, 1985—The Sheraton Hotel and Towers, Board Room, 255 South West Temple, Salt Lake City, Utah 84101

August 2, 1985—The Sheraton Hotel and Towers, Grand Ballroom, 255 South West Temple, Salt Lake City, Utah 84101

STATUS OF MEETING: Open [A portion of the meeting is to be closed to discuss personnel, personal, litigation, and investigatory matters under The Government in the Sunshine Act (5 U.S.C. 552b (c) (2), (6), (7), (9)(B), and (10) and 45 CFR 1622.5(a), (e), (f), (g), and (h)].

MATTERS TO BE CONSIDERED:

1. Personal and Personnel Matters (Closed)
2. Litigation and Investigation matters (closed)
3. Approval of Agenda
4. Approval of Minutes
   —June 28, 1985
5. Discussion and Action on the Recommendations of the Operations and Regulations Committee
   —45 CFR 1614 (Private Attorney Involvement)
6. Discussion and Action on the Recommendations of the Committee on Audit and Appropriations
   —Reallocation of FY '85 Funds

CONTACT PERSON FOR MORE INFORMATION: Dennis Daugherty, Executive Office, (202) 272–4040.

DATE ISSUED: July 17, 1985.

Dennis Daugherty,

Acting Secretary.

[FR Doc. 85–17319 Filed 7–17–85; 1:36 pm]

BILLING CODE 6820–35–M

11

LEGAL SERVICES CORPORATION

Committee on Audit and Appropriations

TIME AND DATE: Meeting will commence at 9:00 a.m., Thursday, August 1, 1985, and continue until all official business is completed.

PLACE: Sheraton Hotel and Towers, Grand Ballroom, 255 South West Temple, Salt Lake City, Utah 84101.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda
2. Approval of Draft Minutes
   —June 27, 1985
3. Discussion of State Support Standards
4. Reallocation of FY '85 Funds

CONTACT PERSON FOR MORE INFORMATION: Joel Thimell, Executive Office, (202) 272–4040.

DATE ISSUED: July 16, 1985.

Dennis Daugherty,

Acting Secretary.

[FR Doc. 85–17320 Filed 7–17–85; 1:36 pm]

BILLING CODE 6820–35–M

12

LEGAL SERVICES CORPORATION

Operations and Regulations Committee Meeting

TIME AND DATE: Meeting will commence at 1:30 p.m., Thursday, August 1, 1985, and continue until all official business is completed.

PLACE: Sheraton Hotel and Towers, Grand Ballroom, 255 South West Temple, Salt Lake City, Utah 84101.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda
2. Approval of Minutes
   —June 27, 1985
3. Lobbying—45 CFR 1612
   —Report from the Office of the General Counsel
   —Outside witnesses
   —Public comment
4. Disallowed Questioned Costs—Instruction 83–8
   —Report from the Grants & Budget Unit, Office of Field Services
   —Report from the Audit Division
   —Report from the Office of the General Counsel
   —Public comment
5. Other Regulations Adopted after April 27, 1984.

CONTACT PERSON FOR MORE INFORMATION: Thomas A. Bovard, Office of General Counsel, (202) 272–4010.

DATE ISSUED: July 16, 1986.

Dennis Daugherty,

Acting Secretary.

[FR Doc. 85–17321 Filed 7–17–85; 1:36 pm]

BILLING CODE 6820–35–M

13

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–85–30]

TIME AND DATE: 10:00 a.m., Monday, July 22, 1985.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: 1. Investigation 701–TA–224 [Final] (Live swine and pork from Canada)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–17386 Filed 7–17–85; 5:05 pm]

BILLING CODE 7020-02-M

14

UNITED STATES INTERNATIONAL TRADE COMMISSION

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., July 22, 1985.

CHANGES IN THE MEETING: Change of time for Commission meeting from 10:00 a.m. to 3:00 p.m.

In conformity with 19 CFR 201.37(b), Commissioners Stern, Liebeler, Eckes, Lodwick, and Rohr determined by unanimous vote that Commission business requires the change in subject matter by addition of the agenda item, affirmed that no earlier announcement of the addition to the agenda was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–17368 Filed 7–17–85; 3:51 pm]

BILLING CODE 7020-02-M

federal register

Friday
July 19, 1985

Part II

Small Business Administration

13 CFR Part 107

Accounting Standards and Financial Reporting Requirements for Small Business Investment Companies; Proposed Rule

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

Accounting Standards and Financial Reporting Requirements for Small Business Investment Companies

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: By this publication, SBA is giving notice of its intention to replace Appendices A, B and C of Part 107 of its regulations (13 CFR Part 107) with Appendices I and II which deal with accounting standards and mandatory financial reporting requirements for licensed Small Business Investment Companies (SBIC's). This proposal addresses the accounting requirements of Limited Partnership Small Business Investment Companies, an area on which the current appendices are silent, and consolidates the accounting requirements of all SBIC's. The objectives of the proposed rulemaking are:

1. To reduce the number of forms required in the annual financial report, SBA Form 468; and,

2. To provide the necessary special forms required for financial reporting of limited partnership SBIC's, thereby eliminating time-consuming modifications limited partnership SBIC's must now make to the corporate financial reporting forms currently used.

DATES: Comments must be received on or before August 19, 1985.

ADDRESS: Written comments should be directed to Mr. Thomas C. Bresnan, Staff Accountant, Small Business Administration, Office of Finance and Investment, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas C. Bresnan, Telephone: (202) 653-6782.

SUPPLEMENTARY INFORMATION: As of June 30, 1984, there were 497 corporate SBIC's, and 24 limited partnership SBIC's, a total of 521 licensees. In the February 10, 1984 **Federal Register** (49 FR 5230) SBA published an advanced notice of proposed rulemaking setting forth SBA's intent to revise Appendices A, B and C to Part 107 of its regulations (13 CFR 107) which deal with accounting standards and financial reporting requirements affecting all SBIC's. The following describes the major changes in the accounting standards and financial reporting requirements contemplated by SBA in the advance notice of February 10, 1984.

This proposed revision would incorporate into the SBIC Accounting and Financial Reporting requirements rules relating to all aspects of accounting and financial reporting for Limited Partnership SBIC's. Presently there is no guidance for Limited Partnership SBIC's in regard to their particular problems. Therefore, in order to comply with reporting requirements, such entities must attempt to modify corporate guidelines to accommodate partnership situations. This proposed revision would establish equity accounts for Limited Partnerships, would explain in detail the preparation of financial statements, and would discuss the regulatory concerns of Limited Partnership SBIC's. As these SBIC's are regulated by SBA, their equity accounts must be maintained in greater detail than is generally the case with unregulated partnerships.

Moreover, at this time the only annual financial report forms (SBA Form 468) available for SBIC's were designed for corporate entities, and, as such, are inappropriate for the reporting requirements of partnerships. With this proposed revision, a complete set of annual financial statements for partnerships has been designed. If adopted, the new forms would comply with the Office of Management and Budget approval requirements under the Paperwork Reduction Act, 44 U.S.C. Ch. 35.

In addition, whereas corporate financial statements require capital stock, paid in surplus, retained earnings and taxes to be reported, the financial statements of Limited Partnership SBIC's need only account for partnership equities. Additionally, Limited Partnership SBIC's differentiate between general partner and limited partner equity interests. Finally, as Limited Partnership SBIC's are regulated investment companies, the financial statements provide for unrealized gains/losses and non-cash gains/losses. This revision accommodates all of these differences by providing annual reporting forms which take such differences into consideration.

A proposed revised annual financial statement has also been designed for corporations. Currently the annual financial statement consists of two parts and requires the submission of numerous supporting statements; the proposed revised forms have been substantially shortened and combined into a single part. The number of pages included in the proposed form has been reduced from 31 to 18. If adopted, this will be accomplished by eliminating schedules of marginal importance, combining certain statements, and generally reworking the statements to capture all the important data in a concise straightforward manner.

The applicable current form has two parts: Part I consists of Standard Financial Statements; Part II is a Management Report consisting of numerous schedules describing various aspects of the company's portfolio, funds maintained, and principal owners. A number of these required schedules have been found to be burdensome to licensees and could be easily combined with others. This proposed revision would reduce the number of different schedules significantly, and simplify the ones remaining.

Public Response to the Advanced Notice of Proposed Rulemaking

On February 10, 1984, SBA gave advance notice to the public of its intent to revise Appendices A, B and C of 13 CFR 107 which deal with accounting standards and financial reporting requirements for licensed Small Business Investment Companies; 49 FR 5230. In order to ensure that the affected members of the public were notified of the advance notice, reprints of the **Federal Register** publication, along with draft copies of the proposed SBA Form 468—SBIC Financial Statement, were mailed to all SBIC's.

In response to the advance notice SBA received eight written comments, six of which addressed a variety of substantive issues. The comments received from the American Institute of Certified Public Accountants addressed those issues of concern to member CPAs throughout the country. The comments received from the National Association of Small Business Investment Companies and the American Association of Minority Enterprise Small Business Investment Companies addressed issues of concern to all member investment companies.

The comments received and the actions taken by SBA in response to this proposed rule are as follows:

1. Comment: Specific references to the American Institute of Certified Public Accounts (AICPA) "Audits of Investment Companies" audit guide should be eliminated.

Action: Specific references will be retained to facilitate the review of the financial statements by the SBA analysts.

2. Comment: Minor change to the wording of the accountant's opinion.

Action: The requested change would clarify the wording of the opinion so that it applies only to current year statements. The wording of the advanced notice could have been

interpreted as applying to multiple year statements. SBA has made this change.

3. Comment: Schedules supporting the basic financial statements should be treated as supplemental schedules by the independent accountant.

Action: In the advance notice, there was no differentiation between the basic financial statements and the supplemental schedules. All were to be subject to audit and an opinion expressed on the full package. This comment requested that the supplemental schedules be treated as such and the accountant's opinion so state.

SBA agrees with this comment and has so changed the requirement.

4. Comment: Eliminate the Uniform System of Accounts.

Action: SBA has decided to retain the Uniform System of Accounts for the following reasons: the Uniform System of Accounts imposes little burden on SBIC's; a uniform system benefits examiners in their work by increasing their productivity when performing examinations, and finally, financial analysts also find uniformity beneficial to their efficiency.

5. Comment: 301(d) subsidiaries' financial statements should be consolidated with those of the parent.

Action: There is only one case in which consolidation would be appropriate. The present system of not consolidating 301(d) subsidiaries will be continued to facilitate continuing statistical analyses.

6. Comment: Investment in 301(d) licensees should be carried at value rather than on equity.

Action: Investments in 301(d) licensees are considered in the nature of a permanent investment rather than an investment in a portfolio company. Therefore, SBA made no change.

7. Comment: Permit the benefits of loss carry-forward tax effects in determining net unrealized gains.

Action: SBA will permit the use of loss carry-forward tax benefits in the case of unrealized gains but not in the case of unrealized losses.

8. Comment: Eliminate the provision for the division of retained earnings between cash and non-cash.

Action: In order for SBA to make proper determinations as to a licensee's financial make-up as well as leverage decisions, this information is necessary.

9. Comment: Eliminate the overview.

Action: SBA has eliminated the overview.

10. Comment: The potential fees on unrealized gains should be disclosed.

Action: SBA agrees and proposes a requirement that the potential fees be disclosed in a footnote.

11. Comment: SBA should define the word "delinquent."

Action: In the proposed section of Appendix I which describes the Schedule of Investments, SBA has defined the word "delinquent" to be "any item that is 60 or more days past due."

12. Comment: SBA should have the same requirements as the SEC concerning the notification of irregularities rather than more stringent rules.

Action: SBA has made this change.

13. Comment: SBA should delete the requirement that the licensee furnish SBA a copy of reclassification and adjusting entries made by the independent accountant.

Action: The SBA examiners feel adjusting entries are necessary. The licensee will continue to furnish the SBA with a copy of the adjusting entries.

14. Comment: The memorandum accounts should be a matter of a footnote by the management.

Action: SBA has made this change.

15. Comment: Special reports by the independent accountant or other outside consultants should be eliminated or limited.

Action: SBA will require reports only if the report involves the financial aspects of a portfolio company or the licensee.

16. Comment: Distributions in kind by limited partnerships should be shown only at cost.

Action: Distributions are required to be shown at both cost and value in compliance with GAAP.

17. Comment: Use the "cash basis" of accounting for SBIC limited portnerships.

Action: SBIC Partnerships are to follow GAAP and report on the accrual basis.

18. Comment: Do not require temporary declines in the value of the marketable securities of portfolio companies to reduce the retained earnings available for distributions.

Action: SBA policy is in full agreement with this comment.

19. Comment: Eliminate the schedule of delinquencies.

Action: SBA financial analysts find that the schedule of delinquencies presents information in a clear and concise manner and thereby promotes efficiency in their work. For this reason the schedule has been maintained.

20. Comment: Eliminate the requirement that all advisory directors of limited partnerships be disclosed.

Action: SBA will require disclosure of only those advisory directors that can be construed as either control persons or associates.

21. Comment: Eliminate the schedule of participations.

Action: The financial analysts feel that the schedule of participations presents information in a clear and concise manner and thereby promotes efficiency in their work. For this reason the schedule has been maintained.

22. Comment: Only Certified Public Accountants should be authorized to render opinions on the financial statements of SBIC's.

Action: This comment referred to the Comptroller General's statement on Standards for Audits of Governmental Organizations Programs, Activities, and Functions which recommended that audits of Governmental Organizations etc., be conducted by CPA's or Public Accountants licensed on or before December 31, 1970. SBA legal counsel has researched this recommendation and has concluded that it is based on GAO's desire to obtain quality auditing services. As there is no reason for believing higher quality auditing services will be provided by a Public Accountant licensed before January 1, 1971, than by Public Accountants licensed later, SBA has no basis for excluding duly licensed Public Accountants from the audit of SBIC's. Therefore, Certified Public Accountants and duly licensed Public Accountants are authorized to render opinions on the financial statements of SBIC's.

Finally, SBA inadvertently omitted a paragraph in the advance notice of proposed rulemaking which required the accountant's work papers to be available to the SBA examiners. The original paragraph has been reinserted in this proposed rule.

Compliance With Executive Order 12291, the Regulatory Flexibility Act and the Paperwork Reduction Act

This proposed rule will likely have a significant economic impact on a substantial number of small entities as it will affect the entire SBIC industry. Therefore, for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., the following analysis is offered:

There are no Federal rules which duplicate, overlap or conflict with this proposed rule.

The legal basis for this proposal is in section 308(b) of the Small Business Investment Act, 15 U.S.C. 687(b). The objectives of this proposal have been indicated above.

There are no significant alternatives capabie of accomplishing the objectives and/or minimizing any significant economic impact on the SBIC's.

The Proposed rule is a *nonmajor proposed* rule for purposes of E.O. 12291, for the following reasons:

1. It will *not* result in an annual economic effect of $100 million or more;

2. It will *not* result in a major increase in costs for consumers, individual industries, Federal, State, or local government agencies, or geographic regions;

3. It will *not* have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based businesses to compete with foreign-based businesses in the domestic or export markets.

SBIC's range in size from very small with capital of less than $300,000 to very large licensees with capital in excess of $5,000,000. Activity ranges between relatively inactive for the smaller companies to very active for large companies. Audit fees charged by independent accountants reflect the difference in size and activity as shown by the facts in the following table.

SBIC	Total capital	Total assets	Audit fees
SBIC No. 1	$258,600	$600,000	$1,375
SBIC No. 2	500,000	900,000	2,968
SBIC No. 3	1,905,000	4,000,000	7,981
SBIC No. 4	16,383,795	65,000,000	48,071

The above table was compiled from the annual reports filed on SBA Form 468 for the year 1983.

Audit fees will vary from region to region, urban or rural, big eight firm or sole practitioner. Preparation of the SBA Form 468 after completion of the audit should be a relatively minor part of the audit expense if it is assumed that the independent public accountant prepared the SBA Form 468.

It is not possible, therefore, to determine an exact monetary cost or a monetary benefit to any individual SBIC. What can be determined, however, is that in the furtherance of the principles of paperwork reduction, the number of statements required to be prepared, and the amount of detailed data to be reported will be significantly reduced by adoption of this proposed rule. The number of forms to be submitted will be reduced from the current burden of 31 to a proposed number of 18—a reduction of 13, or 41% fewer forms.

The potential net benefits are not quantifiable in monetary terms due to the wide range in size and levels of activity. All SBIC's would have net benefits from each of the following changes: the few number of forms required, the smaller size of the forms, and the reduced burden of preparation.

In addition to the above benefits, the limited partnerships would benefit by reason of having forms that are designed for partnerships, and not having to manipulate corporate forms for reporting purposes. The elimination of information not required for the financial analysis and the rearrangement of the information being submitted will permit SBA analysts to do a more efficient job of reviewing the annual report, which it is hoped will result in fewer letters to the licensee from SBA requesting additional information.

There are no alternatives that could achieve the same objectives at a lower cost, or even at a higher cost.

The proposed amendment to 13 CFR 107 contains reporting and/or recordkeeping requirements and is therefore subject to the review and clearance provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. The revised statements, SBA Form 468, have been submitted to the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, and are pending approval.

List of Subjects in 13 CFR Part 107

Investment companies, Loan programs/business, Small business.

Dated: June 12, 1985.

James C. Sanders,

Administrator.

Accordingly, pursuant to the authority set forth in section 301, of the Small Business Investment Act, et seq., 15 U.S.C. 683, et seq., and section 5(b)(6) of the Small Business Act, 15 U.S.C. 634 (b)(6), Appendices A, B and C of Part 107 of Title 13 Code of Federal Regulations are proposed to be amended as follows:

1. The authority cite for Part 107 continues to read as follows:

Authority: Sec. 306(c), 72 Stat. 694, as amended (15 U.S.C. 687(c); sec. 312, 78 Stat. 147 (15 U.S.C. 687d); Sec. 315, 80 Stat. 1364 (15 U.S.C. 687g).

2. 13 CFR Part 107 is amended by removing Appendices A, B and C and adding Appendices I and II to read as follows:

Appendix I—Audit Guide for SBICs and Preparation of the Annual Report

A Note of Caution to All SBICs Legal Counsel, Accountants and Tax Advisors

The appendices refer to Securities and Exchange Commission Rules and Regulations, American Institute of Certified Public Accountants' publications, and the Internal Revenue Code in various places. The references are current at this time but can be changed at some future time. It is the responsibility of the licensee and its advisors to be knowledgeable of any change and its effect on the SBIC.

Distributions to stockholders or partners are permitted only to the extent that undistributed net realized earnings exist. Under certain circumstances this could create a hardship on stockholders in Subchapter S Licensees or partners in Limited Partnership Licensees.

The Financial Statements (SBA Form 468) must be typed.

Table of Contents

I. Statement of Operations Realized—Partnerships
J. Statement of Change in Financial Position for Partnership
K. Statement of Unrealized Gain (Loss) on Securities Held
L. Statement of Commitments and Guarantees

I. Introduction

A. *Purpose of the Guide.* The Small Business Administration (SBA) Audit Guide has been written primarily to (1) inform the licensee and (2) assist the auditors of Small Business Investment Companies (SBICs) in performing their financial examination by focusing on matters that are unique to the SBIC program and the venture capital industry. It should be noted that this Guide is not intended to be a substitute for the accountant's judgment as to the work required to meet generally accepted auditing standards.

The report (SBA Form 468) and related schedules have been designed to provide standard reporting in such form that will insure that uniform and comparable data will be received by SBA from all licensees. The licensee is responsible for the preparation of the report. The independent public accountant is required to audit the licensees' financial statements and express an opinion.

Further discussion of specific policies will be found on pages 1–98 of Appendix II.

B. *Definitions.*

(1) "Licensee" means any corporation or limited partnership that has been licensed by the SBA as a Small Business Investment Company.

(2) "Directors" means any director of a corporation or any person performing similar functions with respect to any licensee whether incorporated or unincorporated.

(3) "Executive Officer" means the president, vice president, secretary or treasurer of the licensee or any other person who performs similar policy making functions for the licensee whether incorporated or unincorporated.

(4) "Advisory Board" means a board, whether elected or appointed, which is distinct from the board of directors or board of trustees, of the licensee, and which is composed solely of persons who do not serve such licensee in any other capacity, whether or not the functions of such board are such as to render its members "directors" within the definition of that term, which board has advisory functions as to investments but has no power to determine that any security or other investment shall be purchased or sold by such licensee.

(5) See § 107.3 for other "definition of terms."

II. Selection and Qualification of the Auditor

A. *Selection of the Auditor.* The responsibility for selecting the independent public accountant is vested in the licensee's Board of Directors/General Partner(s). Any accountant qualifying as an independent public accountant, as explained in Paragraph C, may be considered as having SBA approval to perform the annual audit (financial examination) upon selection by the Board of Directors/General Partner(s), and the filing with SBA by such accountant of an executed IPA Certification, CO Form 112 (XX–XX) certifying as to his qualification and independence, unless advised otherwise by SBA.

It is strongly recommended that the Board of Directors/General Partner(s) give thorough consideration each year to the matter of selecting the public accountant to perform that year's audit. The Board/General Partner(s) under this policy selects an accountant with whom it agrees as to the scope of the engagement and basis of compensation. Notification of the Board's selection will be furnished to the Staff Accountant, Investment Division, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416. Notification to SBA is not necessary when the same accountant or accountants are retained for successive years.

B. *Qualification of Accountants.* Any public accountant, certified or licensed by a regulatory authority of a State or other political subdivision of the United States, who is independent and who is duly authorized to practice as a public accountant, and is in good standing under the laws of the State or other comparable authority in which so authorized, may be considered qualified to render an opinion as an independent public accountant on behalf of a licensee whose office is located in such State or Authority.

C. *Independence.* Accountants approved by SBA as auditors of a licensee are to follow the code of professional ethics adopted by the American Institute of Certified Public Accountants (AICPA). In determining whether an accountant may in fact be not independent with respect to a particular licensee, SBA will give appropriate consideration to all relevant circumstances, including evidence bearing or relationships between the accountant and such licensee or any affiliate thereof.

Accordingly, an accountant or a firm of which he is a partner or shareholder shall not express an opinion or financial statements of a licensee unless he and his firm are independent with respect to such licensee. Independence will be considered to be impaired if, for example:

1. During the period of his professional engagement, or at the time of expressing his opinion he or his firm,

a. Had or was committed to acquire any direct or indirect financial interest in the licensee; or

b. Had any joint closely held business investment with the licensee or any officer, director or principal stockholder, or partner, general or limited, thereof which was material in relation to his or his firm's net worth; or

c. Had any loan to or from the licensee or any officer, director or principal stockholder thereof.

2. During the period covered by the financial statements, during the period of the professional engagement or at the time of expressing an opinion, he or his firm,

a. Was connected with the licensee as a promoter, underwriter or voting trustee, and director or officer or in any capacity equivalent to that of a member of management or of an employee; or

b. Was a trustee of any trust or executor or administrator of any estate if such trust or estate had a direct or material indirect financial interest in the licensee; or was a trustee for any pension or profit-sharing trust of the licensee.

c. The independent accountant should familiarize himself with Section 600 "Matters Relating to Independent Accountants" of the "Codification of Financial Reporting Policies" of the Securities and Exchange Commission (SEC) which the SBA follows in most matters relating to the independence of accountants.

IPA Certification

Staff Accountant,
Investment Division, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416

Gentlemen: I (we) have been selected by the Board of Directors of

_____

(Name of Licensed Small Business Investment Company

License Number _____

(Address of Licensee's Principal Office)

License Number _____

to conduct an annual examination of the licensee's financial statements as of _____, 19 ——. In accordance with provisions of Paragraph II. B of Appendix I., (Check One):

☐ Independent* Certified Public Accountant (or firm of CPAs).

☐ Independent* Licensed Public Accountant (or firm of Licensed PAs).

I certify that this accountant (or firm of public accountants) is authorized to practice in, and is in good standing under the laws of, the state or other jurisdiction in which the principal office of the Licensee is located, and accordingly, qualifies to perform the annual audit of the above named Licensee.

_____

(Date (Signature of Individual Practitioner of Principal, if applicable)

_____

(Date (Signature of Partner of Accounting Firm, if applicable

_____

(Type name under which individual practitioner or accounting firm is doing business)

_____

(Business Address) (Zip Code)

*Independent within the meaning of this term as used by the Small Business Administration. SBA will not recognize any public accountant as independent who is not in fact independent. For example, an accountant will be considered not independent with respect to any small business investment company with which he has, or has during the period covered by the audit (financial examination), and direct financial interest or any material indirect financial interest; or with which he is, or was during such period, connected as a promoter, underwriter, voting trustee, investment adviser, director, officer, or employee.

Accountants Opinion

To the Board of Directors and Shareholders
or
To the General Partners and Limited Partners
of
XYZ Investment Company,
A Small Business Investment Company
licensed by the SBA.

We have examined the statement of (Consolidated or combined, if applicable) financial condition of XYZ Investment Company including the portfolio of investments as of (insert date for close of fiscal period), and the related statement of operations for the year then ended, the statement of changes in financial position, and the supplementary schedules and information required by SBA Form 468. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances. Securities owned at (insert date), except securities purchased but not received, were confirmed to us by the custodian (or "counted" if such was the audit procedure). As to securities purchased but not received, we requested confirmation from the (brokers/sellers as applicable), and where replies were not received, we carried out other appropriate auditing procedures.

The accompany presents its financial statements in conformity with accounting practices prescribed by the Small Business Administration, which provide for specific allocations of certain types of income to specific capital accounts. As discussed more fully in note (identify the note or notes) to the financial statements, securities amounting to $———— (——% of the net assets) have been valued at fair value as determined by the (board of directors/general partners, as applicable). We have reviewed the procedures applied by the (directors/partners) in valuing such securities and have inspected the underlying documentation; while in the circumstances the procedures appear to be reasonable and the documentation appropriate, determination involves subjective judgment which is not susceptible to substantiation by auditing procedures.

Our examination was made primarily for the purpose of formulating an opinion on the basic financial statements taken as a whole. The supplemental data contained in Schedules 1 through 7 is presented to conform with the requirements of preparing the Company's annual report to the Small Business Administration and, although not considered necessary for a fair presentation of the basic financial statements, such information has been subjected to the audit procedures applied in the examination of the basic financial statements. In our opinion, Schedules 1 through 7 are fairly stated in all material respects in relation to the basic financial statements taken as a whole.

In our opinion, subject to the possible effect on the financial statements of the valuation of securities determined by the (board of directors/general partners) as described in the preceding paragraph, the aforementioned financial statements present fairly the net assets of XYZ Investment Company at (insert date), and the results of its operations, change in financial position, and supplementary information for the year then ended, in conformity with generally accepted accounting principles, applied in a manner consistent with that of the preceding year.

We consent to the use of this opinion in connection with the filing of the report of XYZ Investment Company with the Small Business Administration on SBA Form 468.

(Signed) Independent Auditor.
Anytown, U.S.A. (Insert Date)

Note.—The accountant will comment on any other exceptions in Paragraph 2 prior to the comments on valuation.

III. Scope of Audit

The independent public accountant's audit is to be an examination of the licensee's financial statements in accordance with generally accepted auditing standards as expressed by the American Institute of Certified Public Accountants. The auditor is to make an examination of the licensee's financial statements with the view of expressing an opinion as to whether the financial statements present fairly the financial position, changes in financial position, and results of operations in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

Management is responsible for the preparation of the Annual Report, SBA Form 468. The statements and supporting schedules will be the basis for the auditor's opinion. It is expected that all audit adjustments will be recorded in the licensee's records before completion of the audit report so that financial statements accompanying the report will agree with the books as adjusted as of the statement date, giving consideration to reclassifications of account balances for report purposes. If the adjustments are not so recorded on the licensee's books, a statement should be made by the independent accountant to this effect.

The independent public accountant is expected to satisfy himself as to the reasonableness of the basis used by the licensee's Board of Directors/General Partner(s) in determining the valuation of loans and investments. Accordingly, the auditor should comment in his report as to reasonableness of procedures used and adequacy of documentation.

IV. Accounting Policies and Practices

A. *General.* As a general rule, accounting policies followed by licensees are those expressed by the American Institute of CPA's as generally accepted accounting principles and practices. Certain of these principles and practices are prescribed in the AICPA's Audit Guide. The System of Accounts Classification (Appendix II) in item II identifies particular accounting policies and practices licensees are required to follow.

B. *Reporting Entity.* The auditor should bear in mind that the reporting entity being audited is the licensee. Those securities and assets that are held for investments are to be reported on the fair value basis.

A corporate licensee may hold an investment in a 301(d) licensee and/or have a wholly owned management consulting subsidiary. A limited partnership licensee may hold an investment in a 301(d) licensee and/or own 100 percent of outstanding stock of a management consulting company. Such securities would not be considered held for investment but are considered held for long-term operating purposes.

1. Equity Method of Accounting for Investments in Common Stock.

"Equity" method of accounting for investments in common stock is not to be confused with the "fair value" method of reporting portfolio securities. Under the equity method, an investor initially records an investment in the stock at cost, and adjusts the carrying amount of the investment to recognize the investor's share of the earnings or losses of the investee after the date of acquisition. The amount of the adjustment is included in the determination of net income by the investor. Dividends received from an investee reduce the carrying amount of the investment. Accounting Principles Board Opinion No. 18 issued in March 1971, by the AICPA specifically does not apply to licensees whether or not registered under the Investment Company Act of 1940, as explained in Paragraph 2 of that Opinion.

The AICPA Audit Guide states that investments in other than portfolio securities which meet the criteria of APB Opinion No. 18 should be carried on the equity basis. As applied to licensees, this would only apply to investments in Section 301(d) licensees, investments in unincorporated entities and/or management consulting investments. In those cases where a 301(d) licensee is a subsidiary of another licensee, such subsidiary should be reported as an unconsolidated subsidiary by the corporate parent licensee.

2. Policy on Consolidated Financial Statements.

Consolidated Financial Statements are to be filed with SBA only where the corporate licensee has a management consulting subsidiary. Combined Financial statements are to be filed with SBA only where the limited partnership licensee has an investment in a management company. Under SBA Regulations, management consulting companies are to be a wholly owned and are to be consolidated or combined with the licensee.

Under certain circumstances, a licensee may temporarily own more than a 50 percent equity position in a financed concern. Such investments are to be reported on the fair value basis and classified as loans and investments rather than being reported on a consolidated basis with the licensee.

V. Reporting Requirements—General

A. *Annual Financial Report.* The Small Business Administration, under authority granted by the Small Business Investment Act of 1958, as amended (1958 Act), requires licensees to have their financial statements examined annually by independent public accountants approved by SBA. The annual audit shall be performed as of the close of the licensee's fiscal year.

Three copies of the accountant's report including the Financial Report prepared on forms constituting SBA Form 468 and supporting schedules, shall be submitted to SBA by the licensee as soon as practicable after completion and no later than the last day of the third month following the close of the period covered by the audit. Attached to the inside of the back cover of each copy of the audit report should be a copy of any transmittal letter, special reports, or similar communications furnished to the licensee by the auditor. If adjusting entries are furnished to the licensee with the report, they should be submitted to SBA.

B. *Reporting Irregularities.* The independent public accountant shall promptly inform a responsible official of the licensee and the Deputy Associate Administrator for Investment, Investment Division, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, concerning any apparent defalcation that may come to his attention in connection with his examination. Based on available information, he will indicate the nature and the extent of such defalcation(s). In regard to other financial or regulatory irregularities that may come to his attention in connection with his examination, the independent public accountant shall promptly inform the licensee in writing of his findings. The licensee shall, within 30 days, inform the SBA of the findings of the independent accountant and enclose a copy of the report to the SBA. The independent account shall, not later than 60 days after the date of his report to the licensee concerning the irregularities request confirmation from the SBA that the SBA has received a copy of his report to the licensee dated (insert date).

C. *Regulated Investment Companies.* Concerning licensees that are registered with the Securities and Exchange Commission, additional reports are required by SEC which are identified in Chapter 1 of the AICPA's Audit Guide. It should be noted that any report submitted by a licensee to the SEC shall also be submitted to the Investment Division Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

D. *Special Management Reports.* Frequently, the independent public accountant or an outside consultant will render special reports to the licensee's management concerning the financial condition or other matters on the portfolio investments of the licensee. Licensee will promptly submit to the SBA a copy of all such reports. Upon request, licensees shall submit to SBA either, the complete SBA Form 468 or a part thereof. Such reports are considered interim in that they cover less than a full year of operations and the financial report is audited by the licensee's independent accountant. Accordingly, such reports are in addition to, not in lieu of, the annual report.

E. *Investment Objectives & Policies.* The composition of a licensee's loans and investments varies from one licensee to another and reflects the licensee's policies and objectives of investing that are being followed in practice. Such objectives may emphasize equity investments, loans or a balance between loans and equity investments. The portfolio may also be widely diversified or specialized as to industry or geographical area. In addition, the licensee may choose to be "301(d) licensee" that is organized to be a profit or non-profit corporation with an investment policy limited to providing financing solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages. Such licensees were formerly designated by the acronym "MESBIC."

The basic investment objectives adopted by management can be found in the licensee's proposal to operate, as amended.

F. *Federal Income Tax Provisions Affecting Investment Accounts.* Licensees which elect to qualify as Regulated Investment Companies under Subchapter M of the Internal Revenue Code must meet the various requirements set forth therein which are summarized in Chapter 5 of the AICPA's Audit Guide. Also Item VI. B. of this Guide summarizes the special income tax provisions that may apply to licensees.

G. *Recordkeeping Requirements Relating to Investment Activity.* No specific recordkeeping system for investment activity is required other than that provided in the SBA's System of Account Classification. However, the licensee is to develop systems and maintain records sufficient to properly account for transactions and valuation of individual loans and investments.

Section 107.1002 of the SBA Rules and Regulations specifies the records and documents which must be maintained and preserved by all licensees. In addition, licensees registered under the Investment Company Act of 1940 are required to maintain and preserve those records specified in such Act and the Rules and Regulations thereunder.

H. *Custody of Securities.* A licensee's management is expected to assume responsibility for the custody of securities. Accordingly, there is to be safekeeping for securities, usually a safe deposit box at a bank or other custodian with such safekeeping facilities, and control over withdrawal of securities from safekeeping is required as specified in Section 107.1003 of the SBA Regulations.

I. *Valuation of Securities.* The general practice in the investment company industry is to disclose, in one form or another, valuation of securities at quoted market values or, in the absence of quoted values, at fair values determined by the company's Board of Directors or General Partner(s) in good faith.

Ordinarily, little difficulty should be experienced in valuing securities traded on a recognized securities exchange since the prices of transactions are published daily. If a security was traded on the valuation date, the last quoted sales price generally is used. However, if there were no sales on the exchange on the valuation date but published closing bid and asked prices are available, the valuation should be within the range of these quoted prices. Where quotations appear questionable, consideration should be given to valuing the securities at fair value as determined in good faith by the Board of Directors or General Partner(s).

Quotations are available from various sources for most unlisted securities traded regularly in the over-the-counter market. Ordinarily, quotations for an over-the-counter security should be obtained from more than one broker/dealer unless available from an established market-maker for that security. Quotations for several days should be used and the valuation should be within the range of these quotations.

The Board of Directors or General Partner(s) when valuing securities must consider the effect of factors having a bearing on the value of such securities even when they are traded on a recognized exchange where market quotations are available. Examples of such factors are a thin market, large holdings by the licensee that would adversely affect the market price if traded, or securities that are restricted.

Regarding securities that are not publicly traded, it is incumbent upon the Board of Directors or General Partner(s) to satisfy themselves that all appropriate factors relevant to the value of securities for which market quotations are not readily available have been considered and to determine the method of arriving at the fair value of each security.

To the extent considered necessary, the Board of Directors or General Partner(s) may appoint persons to assist it in the determination of such value. However, the Board of Directors or General Partner(s) must review continuously the appropriateness of the method used in valuing each loan and investment in the licensee's portfolio.

It should be noted that the investments of licensees usually are venture-type investments that complicate the determination of value. The investee, in such cases, is usually a closely, held, immature Small Business Concern whose stock is not publicly traded.

In addition, there may be weaknesses in the Concern's management. For these and other reasons, cost may be the most appropriate measure of value of venture-type securities until sufficient evidential matter is available to the licensee's Board of Directors or General Partner(s) to form a basis for valuing the securities at other than cost.

As stated in Accounting Series Release No. 118 of SEC, (404.03 Codification of Financial Reporting Policies) no single standards for determining fair value in good faith can be laid down, since fair value depends upon the circumstances of each individual case. SBA has set forth guidelines in SBA Policy and Procedural Release No. 2006 to assist the directors of licensees in valuing their securities. The auditor should satisfy himself that the valuation guidelines issued by SBA, or other reasonable methods, are used in valuing securities.

Additional guidance for the valuation of securities is given in Chapter 3 of the AICPA Audit Guide and in Accounting Series Releases 113 (404.04 Codification of Financial Reporting Policies) and 118 issued by the SEC.

J. *Audit Procedures.* The auditing procedures relating to the investment

accounts of investment companies require greater attention than those of a commercial enterprise because of the relative signficance of such assets. In either case, the independent auditor should evaluate the internal accounting controls as a basis for determining the extent of his examination. The auditing procedures outlined in the AICPA's Audit Guide should be followed to the extent appropriate. Concerning valuation of securities:

The Licensee's Board of Directors or General Partner(s) has (Have) the Sole Responsibility for Valuing Securities in Good Faith.

The auditor is not to be an appraiser in the sense that he is to determine the value of the licensee's securities. He is, however, expected to review the methods and evidential matter used by the Board of Directors or General Partner(s) in their determinations of fair value. He is further expected to comment in his report on the reasonableness of such practices and adequacy of such information.

K. *3 Percent Cumulative Preferred Stock.* As part of the leverage funds provided to a 301(d) licensee, SBA may purchase 3 percent cumulative preferred stock, which while considered to be part of equity, is not considered paid-in capital or paid-in surplus for leverage or regulatory purposes.

The rights of the preferred stockholder (SBA) are set forth in § 107.203 of the SBA Regulations.

L. *Unrealized Gain (Loss) on Securities Held.* Unrealized Gain (Loss) on Securities Held represents the estimated net gain (loss) after tax effect, if any, that the licensee would realize if the loans and investments were sold at the statement date, but as if in the normal course of business.

The auditor should recognize the Unrealized Gain (Loss) on Securities Held results from valuation of Loans and Investments by the licensee's Board of Directors. Such valuation usually is a judgmental estimate which involves uncertainties that are difficult to quantify. Accordingly, the reliability of the unrealized gain (loss) on securities held will not be as great as realized gain (loss) on sale of securities because the latter is based on transactions that are objectively measurable.

1. Unrealized Appreciation on Securities Held—This is the amount by which fair value of the licensee's loans and investments exceeds costs.

2. Unrealized Depreciation of Securities Held—This is the amount by which fair value of the licensee's loans and investments is less than cost. Included in unrealized depreciation are items such as allowances for losses, temporary declines, and mortgage discounts.

3. Estimated Income Taxes.

a. Corporate Licenses—This is a provision for taxes on the net amount of unrealized appreciation or (depreciation) and the offset being a deferred credit or deferred charge.

b. Limited Partnership Licensees—No provision for estimated income taxes is necessary since partnerships do not pay income taxes.

M. *Undistributed Realized Earnings.* Undistributed Realized Earnings is the cumulative balance of periodic net investment income including realized gain (loss) on securities sold.

1. Corporate Licensees—less dividend distributions whether cash, stock or dividends in kind. Included are non-cash gains on securities sold, i.e. notes, securities or other assets received.

2. Limited Partnership Licensee—less distributions to partners, general or limited, whether cash or property in kind. Included are non-cash gains on securities sold, i.e. notes, securities or other assets received.

Such non-cash gains will not be available for capitalization or distribution until such assets are converted to cash. Accordingly, undistributed realized earnings will be reflected in two capital accounts: (1) Non-Cash Gains/Income and (2) Undistributed Net Realized Earnings.

3. Non-cash income from the following sources is to be reported as non-cash income, and in certain cases may be reported on the equity method:

(a) Corporate Licensee from a—

(i) Parent and/or;

(ii) Subsidiary.

(b) Partnership Licensee from—

(i) Partner (general or limited) and/or;

(ii) Wholly owned investment or management company which results in an unpaid receivable.

VI. Other Matters

The independent auditor should satisfy himself that investment company accounts not specifically mentioned in this audit guide or the AICPA Audit Guide are maintained in accordance with generally accepted accounting principles and audited in accordance with generally accepted auditing standards for other commercial enterprises.

A. *Compensating Balances.* In those instances where idle funds are encumbered or are being used as "compensating balances", the nature and extent of such encumbrance will be disclosed in a note to the financial statements.

If the compensating balance is a formal arrangement, the funds should be reclassified to either other current assets or other assets, whichever would be appropriate.

B. *Taxes.* Licensees receive special tax treatment in a number of areas. The effect is to allow certain exclusions or additional deductions without the limitations prescribed for other corporations.

A corporate licensee operating under the 1958 Act is allowed a 100 percent dividends received deduction for dividends received by it from a taxable domestic corporation. To claim this 100 percent deduction the licensee must file with its return a statement that it was a Federal licensee under the 1958 Act at the a time of the receipt of the dividends.

An ordinary loss, rather than a capital loss, shall be taken on the sale or exchange of convertible debentures or stock acquired pursuant to the conversion privilege of such debentures. Capital losses on other investments receive no special treatment. A licensee must submit with its tax return a statement that it is a Federal licensee under the 1958 Act setting forth the name and address of the small business concern with respect to whose securities the loss was sustained, the number of shares of stock or the number or denomination of bonds, the basis and selling price, and the respective dates of purchase and sale or the reasons for their worthlessness and the approximate date thereof.

Special provisions are provided for reserves for losses on loans of licensees, and they may obtain special treatment for net operating losses and may be excluded from the definition of a personal holding company. The independent auditor should assure himself that he is familiar with the most recent changes in the IR Code concerning net operating losses or other matters affecting the licensee.

A shareholder in a licensee may treat a loss on stock as an ordinary loss and in the case of a noncorporate shareholder such loss is considered a loss from a trade or business.

Finally, there is no excess accumulated earnings tax assessed to a licensee provided it utilizes such earnings and profits for additional loans and investments.

Congress has recently changed the rules on Subchapter S Corporations. Licensees should seek knowledgeable tax counsel prior to any decision.

C. *Notes and Debentures Payable to or Guaranteed by SBA.* A primary advantage of the SBIC program is the ability of licensees to acquire long-term leverage funds from SBA. Usually the terms and conditions set forth in § 107.203(b) of SBA Rules and Regulations are incorporated in the debenture as covenants to the agreement.

Section 107.203(b)(1)(iii) provides that the entire indebtedness of the licensee may be declared immediately due and payable for: ". . . Failure of the licensee, as determined by SBA, to comply with any one or more of the provisions of the Act or Regulations promulgated thereunder, as they may be amended from time to time . . ."

Demand in such cases will be made in a letter from SBA specifying the violations that have occurred and that funds owed the SBA are due and payable in accordance with the acceleration provisions of the debentures. The violations which cause demand to be made are usually those which are significant and include such areas as conflicts of interest, control of small business concerns by the licensee, overline investments and any other such major acts which might be determined by SBA to be contrary to the Act and Regulations. It should be noted that in such cases demand is viewed as a means to protect the SBA's position as a creditor usually after other efforts have been unsuccessful.

In those instances where the licensee fails to maintain either the capital requirement or the investment ratio (See section 303(b)(2) of the Act or §§ 107.203(b)(6) and 107.203(d) of the Regulations) SBA may, in its discretion, upon written notice consider part or all of the licensee's long-term debt to be due and payable. Written notice is not required, however, for the long-term debt to be considered due and payable when any of the four conditions set forth in § 107.203(b)(2) exist.

Should the auditor have difficulty in determining whether demand has been or is about to be made on such long-term

indebtedness, he may consider requesting a positive confirmation from the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, as to whether the licensee is in violation of the Act or regulations as of the statement date and as a result whether demand is being made by SBA on the long-term debt.

D. *Licensees Regulated Under the Investment Company Act of 1940.* Licensees that are regulated by SEC under the Investment Company Act of 1940, shall also comply with the Fidelity Bond requirements set forth in § 270.17g–1 of the SEC Rules and Regulations. Therefore, SBICs that are regulated by SEC under the 1940 Act are to comply with such requirements.

VIII. **Reporting Requirements—Specifics**

A. *General.* The financial statements of Licensees are directed to the presentation of financial position, changes in financial position, results of operations and supporting schedules. Such statements and schedules constitute the Financial Report, SBA Form 468, and are required to be presented in the prescribed format.

The financial statements required for Licensees differ in certain respects from those suggested in the AICPA's Audit Guide. Such deviations are not at variance with generally accepted accounting principles and reporting practices. The opening paragraphs of Chapter 7 of the AICPA's Guide support this view:

"The financial statements illustrated in this chapter are for typical open-end management investment companies and may need to be modified to fit the requirements of other types of investment companies.

"In all instances, the management of investment companies and the auditor should be cognizant of the need for reporting in a manner which properly highlights significant information for shareholders and other interested parties. Content and format of reports required by regulatory authorities, e.g., the Securities and Exchange Commission and Small Business Administration, are, of course, governed by the requirements of the applicable form and related rules, regulations, and instructions."

The Financial Report (SBA Form 468) with supporting schedule, is designed to present the licensee's financial statements as audited by the independent public accountant. Accordingly, the statements are based on the transactions recorded in the accounts.

The Financial Report contains standard statements and schedules. Therefore, when a particular statement or schedule does not apply to the licensee's operations, it should be omitted. For example, if the licensee did not sell securities during the period, the Statement of Realized Gain (Loss) on Sale of Securities would be omitted. The Financial Report, therefore, should be "tailored" to fit the licensee's given situation.

Such tailoring, however, does not include deviating from accounting and reporting practices prescribed in the Audit Guide or System of Account Classification.

B. *Financial Report Heading.* Set forth in the appropriate spaces the information called for representing the identification and the principal office address of the licensee. As to the employer identification number, enter the number assigned to the licensee by the U.S. Treasury Department. If such number has not yet been assigned, an Application for Employer Identification Number, Form SS–4, shall be submitted to the U.S. Director of Internal Revenue for the area in which the licensee's principal office is located.

The preparer of this report should keep in mind that amounts are to be rounded to the nearest dollar.

The following is a detailed discussion as to how the statements are prepared.

Cover Sheet

Give Name of Licensee, City, State and License Number on the designated lines. Show Fiscal Year End in the space provided. Immediately below the appropriate lettered box, enter the number that describes the proper classification shown in Tables A through D.

Name of Licensee: _____
City and State: _____
County _____
ZIP Code _____
Employer ID Number _____
(SIC Code, 4 digit) _____
License Number: _____

Annual Report

For fiscal year ended _____, 19____

SBA Form 468

Size and Classification

A☐ B☐ C☐ D☐

Size—In Total Assets—A

1. Zero to $1 million
2. $1 million to $2 million
3. $2 million–$5 million
4. $5 million–$10 million
5. Over $10 million

Investment Policy—C

1. Diversified
2. Non-diversified

Venture Capital Status—D

1. Venture Capital Qualified
2. Not Venture Capital

Ownership—B

Bank-Owned

1. Bank Dominated (50% or more owned by Bank or Bank Holding Company)
2. Bank Associated (10% to 49% owned by Bank or Bank Holding Company)

Owned by Financial Corporation (Other Than Bank or Bank Holding Company)

3. Publicy Owned
4. Privately Owned

Owned by Non-Financial Corporation

5. Publicly Owned
6. Privately Owned

Owned by Individuals

7. Publicly Owned
8. Privately Owned

C. *Statement of Financial Position.* This statement is designed to measure the licensee's financial position as of the statement date in a conventional balance sheet format. Because of their significance, loans and investments are presented before current or other assets. Likewise, long-term debt is shown before current or other liabilities.

1. *Assets*—are grouped according to Loans and Investments, Investment in 301(d) Licensee, Current Assets and Other Assets.

a. *Loans & Investments* as grouped into four categories:

(1) *Portfolio Securities*—are those securities of small business concerns obtained through providing financing.

(2) *Assets Acquired in Liquidation of Portfolio Securities*—are those securities or other assets the licensee has acquired by taking action to protect its investment. Such assets are grouped according to receivables from debtors, and other assets acquired.

(3) *Operating Concerns Acquired*—represents the total investment in portfolio concerns where action was necessary to protect the licensee's investment. This will include only operating concerns over which the licensee has acquired control or has the power to control either individually or in concert with other licensees.

(4) *Other Securities*—are those securities the licensee holds that did not result from providing financing to small business concerns. Other securities will result when portfolio securities or assets acquired are sold and part of the net sales price is notes, or other securities. Also, dividends in kind from portfolio concerns would be classified as other securities.

Loans and investments are shown at cost and through adjustments for unrealized appreciation and unrealized depreciation arrive at their value.

b. *Investment in 301(d) Licensee*—is a unique investment in that the nature and purpose of the investee is similar to that of the investors. Also, the investor actively participates in the management of the investee. For those and other reasons, investments in 301(d) licensees are not classified as Loans and Investments but are shown as a separate asset group on the Statement of Financial Position. Such investments will be carried on the equity method of accounting.

c. *Current Assets*—are those assets that are cash, expected to be converted to cash or are expected to be expensed in the next operating business cycle; i.e., one year from the statement date. While current assets are not grouped as such for other investment companies, regulatory purposes require such a grouping for SBICs.

d. *Other Assets*—are those assets that are not otherwise explained above. Included are furniture and equipment, deferred charges, funds in escrow and other items.

e. *Memorandum Assets*—are worthless investments, each of which has been written off. The licensee will disclose in a footnote to the financial statements on the disposal of any security in this category.

2. *Liabilities*—are classified according to long-term debt, current liabilities and other liabilities.

a. *Long-Term Debt*—includes debt of the licensee net of current maturities. Such debt is grouped according to that which is payable to or guaranteed by SBA and that which is payable to others.

b. *Current Liabilities*—are those liabilities requiring the payment of cash during the next business cycle; i.e., 12 months from the statement date. Included are accounts payable, accrued interest and taxes payable, current maturities on long-term debt, dividends payable, distributions payable to partners and other current items.

Other Liabilities—are those liabilities not otherwise classified and include trust receipts, deferred credits and other items.

3. *Corporate Capital Accounts*—are grouped according to paid-in capital and surplus, 3 percent preferred stock sold to SBA, unrealized gain (loss) on securities held and undistributed realized earnings.

a. *Capital Stock and Paid-In-Surplus*—represents the licensee's capital which is the first component used to compute the licensee's regulatory capital for leverage and overline purposes.

b. *3% Preferred Stock Issued to SBA*—while such preferred stock by the nature of the instrument is equity, it is not considered paid-in capital and paid-in surplus; rather it is a part of the leverage funds obtained by a 301(d) licensee from SBA.

c. *Unrealized Gain (Loss) on Securities Held*—is the net unrealized appreciation on securities held after an allowance for taxes as of the statement date. This is the amount in column 2 line 13, on the Statement of Unrealized Gain (Loss) on Securities Held if a corporation or the amount of column 2 line 11 of a partnership.

d. *Undistributed Realized Earnings*—represents the cumulative balance of periodic net investment income and realized gain (loss) on securities sold, less dividend or distributions. Undistributed realized earnings is composed of:

(1) *Non-Cash Gains/Income*—which represent notes, securities or other assets received as part of the net sale price when securities are sold and non-cash income from investments reported on the equity method of accounting.

(2) *Undistributed Net Earnings Realized*—which represents undistributed earnings realized net of (a) non-cash gains on sale of securities (b) non-cash income from investments reported on the Equity Method of Accounting.

4. *Retained Earnings Computation*—in note form above the Statement of Undistributed Realized Earnings is designed to set forth "retained earnings" on the same basis and in the same manner as it was viewed on the cost basis. Such Retained Earnings will be the basis for dividend declaration (whether cash or stock) or the basis for capitalizing earnings by corporate resolution.

"Retained Earnings" is Undistributed Net Realized Earnings reduced by allowances for losses that have been established on Loans and Investments. The allowance for loss should not be less than the net amount by which the unrealized depreciation exceeds the unrealized appreciation.

Treasury Stock is a restriction on the amount of Retained Earnings available for distribution.

5. *Partnership Capital Accounts*—are grouped according to Partner's Permanent Capital Contribution (paid-in cash and capitalized retained earnings), Unrealized Gain (Loss) on securities held, non-cash gain on sale of securities and undistributed net-realized earnings.

a. *Partners Permanent Capital Contribution*—represents cash paid in to acquire a partnership interest plus any undistributed net realized earnings transferred to partner's permanent capital contribution which is the basis for leverage and other regulatory purposes.

b. *Unrealized Gain (Loss) on Securities Held*—is the net unrealized appreciation on securities held as of the statement date. This is the amount in column 2, line 11, on the Statement of Unrealized Gain (Loss) on Securities Held.

c. *Non-Cash Gains/Income*—which represent notes, securities or other assets received as part of the net sale price when securities are sold, and non-cash income from investments reported on the equity method of accounting.

d. *Undistributed Net Realized Earnings (Earned Capital)*—represents the cumulative balance of periodic net investment income and realized gain (loss) on securities sold less partnership distributions.

6. *Partners Earned Capital Computation*—in note form above the statement of undistributed realized earnings is designed to set forth "retained earnings" on the same basis and in the same manner as it was viewed on the cost basis. Such "Earned Capital" will be the basis for partnership distributions (whether cash or in kind) or the basis for capitalizing earnings by agreement of the partners in accordance with the partnership agreement.

"Retained Earnings" is Undistributed Net Realized Earnings reduced by allowances for losses that have been established on Loans and Investments.

General Discussion of Partnership Capital Accounts Regulatory Problems. Regulations governing SBICs create very special and unique requirements for the accounting of Partner's Capital Accounts. Normal partnership accounting requires only one capital account for each partner. Depending on the partnership agreement there may be additional accounts for partners' salaries, interest on partners' capital invested, and/or partners' drawing accounts. At the end of the fiscal year all of the partner's other accounts are closed to the partner's capital account in addition to the partner's share of the results of operations for the year.

Some limited partnership agreements divide the partnership capital between (1) Partnership Permanent Capital, and (2) Partnership Earned Capital.

SBICs, who have adopted the limited partnership form of organization, must, because of regulatory requirements, keep the partners' capital accounts divided into four sub-sections. Each subsection and the legal reason requiring the subsection will be discussed separately. The four subsections are (1) Partner's Permanent Capital Contribution, (2) Partner's Unrealized Gain on Securities Held, (3) Partners Non-cash Gain/Income (restricted capital) and (4) Partners Undistributed Net Realized Earnings (Earned Capital). The sum of these four accounts is the equivalent of the partnership capital account of a non-SBIC partnership. The SBIC must also keep the general partners and limited partners shares of each of the four capital accounts separate which creates eight capital accounts as control accounts. The SBIC will, either by subsidiary or memorandum accounts, keep a record for each partner, general or limited.

Partners' Permanent Capital Contribution

The balances shown in these accounts are the amount of cash contributed by each partner to the partnership less any reductions to permanent capital. Any reductions of permanent capital in excess of two percent in any fiscal year must receive prior approval from SBA. These balances after the adjustments required by regulation then constitute "Regulatory Capital" for first, the amount of capital that will be leveraged by SBA and second, the amount of capital that determines the legal maximum amount of any investment in a small business concern without requiring SBA approval for an "Overline". Partners' Permanent Capital Contribution performs the same function for the partnership as "Capital Stock" and "Capital Surplus Contributed in Excess of Par Value" perform in a corporation.

Partners' Net Realized Gains and Partners Non-Cash Gains/Income

A limited partnership which was not subject to the legal requirements of an SBIC would have a single account titled "Earned Capital". Distributions to either general or limited partners would be charged to this account. SBA rules and regulations, however, permit distributions to be made only from gains realized in cash or cash income from investments reported on the equity method of accounting. "Earned Capital" is therefore divided into two accounts;

1. Partners' Net Realized Gain and,
2. Partners' Non-cash Gains/Income

Distributions may only be made to partners to the extent that Partner's Net Realized Gains has a credit balance.

Partners' Unrealized Gains on Securities Held

Investment companies report on the value basis rather than on the cost basis for their investments. This account has many of the characteristics of either appraisal surplus for a corporation or recognized goodwill on the admission of a new partner in a non-investment partnership. Normal practice, in a non-investment partnership, for the admission of a new partner by investment in the partnership or the withdrawal of a partner from the partnership requires agreement by all parties on the current market value of the assets to determine the proper price to be paid by a new partner for admission or to the partner who is withdrawing.

Description by Line Item—The following is a description by line item as to how the amounts shown on this statement are developed.

License No. Name of Licensee

Statement of Financial Position as of

(Amounts rounded to nearest dollar)

Assets loans and investments	Cost	Valuation		Value
		Unrealized depreciation	Unrealized appreciation	
Portfolio Securities:				
1. Loans				
2. Debt Securities				
3. Equity Interests				
4. Total				
Assets Acquired in Liquidation of Portfolio Securities:				
5. Receivables From Debtors on Sale of Assets Acquired				
6. Assets Acquired				
7. Total				
8. Operating Concerns Acquired				
9. Notes and Other Securities Received				
10. Total Loans and Investments				
11. Less Current Maturities				
12. Loans and Investments Net of Current Maturities				
Investment in 301(d) Licensee*:				
13.				
Name:				
License No.:				
Current Assets:				
14. Cash				
15. Invested Idle Funds				
16. Interest and Dividends Receivable				
17. Notes, Accounts Receivable and Receivables from Parent				
18. Less: Allowance for Losses				
19. Current Maturities of Portfolio Securities				
20. Current Maturities of Assets Acquired				
21. Current Maturities of Operating Concerns Acquired				
22. Current Maturities on Other Securities				
23. Other Current Assets				
Other Assets:				
24.				
a. Furniture & Equipment				
b. Less: Accumulated Depreciation				
25. Other				
26. Total Assets (Note 2)				

Note 1.—Column Headings apply to items 1 through 12 only. (Cost—Unrealized Depreciation+Unrealized Appreciation=Value)

Note 2.—*Memorandum Assets*—are worthless investments, each of which has been written off. The Licensee will disclose in a footnote to the financial statements on the disposal of any security in this category.

*Note to Item 13 should include percent owned, cost basis and changes resulting from equity method of accounting.

Item 1. Loans—In column 1, show the balance of account 170 less the balance of account 173. In column 2, show the balance of account 172. In column 3, show the balance of account 171.

Item 2. Debt Securities—In column 1, show the aggregate of balances in accounts 180 and 184 less account 188. In column 2, show the balance of account 187. In column 3, show the balance of account 186.

Item 3. Equity Interests—In column 1, show the aggregate of balances in accounts 190, 191, 194, and 197. In column 2, show the aggregate of balances in accounts 193, 196, and 199. In column 3, show the aggregate of balances in accounts 192, 195, and 198.

Item 4. Total—Show the total of Items 1, 2, and 3 which represents the total of portfolio securities.

Item 5. Receivables from Debtors on Sale of Assets Acquired—Show in column 1 the balance of account 200 and in column 2 the balance of account 203.

Item 6. Assets Acquired—In column 1, show the balance in account 204. In column 2, show the balance in account 206 and in column 3, show the balance of account 205.

Item 7. Total—State the aggregate of Items 5 and 6 which represents the total of assets acquired in liquidation to portfolio securities.

Item 8. Operating Concerns Acquired—Show in column 1 the balance of account 210, in column 2 the balance of account 212 and in column 3 the balance of account 211.

Item 9. Notes and Other Securities Received—Show in column 1 the aggregate of balances in accounts 220 and 221. In column 2, show the balance in account 223 and in column 3 show the balance of account 222.

Item 10. Total Loans and Investments—State the aggregate of Items 4, 7, 8, and 9 which represents the total of loans and investments.

Item 11. Less Current Maturities—Show the aggregate of balances in accounts 150 thru 154.

Item 12. Loans and Investments Net of Current Maturities—Show the amount stated in Item 10, column 4 less the amount shown in Item 11.

Item 13, Investment in 301(d) Licensee—When a licensee has an investment in a 301(d) licensee, the name and license number of the investee should be shown in the space provided. The balance shown in account 160 should be shown.

Item 14, Cash—Show the aggregate of accounts 100 through 120.

Item 15, Invested Idle Funds—Show the aggregate of accounts 130 through 138.

Item 16, Interest and Dividends Receivable—Show the aggregate of balances in accounts 143 and 145.

Item 17, Notes, Accounts Receivables, and Receivables from Parent—Show the aggregate of balances in accounts 140, 141, and 146.

Item 18, Less: Allowance of Losses—Show the aggregate of balances in accounts 142 and 144.

Item 19, Current Maturities of Portfolio Securities—Show the balance of account 150.

Item 20, Current Maturities of Operating Concerns Acquired—Show the balance of account 152.

Item 21, Current Maturities of Operating Concerns Acquired—Show the balance of account 153.

Item 22, Current Maturities of Other Securities—Show the balance of account 154.

Item 23, Other Current Assets—Show the balance of account 156.

Item 24, (a), Furniture & Equipment—Show the balance of account 240.

Item 24, (b), Less: Accumulated Depreciation—Show the balance of account 241.

Item 25, Other—Show the aggregate of balances of accounts 230, 231, 250, 251, 252, 265 thru 269.

Item 26, Total Assets—Show the aggregate of Items 12, 13, and 14 through 25.

Note.—The following six forms are applicable only to corporations. The next six forms are applicable only to partnerships.

Name of Licensee ..... License Number .....

(Use Only if Licensee Is a Corporation)

Statement of Financial Position (Continued) as of .....

Liabilities & Capital			
Long-Term Debt (Net of Current Maturities):			
27. Notes and Debentures Payable to or Guaranteed by SBA			
28. Notes and Debentures Payable to Others			
29. Total			
Current Liabilities:			
30. Accounts Payable and Accounts Payable Due Parent			
31. Accrued Interest Payable			
32. Accrued Taxes Payable			
33.			
a. Current Maturities of Line 27			
b. Current Maturities of line 28			
34. Dividends Payable			
35. Other Current Liabilities			
36. Total			
Other Liabilities:			
37. Trust Receipts			
38. Deferred Credits			
39. Other Liabilities			
40. Total Liabilities			
Capital			
41. Capital Stock			
42. Paid-in Surplus			
43. Paid-in Capital Stock and Surplus			
44. 3% Preferred Stock Issued (301(d) Licensees only)			
45. Unrealized Gain (Loss) on Securities Held			
46. Non-Cash Gains/Income*			
47. Undistributed Net Realized Earnings			
(a) Restricted-Equal to Cost of Treasury Stock			
(b) Free			
(c) Subtotal (47(a) plus 47(b))			
48. Undistributed Realized Earnings			
49. Total			
50. Less Cost of Treasury Stock			
51. Total Capital			
52. Total Liabilities & Capital			

* Note to Item 46 should show (a) amount of non-cash gains on sale of securities and (b) income from investments reported on the equity method of accounting.

Item 27, Notes and Debentures Payable to or Guaranteed by SBA—Show the aggregate of balances in accounts 300, 301 and 310.

Item 28, Notes and Debentures Payable to Other—Show the aggregate of balances in accounts 311, 312, 313 and 320.

Item 29, Total—Show the aggregate of Items 27 and 28.

Item 30, Accounts Payable and Accounts Payable Due Parent—Show the balance of account 340 and 341.

Item 31, Accrued Interest Payable—Show the balance of account 350.

Item 32, Accrued Taxes Payable—Show the aggregate of balances in accounts 351 and 354.

Item 33(a), Current Maturities of Line 27—Show the balance of account 330.

Item 33(b), Current Maturities of Line 28—Show the balance of account 331.

Item 34 for Corporations, Dividends Payable—Show the aggregate of balances in accounts 360 through 364.

Item 35, Other Current Liabilities—Show the balance of account 358.

Item 36, Total—Show the aggregate of Items 20 through 35.

Item 37, Trust Receipts—Show the aggregate of balances in accounts 370, 374 and 378.

Item 38, Deferred Credits—Show the balances of accounts 380 and 383.

Item 39, Other Liabilities—Show the balance of account 390.

Item 40, Total Liabilities—Show the aggregate of Items 29 and 36 through 39.

The following accounts are applicable only to corporate licensees and are to be reported on the Statement of Financial Position for corporations.

Item 41, Capital Stock—Show the aggregate of balances in accounts 400 through 414.

Item 42, Paid-in Surplus—Show balance of account 420.

Item 43, Paid-In Capital Stock and Surplus—Show the aggregate of items 41 and 42.

Item 44, 3% Preferred Stock Issued to SBA (301(d) Licensee's Only)—Show the balance of account 430.

Item 45, Unrealized Gain (Loss) on Securities Held—Show the aggregate of balances of account 440 less 445 and 448.

Item 46, Non-Cash Gain/Income—Show the balance of account 450 and 463.

Item 47, Undistributed Net Realized Earnings—Undistributed Net Realized Earnings is the amount of realized earnings minus the amount of non-cash gains and non-cash income from investments reported on the equity method of accounting. This will be the amount of account 451. Treasury Stock is a restriction on the amount of earnings available for distributions to stockholders. Capitalization of retained earnings by a credit to Capital Stock and/or Paid-in Surplus is a distribution to stockholders.

Item 47(a), Restricted-Equal to Cost of Treasury Stock—Show the aggregate of the balances in accounts 415 through 419.

Item 47(b), Free—This is the amount of undistributed net realized earnings available for distribution if there is a restriction due to the presence of Treasury Stock. The amount to be shown as Item 47(b) is the difference between Account Number 451 and the amount shown as Item 47(a). If Account Number 451 has a debit balance do not report the cost of Treasury Stock as Item 47(a). If the licensee does not have Treasury Stock Item 47(b) and Item 47(c) will be identical. In such instance it will be necessary to complete both Item 47(b) and 47(c) since item 47(b) is required for other computations on the Form 468.

Item 47(c), Subtotal—This is the sum of Items 47(a) and 47(b).

Item 48, Undistributed Realized Earnings—Show the aggregate of Items 46 and 47.

Item 49, Total—Show the aggregate of Items 43, 44, 45 and 48.

Item 50, Less Cost of Treasury Stock—Show the sum of the balances in Account Numbers 415 through 419.

Item 51, Total Capital—Subtract Item 50 from Item 49.

Item 52, Total Liabilities and Capital—Add Item 40 and Item 51.

Name of licensee ..... License No. .....

(Use Only if Licensee Is a Corporation)

Computation of Earnings Available for Dividend Declaration or Capitalization

NOTE.—Retained Earnings Available for Dividend Declaration or Capitalization in Accordance with SBA Regulations Computed As Follows:

Undistributed Net Realized Earnings (Line 47(b))	.....
Less: Allowance for Losses on Loans & Investments	.....
Retained Earnings Available for Distribution or Capitalization	.....

Statement of Undistributed Realized Earnings—Lines 46, 47, 48

Description	Non-cash gains/ income (46)	Undistributed net earnings (47)	Total (48)
1. Beginning Balance			
2. Additions:			
a. Net Investment Income			
b. Realized Gain (Loss) on Sale of Securities			
c. Non-cash Gains on Distributions in Kind*			
d.			
e. Total Additions			
3. Adjust: Collections of Non-cash Gain	( )		
4. Total (Lines 1.2.3)			
5. Deductions:			
a. Dividends—Cash			
b. Dividends—Stock			
c. Dividends—In Kind*			
d.			
e. Total Deductions			
6. Ending Balance			

*Read Instructions Carefully.
**Name of SBC ————————.
Description of assets being distributed ————————.

D. *Statement of Undistributed Realized Earnings (Page 5 Corp.)*—This statement is designed to analyze the activity in undistributed realized earnings by non-cash gains/income and undistributed net earnings realized. The ending balances of this statement are the same as items 46 through 48 on the Statement of Financial Position.

Column 1: Non-Cash Gains activity can be determined by reviewing account 450 and 463.

Column 2: Undistributed Net Earnings activity can be determined by reviewing account 451.

1. *Beginning Balance*—In column 1, show the beginning balances of accounts 450 and 463 and in column 2, show the beginning balances of account 451. These amounts should agree with the ending balances shown on the statement for the prior period.

2. (a) *Net Investment Income*—State as Non-cash income undistributed net earnings as applicable that amount shown as item 33 on the Statement of Operations Realized.

(b) *Realized Gain (Loss) on Sale of Securities*—Show the balances in accounts 461 and 462.

(c) *Non-cash Gains on Distributions In Kind*—in column 1 report the amount of unrealized gains on any distributions in kind during the period covered by this report.

3. *Adjustments: Collections of Non-Cash Gains*—Will be a decrease in column 1 "Non-Cash Gains" and will be an increase in column 2 "Undistributed Net Earnings." There will be no effect on column 3, "Total".

4. *Total*—Aggregate of lines 1, 2, & 3.

5. *Deductions:* (a) and (b)—Are to be paid out of undistributed net earnings only. Therefore, dividends will be entered in column 2.

(c) *Dividends In Kind*—Column 1 show the amount of non-cash gain reported in column 1 Item 2(c). In column 2 show the cost of the asset being distributed. The total shown in column 3 is the value as reported for the asset on the SBA Form 468 immediately prior to the distribution.

6. *Ending Balance*—is determined by subtracting 5(e) "Total Deductions" from item 4 which represents the beginning balance plus additions.

(Use Only if Licensee Is a Corporation)

Name of Licensee.....

License No.....

Statement of operations realized—for — months ended ———.

Investment income:

1. Interest on Loans and Debt Securities	
2. Dividend Income	
3. Income from Investments Reported on the Equity Method of Accounting	
4. Management Services	
5. Application and Other Fees	
6. Interest on Invested Idle Funds	
7. Income from Assets Acquired in Liquidation of Loans and Investments (Net of $——— Expense)	
8. Other Income	
9. Gross investment income	
Expenses:	
10. Interest on Long-term Debt	
11. Commitment Fees	
12. Other Financial Costs	
13. Officer Salaries	
14. Employee Salaries	
15. Employee Benefits	
16. Investment Advisory and Management Services	
17. Directors' and Stockholders' Meetings	
18. Advertising & Promotion	
19. Appraisal & Investigation	
20. Communication	
21. Legal Fees	
22. Travel Expense	
23. Cost of Space Occupied	
24. Depreciation and Amortization Expense	
25. Audit and Examination Fees	
26. Insurance Expense	
27. Taxes Expense (Excluding Income Taxes)	
28. Provision for Losses on Accounts Receivables	
29. Miscellaneous Expenses	
30. Total Expenses	
31. Net Investment Income Before Provision for Income Taxes	
32. Provision for Income Taxes (Note 1)	
33. Net Investment Income (Loss)	
Realized Gain (Loss) on Sale of Securities:	
34. Net Sale Price	
35. Cost of Securities Sold	
36. Net Prior to Income Tax Provision	
37. Provision for Income Taxes	
38. Realized Gain (Loss) On Sale of Securities	

Note.—(1) Compute a tax only if line 31 is a gain.

E. *Statement of Operations Realized—Corporation.* This statement is designed to measure separately Net Investment Income (Loss) and Realized Gain (Loss) on Sale of Securities. Such measurement is of realized operations only and is on the accrual basis of accounting.

1. *Net Investment Income*—is the result of measuring revenue and expense associated with investment and management assistance activities of a licensee other than realized gain (loss) on securities sold. Revenue is organized by source; i.e., from portfolio, from services provided, or from other sources.

Provision for taxes is the final measurement prior to determination of Net Investment Income.

2. *Realized Gain (Loss) on Sale of Securities*—is a function of operations that is measured separately from Net Investment Income. While the Statement of Realized

Gain (Loss) on Sale of Securities provides a detailed analysis of realized gain or losses. the Statement of Operations shows in the aggregate, net sales price of securities sold during the period, the cost of such securities sold and a provision for taxes on the resulting gain. The remainder becomes net realized gain (loss) on sale of securities.

Although an allowance for loss on securities may be established for valuation and in some cases tax purposes, such allowances when provided are not reflected as an expense in measuring investment income. Rather, they are measured in the Statement of Unrealized Gain (Loss) on Securities Held as a component of unrealized depreciation which is an offset against unrealized appreciation. For this reason, the entire loss is reported in this statement when realized and the allowance for loss on the security is reduced by the amount of allowance previously established.

3. *Description by Line Item*—The following is a description by line item as to how the amounts shown on the Statement of Operations Realized are developed.

a. *Investment Income*—the amounts shown in items 1 through 33 of this statement are derived primarily from the general ledger accounts as follows.

Item 1, Interest on Loans and Debt Securities—Show the aggregate of balances in accounts 512, 516 and 541.

Item 2, Dividend Income—Show the balance of account 540.

Item 3, Income from Investments Reported on The Equity Method of Accounting—Show the balance of Account 542.

Item 4, Management Services—Show the balance of account 532.

Item 5, Application and Other Fees—Show the aggregate of balances in accounts 500, 534 and 536.

Item 6, Interest on Invested Idle Funds—Show the balance of account 510.

Item 7, Income from Assets Acquired in Liquidation of Portfolio Securities—Show the balance of account 582 net of the balance of account 710. Also, show the balance of account 710 parenthetically.

Item 8, Other Income—Show the aggregate of balances in accounts 520 and 584.

Item 9, Gross Investment Income—Show the aggregate of items 1 through 8.

Item 10, Interest on Long-term Debt—Show the aggregate of balances in accounts 610 and 622.

Item 11, Commitment Fees—Show the balance of account 600.

Item 12, Other Financial Costs—Show the balance of account 642.

Item 13, Officer Salaries—Show the balance of account 663–1.

Item 14, Employee Salaries—Show the balance of account 663–2.

Item 15, Employee Benefits—Show the balance of account 670.

Item 16, Investment Advisory and Management Service—Show the balance of accounts 659 and 660.

Item 17, Director's and Stockholder's Meetings—Show the balance of account 657–1.

Item 18, Advertising and Promotion—Show the balance of account 650.

Item 19, Appraisal and Investigation—Show the balance of account 651.

Item 20, Communication—Show the balance of account 653.

Item 21, Legal Fees—Show the balance of account 661.

Item 22, Travel Expense—Show the balance of account 665.

Item 23, Cost of Space Occupied—Show the balance of account 654.

Item 24, Depreciation & Amortization Expense—Show the aggregate of balances in accounts 655 and 656.

Item 25, Audit and Examination Fees—Show the balance of account 652.

Item 26, Insurance Expense—Show the balance of account 658.

Item 27, Taxes Expense (Excluding Income Taxes)—Show the balance of account 664.

Item 28, Provision for Losses on Receivables—Show the balance of account 680.

Item 29, Miscellaneous Expenses—Show the aggregate of balances in accounts 672, 679, and 715.

Item 30, Total Expenses—Show the aggregate of items 10 through 29.

Item 31, Net Investment Income before Provision for Income Taxes—Show the balance of amount of item 9 less item 30.

Item 32, Provision for Income Taxes—Show the balance of account 720.

Item 33, Net Investment Income (Loss)—Item 31 minus Item 32.

Item 34, Net Sales Price—Show net sales price.

Item 35, Cost of Securities Sold—Show cost.

Item 36, Net Prior to Income Tax Provision—Line 34 minus line 35.

Item 37, Provisions for Income Taxes—Show amount of Income Taxes, if any, applicable to Gains on sale of securities.

Item 38, Realized Gain (Loss) on Sale of Securities—Item 36 minus Item 37.

Analysis of Capital Stock and Paid-In Surplus and Computation of Regulatory Capital

	Capital stock (note 1)	Paid in surplus	Total
1. Balance at Beginning of Fiscal Year			
2. Additions:			
(a) Capital Stock Issued for Cash			
(b) Stock Dividends Issued for Capitalized Free Undistributed Net Realized Earnings			
(c) Capital Stock Issued for Services Rendered*			
(d) Capital Stock Issued for Assets Other than Cash or Services			
(e) Gain on Sale of Treasury Stock			
(f) Other Credits (Explain)*			
3. Total Additions (The sum of Items 2(a) through 2(f))			
4. Subtotal (Line 1 plus Line 3)			
5. Deductions:			
(a) Retirement of Capital Stock			
(b) Loss on Sale of Treasury Stock (Note 2)			
(c) Distributions in Partial Liquidation			
(d) Other Debits (Explain)*			
6. Total Deductions (The sum of Items 5(a) through 5(d))			
7. Balance at End of Fiscal Year			
Computation of Regulatory Capital for Leverage Purposes:			
8. Regulatory Deductions: (Note 3)			
(a) Organization Expense (Note 4)			
(b) Capital Stock Issued for Services			
(c) Capital Stock Issued for Assets Other than Cash or Services			
(d) Other Non-monetary Items			
(e) Investment in 301(d) Licensee			
(f) Treasury Stock at Cost			
(g) Other (Explain)*			
9. Total Regulatory Deductions (The sum of Items 8(a) through 8(g))			

Analysis of Capital Stock and Paid-In Surplus and Computation of Regulatory Capital—Continued

	Capital stock (note 1)	Paid in surplus	Total
10. Regulatory Capital for Leverage Purposes (Line 7 Minus Line 9)			
Computation of Regulatory Capital for Overline Purposes:			
11. Net Unrealized Gains as Defined by Section 107.303(b) of the Regulations (Note 5)			
12. Regulatory Capital for Overline Purposes (Line 10 Plus Line 11)			

*Give complete details of these items by means of footnotes.

Note 1.— Capital Stock is the sum of the amounts of all classes of capital stock.

Note 2.— If Paid-in Surplus is not sufficient to absorb the entire amount of Loss on the Sale of Treasury Stock, the amount of loss in excess of Paid-in Surplus will be charged against Undistributed Net Realized Earnings as shown on line 47(b) of the Statement of Financial Position.

Note 3.— The deductions listed in Items 8(b), 8(c), 8(d) and 8(g) are total amounts of these items from time of organization to the end of the reporting period.

Note 4.— If the amount of cash contributed for the organization expense was never credited to Capital Stock or Paid-in Surplus, it should be so stated and explained by a footnote.

Note 5.— Licensees who rely on this section to increase the amount of their overline limitation will submit an addition to this schedule detailing the following information:

1. Name of small business concern
2. Market in which traded
3. Class of security
4. Cost
5. Value
6. Amount of unrealized appreciation
7. The total amount of unrealized appreciation on the securities listed
8. The other adjustments reported on line 13 of the statement of unrealized gain (loss) on securities held.
9. The other adjustments required by 107.303b.
10. Names of market makers.

Analysis of Capital Stock, Paid-in Surplus and Computation of Regulatory Capital—

Line 1 Enter the amount shown on Form 468 as the balance at the end of the prior fiscal period.

Line 2(a) Capital Stock Issued for Cash—In column 1 enter the amount of par value or stated value of the stock issued. In column 2 enter the amount of cash received in excess of par or stated value. In column 3 enter the total of columns 1 and 2.

Line 2(b) Stock Dividends Issued for Capitalized Free Undistributed Net Realized Earnings—In column 1 enter the amount of par value or stated value of the stock issued. In column 2 enter the amount of fair market value of the stock in excess of the par or stated value of the stock. In column 3 enter the total of columns 1 and 2. This amount will be the amount charged against retained earnings..

Line 2(c) Capital Stock Issued for Services Rendered—In column 1 enter the amount of par or stated value of the stock issued. In column 2 enter the amount of fair market value of the services rendered in excess of the par or stated value of the stock. In column 3 enter the total of columns 1 and 2.

Line 2(d) Capital Stock Issued for Assets Other than Cash or Services—In column 1 enter the amount of par or stated value of the stock issued. In column 2 enter the amount of fair market value of the asset in excess of the par or stated value of the stock. In column 3 enter the total of columns 1 and 2.

Line 2(e) Gain on Sale of Treasury Stock—Enter the amount of gain on the sale of treasury stock in columns 2 and 3.

Line 2(f) Other Credits—Enter the amount of the credit in either column 1 or 2 or both and column 3.

Line 3 Total Additions—Enter the total of lines 2(a) through 2(f) of columns 1, 2, and 3.

Line 4 Subtotal—The total of line 1 and lines for columns 1, 2, and 3.

Line 5(a) Retirement of Capital Stock—In column 1 enter the amount of par or stated value of the stock being retired. In column 2 enter the amount appropriate to the particular circumstances. In column 3 enter the total of columns 1 and 2.

Line 5(b) Loss on Sale of Treasury Stock—Enter the amount of loss in columns 2 and 3 but not in excess of the balance of Paid-in Surplus.

Line 5(c) Distributions in Partial Liquidation—Enter the amount of the partial liquidation in either column 1 or 2 or both, appropriate to the facts and in column 3.

Line 5(d) Other Debits—Enter the amount of the debit in either column 1 or 2 or both and column 3.

Line 6 Total Deductions—Enter the total of lines 5(a) through 5(d) of columns 1, 2 and 3.

Line 7 Balance at the End of the Fiscal Period—Subtract line 6 from line 4 for columns 1, 2 and 3.

Line 8(a) Organization Expense—Enter the amount of organization expense whether or not amortized.

Line 8(b) Capital Stock Issued for Services—Enter the amount credited to both Capital Stock and Paid-in Surplus for services since date of organization.

Line 8(c) Capital Stock Issued for Assets Other than Cash or Services—Enter the amount credited to both Capital Stock and Paid-in Surplus for assets other than cash or services since date of organization. At such time as the asset is converted to cash the amount of cash received may be considered to have been for stock issued. An adjustment to Paid-in Surplus may be necessary when the asset is converted to cash.

Line 8(d) Other Non-monetary Items—Enter the amount of other non-monetary items credited to either Capital Stock or Paid-in Surplus or both since date of organization.

Line 8(e) Investment in 301(d) Licensee—Enter the amount of investment in 301(d) licensee.

Line 8(f) Treasury Stock at Cost—Enter the cost of Treasury Stock.

Line 8(g) Other—Enter any other necessary adjustments.

Line 9 Total Regulatory Adjustments—Enter the sum of lines 8(a) through 8(f).

Line 10 Regulatory Capital for Leverage Purposes—Subtract line 9 from line 7 and enter.

Line 11 Net unrealized gains as defined by § 107.303(b)—Go to Note 5, prepare the necessary information and enter the result here.

Line 12 Regulatory Capital for Overline Purposes—Add line 11 to line 10 and enter.

Name of licensee.....

License No.....

Statement of changes in financial position for — Months Ended ———

Funds were provided from:

2. Net Investment Income .....
3. Depreciation, Amortization, Provision for Loss on Receivables .....
4. Realized Gain (Loss) on Sale of Securities.....
5. Decrease in Portfolio Securities .....
6. Decrease in Assets Acquired.....

7. Decrease in Operating Concerns Acquired	
8. Decrease in Other Securities	
9. Decrease in Current Assets (Excluding Cash and Invested Idle Funds)	
10. Decrease in Other Assets	
11. Increase in Current Liabilities	
12. Increase in Other Liabilities	
13. Increase in Long-Term Debt	
a. Due to or Guaranteed by SBA	
b. Due to Others	
14. Sale of Licensee's Stock	
15. TOTAL FUNDS PROVIDED	
16. TOTAL FUNDS AVAILABLE	
Funds were used for:	
17. Increase in Portfolio Securities	
18. Increases in Assets Acquired	
19. Increase in Operating Concerns Acquired	
20. Increase in Other Securities	
21. Increase in Current Assets (Excluding Cash and Invested Idle Funds)	
22. Increase in Other Assets	
23. Decrease in Current Liabilities (Excluding Dividends)	
24. Decrease in Other Liabilities	
25. Decrease in Long-Term Debt	
a. Due to or Guaranteed by SBA	
b. Due to Others	
26. Payment of Dividends	
27. Redemption of Stock	
28. Total Funds Used	
29. Ending Cash and Invested Idle Funds Position	

Note: Unrealized Gain (Loss) on Securities Held is not reflected in the above statement as it has no effect upon source or application of funds. All increases and decreases from the balance sheet in above schedule are net after the deduction of non-cash items EXCEPT THE NON-CASH ITEMS REPORTED ON LINE 3 ABOVE. Furnish a schedule of non-cash items for each applicable category.

F. Statement of Changes in Financial Position for Corporations. The Statement of Changes in Financial Position is to be inclusive of all changes in financial position resulting from transactions. However, the statement does not include changes in unrealized gains (loss) on securities held which are based on subjective determinations by the Board of Directors and not based on transactions. The objectives of this statement are (1) to summarize the extent to which the licensee has generated cash and invested idle funds and (2) to complete the disclosure of changes in financial position during the period.

The following description by line item explains how the amounts on the Statement of Changes in Financial Position are developed.

Item 1, Beginning Cash and Invested Funds Position—The total of line item 14, Cash, and line item 15, Invested Idle Funds Assets, as reported on Form 468 at the end of the prior fiscal period.

Funds were Provided From:

Item 2, Net Investment Income (Loss)—Enter the amount shown on line 33 of the Statement of Operations Realized.

Item 3, Depreciation, Amortization, Provision for Loss on Receivables—Enter the total of amounts shown in line items 24 and 28 of the Statement of Operations Realized and the amount of account 672 included in Item 29 of the Statement of Operations Realized.

Item 4, Realized Gain (Loss) on Sale of Securities—Enter the amount shown on line 38 of the Statement of Operations Realized.

Item 5, Decrease in Portfolio Securities—Enter the amount of net change in Item 4, Cost column of the Statement of Financial Position if that amount is a decrease during the period. Do not include current maturities.

Item 6, Decrease in Assets Acquired—Enter the amount of net change in Item 7, cost column of the Statement of Financial Position if that amount is a decrease during the period. Do not include current maturities.

Item 7, Decrease in Operating Concerns Acquired—Enter the amount of net change in Item 8, Cost column of the Statement of Financial Position if that amount is a decrease during the period. Do not include current maturities.

Item 8, Decrease in Other Securities—Enter the amount of net change in Item 9, Cost column of the Statement of Financial Position if that amount is a decrease during the period. Do not include current maturities.

Item 9, Decrease in Current Assets (Excluding Cash and Invested Idle Funds—Enter the amount of net change in Items 16 through 23 of the Statement of Financial Position if that amount is a decrease during the period.

Item 10, Decrease in Other Assets—Enter the amount of net change in Items 13, 24 and 25 of the Statement of Financial Position if that amount is a decrease during the period.

Item 11, Increase in Current Liabilities—Enter the amount of net change in Items 30 through 35 of the Statement of Financial Position if that amount is an increase during the period.

Item 12, Increase in Other Liabilities—Enter the amount of net change in Items 37, 38 and 39 of the Statement of Financial Position if that amount is an increase during the period. Do not include the amount of account 448.

Item 13(a), Due to or Guaranteed by SBA—Enter amount of net change in Item 27 of the Statement of Financial Position if that amount is an increase during the period.

Item 13(b), Due Others—Enter the amount of net change in Item 28 of the Statement of Financial Position if that amount is an increase during the period.

Item 14, Sale of Licensee's Stock—Enter the amount of net change in Items 41 through 44 of the Statement of Financial Position if that amount is an increase during the period and the licensee is a corporation.

Item 15, Total Funds Provided—Enter the total of Items 2 through 14 of the Statement of Change in Financial Position.

Item 16, Total Funds Available—Enter the total of Items 1 and 16 of the Statement of Change in Financial Position.

Item 17, Increase in Portfolio Securities—Enter the amount of net change in Item 4 of the Cost column of the Statement of Financial Position if the amount is an increase during the period.

Item 18, Increase in Assets Acquired—Enter the amount of net change in Item 7, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 19, Increase in Operating Concerns Acquired—Enter the amount of net change in Item 8, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 20, Increase in Other Securities—Enter the amount of net change in Item 9, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 21, Increase in Current Assets (Excluding Cash and Invested Idle Funds)—Enter the amount of net change in Items 16

through 23, of the Statement of Financial Position if that amount is an increase during the period.

Item 22, Increase in Other Assets—Enter the amount of net change in Items 13, 24 and 25 of the Statement of Financial Position if that amount is an increase during the period.

Item 23, Decrease in Current Liabilities (Excluding Dividends)—Enter the amount of net change in Items 30 through 35 of the Statement of Financial Position if that amount is a decrease during the period.

Item 24, Decrease in Other Liabilities—Enter the net amount of change in Items 37, 38 and 39 of the Statement of Financial Position if that amount is a decrease during the period. Do not include the amount of account 448.

Item 25(a), Due or Guaranteed by SBA—Enter the net amount of change in Item 27 of the Statement of Financial Position if that amount is a decrease during the period.

Item 25(b), Due Others—Enter the net amount of change in Item 28 of the Statement of Financial Position if that amount is a decrease during the period.

Item 26, Payment of Dividends—Enter the amounts shown in accounts 360 through 364.

Item 27, Redemption of Stock—Enter the amount of net change in Items 41 through 44 of the Statement of Financial Position if that amount is a decrease during the period.

Item 28, Total Funds Used—Enter the sum of Items 17 through 27 of the Statement of Change in Financial Position.

Item 29, Ending Cash and Invested Idle Funds Position—Subtract Item 28 from Item 16. The balance will equal sum of Items 14 plus 15 of the Statement of Financial Position.

(Use Only if Licensee Is a Corporation)

Licensee.....

License No.....

Statement of Unrealized Gain (Loss) on Securities Held for ——— Months Ended ———

	Beginning balance (1)	Ending balance (2)	Net changes (3)(2)(1)
Unrealized Appreciation:			
1. Portfolio Securities			
2. Assets Acquired in Liquidation of Portfolio Securities			
3. Operating Concerns Acquired			
4. Other Securities			
5. Total (Note 1)			
Unrealized Depreciation:			
6. Portfolio Securities			
7. Assets Acquired in Liquidation of Portfolio Securities			
8. Operating Concerns Acquired			
9. Other Securities			
10. Total			
11. Unrealized appreciation (net of depreciation) on securities held before fees paid on gains or income taxes			
12. Less Provision for Taxes			
13. Unrealized gain (loss) on securities held (Note 2)			

Note 1.—Disclose by footnote the following information (a) The amount of any potential fees that would be due on the amount shown on line 5 if the amount of unrealized appreciation were to be realized. (b) For any person paid a percent of realized gain, supply the following information by footnote: (1) name, (2) title, (3) stock ownership, (4) percent to be paid.

Note 2.—Do not compute tax effect if line 11 is a loss.

Realized Loss Experience on Receivables, Loans and Investments

[Dollars rounded to the nearest thousand]

Description	Current year loss
Notes, Accounts and Accrued Interest Receivable	
Loans	
Debt Securities	
Equity Interests	
Assets Acquired in Liquidation of Portfolio Securities	
Operating Concerns Acquired	
Other Securities	
Total	

G. *Statement of Unrealized Gain (Loss) on Securities Held.* This statement summarizes the results of the valuation process of securities held as of the statement date as compared to the previous statement date and discloses the net change in the Unrealized Gain (Loss) on Securities Held.

The types of securities held are the primary groupings of loans and investments as set forth in items 1 through 10 of the Statement of Financial Position and are (1) Portfolio Securities, (2) Assets Acquired in Liquidation of Portfolio Securities, (3) Operating concerns acquired and (4) other securities.

In arriving at net unrealized gain (loss) on securities held, consideration must be given to unrealized appreciation (valuation above cost) and unrealized depreciation (valuation below cost) of such securities. After adjusting the net unrealized appreciation (depreciation) for the appropriate tax effect, the remaining

amount will represent unrealized gain (loss) on securities held.

Items 1 through 11 are without the estimated tax effect.

Item 1—the amount shown in column 3 Item 4 of the Statement of Financial Position.

Item 2—the amount shown in column 3 Item 7 of the Statement of Financial Position.

Item 3—the amount shown in column 3 Item 8 of the Statement of Financial Position.

Item 4—the amount shown in column 3 Item 9 of the Statement of Financial Position.

Item 5—the amount shown in column 3 Item 10 of the Statement of Financial Position.

Item 6—the amount shown in column 2 Item 4 of the Statement of Financial Position.

Item 7—the amount shown in column 2 Item 7 of the Statement of Financial Position.

Item 8—the amount shown in column 2 Item 8 of the Statement of Financial Position.

Item 9—the amount shown in column 2 Item 9 of the Statement of Financial Position.

Item 10—the amount shown in column 2 Item 10 of the Statement of Financial Position.

Item 11—Item 5 minus Item 10.

Item 12 will be the estimated taxes that would be due.

CAUTION DO NOT COMPUTE A TAX BENEFIT IF ITEM 13 IS A NET UNREALIZED DEPRECIATION.

Instructions Concerning Contingent Fees. If *ANY* person (officer, director, manager, or investment advisor whether individual, partnership or corporate) receives a fee, bonus or other type of emolument based on either income or gains summarize the pertinent provisions of manner in which the compensation is determined and include statement as to the amount of the recompense that would be due and the tax effect that would result and the change to the amount shown on line 13.

Realized Loss Experience on Receivables, Loans and Investments. Furnish in this schedule by categories shown, the amount of loss experienced on loans and investments as well as receivables resulting from income realization. The loss experience will be the actual loss experience during the current period. The amounts shall be rounded to the nearest thousand.

Name of licensee ..... Licensee Number

(Use Only if Licensee Is a Partnership)

Statement of Financial Position (continued) as of ——

Liabilities and Capital			
Long-Term Debt (Net of Current Maturities):			
27. Notes nd Debentures Payable to or Guaranteed by SBA			
28. Notes and Debentures Payable to Others			
29. Total			
Current Liabilities:			
30. Accounts Payable and Accounts Payable Due Parent			
31. Accrued Interest Payable			
32. Accrued Taxes Payable			
33. a. Current Maturities of line 27			
b. Current Maturities of line 28			
34. Distribution Payable			
35. Other Current Liabilities			
36. Total			
Other Liabilities:			
37. Trust Receipts			
38. Deferred Credits			
39. Other Liabilities			
40. Total Liabilities			
	General Partner(s)	Limited Partner(s)	Combined
Partnership Capital:			
41. Partners' Permanent Capital Contributed			
42. Unrealized Gain (Loss) on Securities Held			
43. Non-Cash Gains/Income [1]			
44. Undistributed Net Realized Earnings (Earned Capital)			
45. Total Partner's Capital			
46. Total Liabilities and Capital			

[1] Note to Item 43 should show (a) amount of non-cash gains on sale of securities and (b) income from investments reported on the equity method of accounting.

Item 27, Notes and Debentures Payable to or Guaranteed by SBA—Show the aggregate of balances in accounts 300, 301 and 310.

Item 28, Notes and Debentures Payable to Other—Show the aggregate of balances in accounts 311, 312, 313 and 320.

Item 29, Total—Show the aggregate of Items 27 and 28.

Item 30, Accounts Payable—Show the balance of account 340.

Item 31, Accrued Interest Payable—Show the balance of account 350.

Item 32, Accrued Taxes Payable—Show the aggregate of balances in accounts 351 and 354.

Item 33(a), Current Maturities of Line 27—Show the balance of account 330.

item 33(b), Current Maturities of Line 28—Show the balance of account 331.

Item 34 for Partnerships, Partnership Distributions Payable and Accounts Payable Due Partners—Show the aggregate of balances 365 through 369.

Item 35, Other Current Liabilities—Show the balance of account 358.

Item 36, Total—Show the aggregate of Items 30 through 35.

Item 37, Trust Receipts—Show the aggregate of balances in accounts 370, 374 and 378.

Item 38, Deferred Credits—Show the balances of accounts 380 and 383.

Item 39, Other Liabilities—Show the balance of account 390.

Item 40. Total Liabilities—Show the aggregate of Items 29 and 36 through 39.

The following accounts are applicable only to partnership licensees and are to be reported on the Statement of Financial Position for partnerships.

Item 41. Partner's Permanent Capital Contributions—Show the balances in accounts 470 through 476.

Item 42. Unrealized Gain (Loss) on Securities Held—Show the aggregate of balances of accounts 440 less 445.

Item 43. Non-Cash Gain/Income—Show the balance of account 450 and 468.

Item 44. Undistributed Net Realized Earnings—Show the balances in accounts 493 through 496.

Item 45. Total Partners Capital—Show the totals of Item 41 through 44.

Item 46. Total Liabilities and Capital—Show the total of Item 40 plus Item 45.

Name of licensee.....

License No.....

(Use Only if Licensee Is a Partnership)

Computation of Earnings Available for Distribution to Partners or Capitalization

Note.—Retained earnings available for distribution to partners and/or capitalization in accordance with SBA Regulations is computed as follows:

Undistributed Net Realized Earnings—Line 44	$
Less: Allowance For Loss on Loans and Investments	.....
Retained Earnings Available For Distribution or Capitalization	$

Statement of Undistributed Realized Earnings Lines 43 and 44

Description	Non-cash gains/ income (43)	Undistributed net earnings (44)
1. Beginning Balance		
2. Additions:		
a. Net Investment Income		
b. Realized Gain (Loss) on Sale of Securities		
c. Non-cash Gains on Distributions In Kind*		
d.		
e. Total Additions		
3. Adjust: Collections of Non-cash Gain	( )	
4. Total (Lines 1. 2. 3)		
5. Deductions:		
a. Distributions—Cash		
b. Distributions—In Kind**		
c.		
d. Total Deductions		
6. Ending Balance		

* Read instructions carefully.

** Name of SBC———.

Description of assets being distributed ———.

H. *Statement of Undistributed Realized Earnings (Part.)*. This statement is designed to analyze the activity in undistributed realized earnings by non-cash gains on sale of securities and undistributed net earnings realized. The ending balances of this statement are the same as items 43 and 44 on the Statement of Financial Position.

Column 1: Non-Cash Gains activity can be determined by reviewing account 450.

Column 2: Undistributed Net Earnings activity can be determined by reviewing account 451.

1. *Beginning Balance*—In column 1, show the beginning balances of accounts 450 and 468 in column 2, show the beginning balance of account 451. These amounts should agree with the ending balances shown on the statement for the prior period.

2. (a) *Net Investment Income*—State as undistributed net earnings that amount shown as item 31 on the Statement of Operations Realized.

(b) *Realized Gain (Loss) on Sale of Securities*—Show the balances in accounts 466 and 467.

(c) *Non-cash Gains on Distributions In Kind*—In column 1 report the amount of unrealized gains on any distributions in kind during the period covered by this report.

3. *Adjustments: Collections of Non-Cash Gains*—Will be a decrease in column 1 "Non-Cash Gains" and will be an increase in column 2 "Undistributed Net Earnings."

4. *Total*—Aggregate of lines 1, 2, & 3.

5. *Deductions:*

(a) *Distributions to Partners*—are to be paid out of undistributed earnings only. Therefore, distributions will be entered in column 2.

(b) *Dividends In Kind*—Column 1 show the amount of non-cash gain reported in column 1 Item 2(c). In column 2 show the cost of the asset being distributed. The total is the value as reported for the asset on the SBA Form 468 immediately prior to the distribution.

6. *Ending Balance*—is determined by subtracting 5(d) "Total Deductions" from item 4 which represents the beginning balance plus additions.

(Use Only if Licensee Is a Partnership)

Name of Licensee.....

License No.....

Statement of operations realized for — months ended ———

Investment income:

1. Interest on Loans and Debt Securities.....
2. Dividend Income.....

3. Income from Investments Reported on the Equity Method of Accounting	
4. Management Services	
5. Application and Other Fees	
6. Interest on Invested Idle Funds	
7. Income from Assets Acquired in Liquidation of Loans and Investments (Net of $ ——— Expenses)	
8. Other Income*	
9. Gross Investment Income	
Expenses:	
10. Interest on Long-term Debt	
11. Commitment Fees	
12. Other Financial Costs	
13. Partners' Salaries	
14. Employee Salaries	
15. Employee Benefits	
16. Investment Advisory and Management Services	
17. General and Limited Partners' Meetings	
18. Advertising & Promotion	
19. Appraisal & Investigation	
20. Communication	
21. Legal Fees	
22. Travel Expense	
23. Cost of Space Occupied	
24. Depreciation and Amortization Expense	
25. Audit and Examination Fees	
26. Insurance Expense	
27. Taxes Expense	
28. Provision for Losses on Accounts Receivables	
29. Miscellaneous Expenses*	
30. Total Expenses	
31. Net Investment Income	
Realized Gain (Loss) on Sale of Securities:	
32. Net Sale Price	
33. Cost of Securities Sold	
34. REALIZED GAIN (LOSS) ON SALE OF SECURITIES	

* Give supporting details on items 8 and 29.

1. *Statement of Operations Realized—Partnerships.* This statement is designed to measure separately Net Investment Income and Realized Gain (Loss) on Sale of Securities. Such measurement is of realized operations only and is on the accrual basis of accounting.

1. *Net Investment Income*—is the result of measuring revenue and expense associated with investment and management assistance activities of a licensee other than realized gain (loss) on securities sold. Revenue is organized by source; i.e., from portfolio, from services provided, or from other sources.

2. *Realized Gain (Loss) on Sale of Securities*—is a function of operations that is measured separately from Net Investment Income. While the Statement of Realized Gain (Loss) on Sale of Securities provides a detailed analysis of realized gain or losses, the Statement of Operations shows in the aggregate, net sales price of securities sold during the period, the cost of such securities sold, the remainder becomes net realized gain (loss) on sale of securities.

Although an allowance for loss on securities may be established for valuation and in some cases tax purposes, such allowances when provided are not reflected as an expense in measuring investment income. Rather, they are measured in the Statement of Unrealized Gain (Loss) on Securities Held as a component of unrealized depreciation which is an offset against unrealized appreciation. For this reason, the entire loss is reported in this statement when realized and the allowance for loss on the security is reduced by the amount of allowance previously established.

3. *Description by Line Item*—The following is a description by line item as to how the amounts shown on the Statement of Operations Realized are developed.

a. *Investment Income*—the amounts shown in items 1 through 35 of this statement are derived primarily from the general ledger accounts as follows.

Item 1, Interest on Loans and Debt Securities—Show the aggregate of balances in accounts 512, 516 and 541.

Item 2, Dividend Income—Show balance of account 540.

Item 3, Income from Investments Reported The Equity Method of Accounting—Show the balance of account 542.

Item 4, Management Services—Show the balance of account 532.

Item 5, Application and Other Fees—Show the aggregate of balances in accounts 500, 534 and 536.

Item 6, Interest on Invested Idle Funds—Show the balance of account 510.

Item 7, Income from Assets Acquired in Liquidation of Portfolio Securities—Show the balance of account 582 net of the balance of account 710. Also, show the balance of account 710 parenthetically.

Item 8, Other Income—Show the aggregate of balances in accounts 520 and 584.

Item 9, Gross Investment Income—Show the aggregate of Items 1 through 8.

Item 10, Interest on Long-term Debt—Show the aggregate of balances in accounts 610 and 622.

Item 11, Commitment Fees—Show the balance of account 600.

Item 12, Other Financial Costs—Show the balance of account 642.

Item 13, Partners Salaries—Show the balance of account 663–1.

Item 14, Employee Salaries—Show the balance of account 663–2.

Item 15, Employee Benefits—Show the balance of account 670.

Item 16, Investment Advisory and Management Service—Show the balance of accounts 659 and 660.

Item 17, General and Limited Partners' Meetings—Show the balance of account 657–2.

Item 18, Advertising and Promotion—Show the balance of account 650.

Item 19, Appraisal and Investigation—Show the balance of account 651.

Item 20, Communication—Show the balance of account 653.

Item 21, Legal Fees—Show the balance of account 661.

Item 22, Travel Expense—Show the balance of account 665.

Item 23, Cost of Space Occupied—Show the balance of account 654.

Item 24, Depreciation & Amortization Expense—Show the aggregate of balances in accounts 655 and 656.

Item 25, Audit and Examination Fees—Show the balance of account 652.

Item 26, Insurance Expense—Show the balance of account 658.

Item 27, Taxes Expense (Excluding Income Taxes)—Show the balance of account 664.

Item 28, Provision for Losses on Receivables—Show the balance of account 680.

Item 29, Miscellaneous Expenses—Show the aggregate of balances in accounts 672, 679, and 715.

Item 30, Total Expenses—Show the aggregate of Items 10 through 29.

Item 31, Net Investment Income—Show the balance of amount of Item 9 less Item 30.

b. *Realized Gain (Loss) on Sale of Securities*—

Item 32, Net Sales Price—Show Net Sales Price.

Item 33, Cost of Securities Sold—Show cost.

Item 34, Net Realized Gain (Loss) on Sale of Securities—Line 32 minus 33.

Analysis of Partners' Permanent Capital Contribution and Computation of Regulatory Capital

	General partner(s)	Limited partner(s)	Total
Permanent Capital Contribution:			
1. Balance at Beginning of Fiscal Year			
2. Additions:			
(a) Cash Contributions			
(b) Undistributed Net Realized Earnings Contributed to Permanent Capital			
(c) Permanent Capital Contributed for Services Rendered *			
(d) Permanent Capital Contributed for Other than Cash and Services *			
(e) Other Credits *			
3. Total Additions (The sum of Items 2(a) through 2(e))			
4. Subtotal (Line 1 plus Line 3)			
5. Deductions:			
(a) Complete Liquidation of Partners' Interest *			
(b) Partial Liquidation of Partners' Interest *			
(c) Partial Liquidation of All Partners' Interest *			
(d) Other Debits *			
6. Total Deductions (The sum of Items 5(a) through 5(d)			
7. Balance at End of Fiscal Year			
Computation of Regulatory Capital for Leverage Purposes:			
8. Regulatory Deductions: (Note 1)			
(a) Organization Expense (Note 2)			
(b) Permanent Capital Contributed for Services			
(c) Permanent Capital Contributed for Other than Cash or Services			
(d) Other Non-monetory Items			
(e) Investment in 301(d) Licensee			
(f) Other *			
9. Total Regulatory Deductions (The sum of Items 8(a) through 8(f)			
10. Regulatory Capital for Leverage Purposes (Line 7 minus line 9)			
Computation of Regulatory Capital for Overline Purposes:			
11. Net Unrealized Gains as Defined by Section 107.301(b) of the Regulations (Note 3)			
12. Regulatory Capital for Overline Purposes			

* Give complete details of these items by means of footnotes.

Note 1.—The deductions listed in Items 8(b), 8(c), 8(d) and 8(f) are the total amounts of these items from time of organization to the end of the reporting period.

Note 2.—If the amount of cash contributed for the organization expense was never credited to Permanent Capital, it should be so stated and explained by a footnote.

Note 3.—Licensees who rely on this section to increase the amount of their overline limitation will submit an addition to this schedule detailing the following information:

1. Name of small business concern
2. Market in which traded
3. Class of security
4. Cost
5. Value
6. Amount of unrealized appreciation
7. The total amount of unrealized appreciation on the securities listed
8. The other adjustments required by Section 107.303(b)
9. The net amount reported on line 11 of Statement of Unrealized Gains (Loss)
10. Names of market makers

Analysis of Partners' Permanent Capital Contributions and Computation of Regulatory Capital

Line 1 Enter the amount shown on Form 468 as the balance at the end of the prior fiscal period.

Line 2(a) Cash Contributions—Enter the amount of cash contributed to Permanent Capital during the year.

Line 2(b) Undistributed Net Realized Earnings Contributed to Permanent Capital—Enter the amount transferred from Undistributed Net Realized Earnings to Permanent Capital during the year.

Line 2(c) Permanent Capital Contributed for Services Rendered—Enter the amount of services rendered which was credited to permanent capital.

Line 2(d) Permanent Capital Contributed for Other than Cash or Services—Enter the amount credited to permanent capital and explain in detail by a footnote.

Line 3 Total Additions—Enter the total of lines 2(a) through 2(e).

Line 4 Subtotal—Enter the sum of lines 1 and 3.

Line 5(a) Complete Liquidation of Partner's Interest—Enter the amount of the interest of the partner whose capital is being liquidated.

Line 5(b) Partial Liquidation of Partner's Interest—Enter the amount of interest of the partner whose permanent capital is being partially liquidated.

Line 5(c) Partial Liquidation of All Partners' Interests—Enter the amount of interest of all partners that is being liquidated. In a footnote state whether SBA has approved of the partial liquidation and whether the liquidation is one of a series

leading to a complete liquidation. This line should be used when there is a pro-rata liquidation of "all" partners' interests. All means "substantially all" in terms of dollar value of the partners' Permanent Capital by class.

Line 5(d) Other Debits—Enter the amount of the other debits.

Line 6 Total Deductions—Enter the total of lines 5(a) through 5(d).

Line 7 Balance at the End of Fiscal Year—Subtract line 6 from line 4.

Line 8(a) Organization Expense—Enter the amount of organization expense whether or not amortized.

Line 8(b) Permanent Capital Contributed for Services—Enter the amount credited to Permanent Capital for Services since date of organization.

Line 8(c) Permanent Capital Contributed for Other than Cash or Services—Enter the amount credited to Permanent Capital for assets other than cash or services since date of organization. At such time as the asset is converted to cash, the amount of cash received may be considered to be a cash contribution to Permanent Capital. An adjustment to Permanent Capital may be necessary when the asset is converted to cash.

Line 8(d) Other Non-monetary Items—Enter the amount of other non-monetary items credited to Permanent Capital since date of organization.

Line 8(e) Investment in 301(d) Licensee—Enter the amount of investment in 301(d) licensee.

Line 8(f) Other—Enter the amount of other credits to Permanent Capital since date of organization.

Line 9 Total Regulatory Deductions—Enter the sum of lines 8(a) through 8(f).

Line 10 Regulatory Capital for Leverage Purposes—Subtract line 9 from line 7.

Line 11 Net Unrealized Gains as defined by section 107.303(b)—Go to Note 3, prepare the necessary information and enter the result here.

Line 12 Regulatory Capital for Overline Purposes—Add line 11 to line 10 and enter.

(Use Only if Licensee Is a Partnership)

Name of Licensee.....

License No.....

Statement of Changes in Financial Position for — Months Ended———

1. Beginning Cash and Invested Funds Position		$
Funds Were Provided From:		
2. Net Investment Income	$	
3. Depreciation, Amortization, Provision for Loss on Receivables		
4. Realized Gain (Loss) on Sale of Securities		
5. Decrease in Portfolio Securities		
6. Decrease in Assets Acquired		
7. Decrease in Operating Concerns Acquired		
8. Decrease in Other Securities		
9. Decrease in Current Assets (Excluding Cash and Invested Idle Funds)		
10. Decrease in Other Assets		
11. Increase in Current Liabilities		
12. Increase in Other Liabilities		
13. Increase in Long-Term Debt:		
a. Due to or Guaranteed by SBA		
b. Due to Others		
14. Sale of Additional Partnership Interests		
15. Total Funds Provided		$
16. Total Funds Available		$
Funds Were Used for:		
17. Increase in Portfolio Securities		
18. Increases in Assets Acquired		
19. Increase in Operating Concerns Acquired		
20. Increase in Other Securities		
21. Increase in Current Assets (Excluding Cash and Invested Idle Funds)		
22. Increase in Other Assets		
23. Decrease in Current Liabilities (Excluding Distributions to Partners)		
24. Decrease in Other Liabilities		
25. Decrease in Long-Term Debt:		
a. Due to or Guaranteed by SBA		
b. Due to Others		
26. Distributions to Partners		
27. Redemption of Partnership Interests		
28. Total Funds Used		
29. Ending Cash and Invested Idle Funds Position		

Note.—Unrealized Gain (Loss) on Securities Held is not reflected in the above statement as it has no effect upon source or application of funds. All increases and decreases from the balance sheet in the above schedule are net after the deduction of non-cash items Except the Non-Cash Items Reported on Line 3 Above. *Furnish a schedule of non-cash items for each applicable category.*

J. *Statement of Change in Financial Position for Partnership.* The Statement of Change in Financial Position is to be inclusive of all changes in financial position resulting from transactions. However, the statement does not include changes in unrealized gains (loss) on securities held which are based on subjective determinations by the General Partner(s) and not based on transactions. The objectives of this statement are (1) to summarize the extent to which the licensee has generated cash and invested idle funds and (2) to complete the disclosure of changes in financial position during the period.

The following description by line item explains how the amounts on the Statement of Changes in Financial Position are developed.

Item 1, Beginning Cash and Invested Funds Position—The total of line item 14, Cash, and line item 15, Invested Idle Funds Assets, as reported on Form 468 at the end of the prior fiscal period.

Funds were Provided From:

Item 2, Net Investment Income (Loss)—Enter the amount shown on line 31 of the Statement of Operations Realized.

Item 3, Depreciation, Amortizatio, Provision for Loss on Receivables—Enter the total of amounts shown in line items 24 and 28 of the Statement of Operations Realized and the amount of account 672 included in Item 29 of the Statement of Operations Realized.

Item 4, Realized Gain (Loss) on Sale of Securities—Enter the amount shown on line 33 of the Statement of Operations Realized.

Item 5, Decrease in Portfolio Securities—Enter the amount of net change in Item 4, Cost column of the Statement of Financial Position if that amount is a decrease during the period. Do not include current maturities.

Item 6, Decrease in Assets Acquired—Enter the amount of net change in Item 7, Cost column of the Statement of Financial Position if that amount is a decrease during the period. Do not include current maturities.

Item 7, Decrease in Operating Concerns Acquired—Enter the amount of net change in Item 8, Cost column of the Statement of Financial Position if that amount is a decrease during the period. Do not include current maturities.

Item 8, Decrease in Other Securities—Enter the amount of net change in Item 9, Cost column of the Statement of Financial Position if that amount is a decrease during the period. Do not include current maturities.

Item 9, Decrease in Current Assets (Excluding Cash and Invested Idle Funds)—Enter the amount of net change in Items 16 through 23 of the Statement of Financial Position if that amount is a decrease during the period.

Item 10, Decrease in Other Assets—Enter the amount of net change in Items 13, 24 and 25 of the Statement of Financial Position if that amount is a decrease during the period.

Item 11, Increase in Current Liabilities—Enter the amount of net change in Items 30 through 35 of the Statement of Financial Position if that amount is an increase during the period.

Item 12, Increase in Other Liabilities—Enter the amount of net change in Items 37, 38 and 39 of the Statement of Financial Position if that amount is an increase during the period. Do not include the amount of account 448.

Item 13(a), Due to or Guaranteed by SBA—Enter the amount of net change in Item 27 of the Statement of Financial Position if that amount is an increase during the period.

Item 13(b), Due Others—Enter the amount of net change in Item 28 of the Statement of Financial Position if that amount is an increase during the period.

Item 14, Sale of Additional Partnership Interests—Enter the amount of net change in Item 41 of the Statement of Financial Position if that amount is an increase during the period and the licensee is a partnership.

Item 15, Total Funds Provided—Enter the total of Items 2 through 14 of the Statement of Change in Financial Position.

Item 16, Total Funds Available—Enter the total of Items 1 and 15 of the Statement of Change in Financial Position.

Item 17, Increase in Portfolio Securities—Enter the amount of net change in Item 4 of the Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 18, Increase in Assets Acquired—Enter the amount of net change in Item 7, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 19, Increase in Operating Concerns Acquired—Enter the amount of net change in Item 8, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 20, Increase in Other Securities—Enter the amount of net change in Item 9, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 21, Increase in Current Assets (Excluding Cash and Invested Idle Funds)—Enter the amount of net change in Items 16 through 23, of the Statement of Financial Position if that amount is an increase during the period.

Item 22, Increase in Other Assets—Enter the amount of net change in Items 13, 24 and 25 of the Statement of Financial Position if that amount is an increase during the period.

Item 23, Decrease in Current Liabilities (Excluding Distributions to Partners)—Enter the amount of net change in Items 30 through 33 and Item 35 of the Statement of Financial Position if that amount is a decrease during the period.

Item 24, Decrease in Other Liabilities—Enter the amount of change in Items 37, 38 and 39 of the Statement of Financial Position if that amount is a decrease during the period. Do not include the amount of account 448.

Item 25(a), Due or Guaranteed by SBA—Enter the net amount of change in Item 27 of the Statement of Financial Position if that amount is a decrease during the period.

Item 25(b), Due Others—Enter the net amount of change in Item 28 of the Statement of Financial Position if the amount is a decrease during the period.

Item 26, Distribution to Partners—Enter the amount shown in accounts 365 through 369 of the Statement of Financial Position if that amount is a decrease during the period.

Item 27, Redemption of a Partnership Interests—Enter the amount of Item 41 of the Statement of Financial Position if that amount is a decrease during the period.

Item 28, Total Funds Used—Enter the sum of Items 17 through 27 of the Statement of Change in Financial Position.

Item 29, Ending Cash and Invested Idle Funds Position—Subtract Item 28 from Item 16. The balance will equal the sum of Items 14 plus 15 of the Statement of Financial Position.

(Use Only if Licensee Is a Partnership)

License No. .....

Licensee .....

Statement of Unrealized Gain (Loss) on Securities Held for — months ended———

	Beginning balance	Ending balance	(2)–(1) Net changes
	(1)	(2)	(3)
Unrealized Appreciation:			
1. Portfolio Securities			
2. Assets Acquired in Liquidation of Portfolio Securities			
3. Operating Concerns Acquired			
4. Other Securities			
5. Total (Note 1)			
Unrealized Depreciation:			
6. Portfolio Securities			
7. Assets Acquired in Liquidation of Portfolio Securites			
8. Operating Concerns Acquired			
9. Other Securities			
10. Total			

	Beginning balance	Ending balance	(2)–(1) Net changes
11. Unrealized Appreciation (Net of Depreciation) on Securities Held			

Realized Loss Experience on Receivables, Loans, and Investments

[Dollars Rounded to the Nearest Thousand]

Description	Current year loss
Notes, Accounts and Accrued Interest Receivable	
Loans	
Debt Securities	
Equity Interests	
Assets Acquired in Liquidation of Portfolio Securities	
Operating Concerns Acquired	
Other Securities	
Total	

Note (1).—Disclose by footnote the following information (a) The amount of any potential fees that would be due on the amount shown on line 5 if the amount of unrealized appreciation were to be realized. (b) For any person paid a percent or realized gain, supply the following information by footnote: (1) name, (2) title, (3) stock ownership, (4) percent to be paid.

K. *Statement of Unrealized Gain (Loss) on Securities Held.* This statement summarizes the results of the valuation process of securities held as of the statement date as compared to the previous statement date and discloses the net change in the Unrealized Gain (Loss) on Securities Held.

The types of securities held are the primary groupings of loans and investments as set forth in items 1 through 10 of the Statement of Financial Position and are (1) Portfolio Securities, (2) Assets Acquired in Liquidation of Portfolio Securities, (3) Operating concerns acquired and (4) other securities.

In arriving at net unrealized gain (loss) on securities held, consideration must be given to unrealized appreciation (valuation above cost) and unrealized depreciation (valuation below cost) of such securities. After adjusting the net unrealized appreciation (depreciation) for the appropriate tax effect, the remaining amount will represent unrealized gain (loss) on securities held.

Items 1 through 11 are without the estimated tax effect.

Item 1—the amount shown in column 3 Item 4 of the Statement of Financial Position.

Item 2—the amount shown in column 3 Item 7 of the Statement of Financial Position.

Item 3—the amount shown in column 3 Item 8 of the Statement of Financial Position.

Item 4—the amount shown in column 3 Item 9 of the Statement of Financial Position.

Item 5—the amount shown in column 3 Item 10 of the Statement of Financial Position.

Item 6—the amount shown in column 2 Item 4 of the Statement of Financial Position.

Item 7—the amount shown in column 2 Item 7 of the Statement of Financial Position.

Item 8—the amount shown in column 2 Item 8 of the Statement of Financial Position.

Item 9—the amount shown in column 2 Item 9 of the Statement of Financial Position.

Item 10—the amount shown in column 2 Item 10 of the Statement of Financial Position.

Item 11—Item 5 minus Item 10.

Instructions Concerning Contingent Fees. If *ANY* person (officer, director, manager, or investment advisor whether individual, partnership or corporate) receives a fee, bonus or other type of emolument based on either income or gains summarize the pertinent provisions of manner in which the compensation is determined and include statement as to the amount of the recompense that would be due and the change to the amount shown on line 11.

Realized Loss Experience on Receivables, Loans and Investments. Furnish in this schedule by categories shown, the amount of loss experience on loans and investments as well as receivables resulting from income realization. The loss experience will be the actual loss experience during the current period. The amounts shall be rounded to the nearest thousand.

This portion of statement is the basis for determining the loss experience of the industry.

Name of Licensee

License No

Statement of Commitments and Guarantees as of——

Description	Date made	Expiration date	Portfolio securities	Assets acquired	Operating concerns acquired
Commitments of Funding					
Total					
Guarantees to Others					
Total					

Description	Date made	Expiration date	Portfolio securities	Assets acquired	Operating concerns acquired
Total commitments and guarantees outstanding.....					

L. *Statement of Commitments and Guarantees.* This statement provides a schedule of outstanding commitments of the licensee to provide funds to small business concerns. It also shows by small business concern the amount of such concern's debt to a third party the licensee has guaranteed. Such amounts will be shown according to Portfolio Securities, Assets Acquired in Liquidation of Portfolio Securities, or operating concerns acquired.

The statement is completed as follows:

(1) Under Commitments of Funding, show the small business concern to whom the funds are committed. The amounts shown as commitments are derived from memorandum account CL-15.

(2) Under Guarantees to Others, show the name of the small business concern. The amounts shown as guarantees are derived from memoradum account CL-16.

Schedule 1

Name of Licensee..... License No.
Small Business Concern (Issuer) name. Street address..... City..... State
..... ZIP Code..... SIC Code..... Report for the months ended

Schedule of Investments

[In Dollars Only—No Cents]

[Including Participations Purchased and After Deduction of Participations Sold]

Description of investment	Loan debt equity	Pub PubRes NonPub NPRes Vent SpPort	DelPri DelInt D P&I	Principal balance of financing at beginning of period	Additions (deductions) during period	Principal balance of financing at close of period	Market, or fair value as determined by the board of directors	Unrealized—appreciation—(depreciation)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Schedule of Investments—Schedule 1

The Schedule of Investments will be prepared to show each investment by the licensee in each small business concern. A description of each column follows:

Column 1. Show each investment giving the following details:

Loans: Date of Loan
Amount of Original Loan
Interest Rate
Maturity Date
Repayment Terms
Collateral
If regular repayments are scheduled give details.

Debt: Date of Initial Investment
Amount of Investment
Interest Rate
Maturity Date
Repayment Terms
Equity Features (Include percent of ownership or potential ownership)

Stock: Date of Initial Investment
Amount of Investment
Type of Investment—i.e., common, preferred, common with warrants/options
Percent of Ownership
Equity Interest of Unincorporated SBC
Date of Initial Investment
Amount of Involvement
Percent of Ownership
How Share of Profit (Loss) Determined
Warrants, Options and Other Rights
Date of Initial Investment of Acquisition Cost (if any)
Percent of Ownership Represented
Additional Cost to Exercise

Column 2:

Opposite each investment the appropriate letter should appear

L—Loan
D—Debt Security
E—Equity

Column 3:

Opposite each investment the appropriate letter(s) should appear:

P—Public Traded
PR—Public Traded Restricted
N—Non-public
NR—Non-public—Restricted
V—Venture Capital
SD—Special Discretionary Portfolio

Column 4:

Definition of Delinquency: Any investment that a payment of principal and/or interest is 60 or more days past due.

Opposite each investment the appropriate letter should appear

DP—Delinquent as to Principal
DI—Delinquent as to Interest
DPI—Delinquent as to Principal and Interest

If the small business concern is delinquent in one or more of the licensee's investments an identification number should be assigned to the investment for identification on Schedule 2.

Details of delinquent investments should be shown on Schedule 2, Schedule of Delinquencies

Column 5:

Principal Balance at Beginning of Period. Show balance at cost at beginning of fiscal period.

Column 6:

Additions (Deductions) During Period
Show change during fiscal period
Details of changes, except for regularly scheduled repayments of loans or debt should be explained by footnote

Column 7:

Principal Balance at Close of Period
Show balance at close of period

Column 8:

Market or Fair Value as Determined by Board of Directors/General Partners

Column 9:

Unrealized Appreciation (Depreciation)
Column 9 minus Column 8

The total of all investments in any small business concern appearing in column, 5, 6, 7, 8, and 9 should be shown, a line drawn and the investments in the next SBC shown.

SCHEDULE 2

Name of Licensee..... License No..... Report for the..... Months ended

Schedule of Delinquencies

Small business concern name	Balance beginning of period	Balance end of period	Prin Int	Amount of delinquency at end of fiscal period	Date of last payment	No. of pays delq	Description of collateral	Fair market value of collateral
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Schedule of Delinquencies—Schedule 2

The schedule will give complete details of all investments reported as delinquent on Schedule 1, (Schedule of Investments). A separate line should be used to report an investment delinquent as to principal and interest in columns 5, 6 and 7.

Column 1. Give name of small business concern.

Column 2. Give balance of investment at beginning of fiscal period.

Column 3. Give balance of investment at end of fiscal period.

Column 4. Insert P for principal and/or I for interest if investment is delinquent as to both principal and interest use separate lines in columns 5, 6, and 7.

Column 5. Show the amount of delinquency at end of fiscal period.

Column 6. Show date of last payment.

Column 7. Show numbers of payments delinquent.

Column 8. If investment is collateralized describe collateral in sufficient detail for SBA to evaluate the fair market value of collateral.

Since various types of collateral may be offered, the amount of detail to be supplied should be what "any reasonable person" would require.

Column 9. Show the fair market value of the collateral as determined by the Board of Director/General Manager.

If any delinquencies existing at the balance sheet date have been resolved prior to issuance of Form 468 that fact should be appropriately noted in column 9 and the details of the manner in which the delinquency was resolved disclosed by a footnote on Schedule 2 or a separate sheet attached to Schedule 2.

SCHEDULE 3

Schedule of Changes in Operating Concerns Acquired

Name of SBC.....

Address..... Street Address..... City..... State

Description	Asset Changes				Commitments and guarantees	Total
	Loans (1)	Debt securities (2)	Equity** (3)	Total (4)	(5)	(6)
1. Balance, Beginning of Period*						
2. Add: Cash Additions						
3. Non-cash Additions						
4. Total (Lines 2 and 3)						
5. Less: Cash Deductions						
6. Non-cash Deductions						
7. Total (Lines 5 and 6)						
8. Net Increase (Decrease) Line 4 minus 7)						
9. Balance End of Period (Line 1 plus 8 (at cost)						
10. Less: Unrealized Depreciation						
11. Lower of Cost or Value (Line 9 Minus 10)						
12. Add: Unrealized Appreciation						
13. Fair Value (Line 11 plus 12)						

*Balance at Beginning of Period is Net of Unearned Discounts, Fees, Etc.

**Give Details of Equity By Reference to Schedule 1.

If Investment Has Been Sold, Show By Footnote—Cost—Sales Price—Gain—Cash Received—Non Cash Receipts.

Schedule of Changes in Operating Concerns Acquired—Schedule 3

A schedule 3 should be prepared for each small business concern acquired in which changes occurred.

SCHEDULE 4

Name of Licensee.....
License No.....
Participation [1] and joint financings as of ——————, 19——.....

Name of small business concern	LDE	Original total amount of financing [2]	Names of participating entities or those taking part in joint financing (identify initiating entity)	Reporting company's outstanding principal balance of—			Description of collateral showing percent applicable to each party and any preference to collateral
				Paticipation purchased [2]	Participation sold [2]	Joint financing [2]	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

[1] A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.
[2] Show participations in, or joint financings pertaining to, capital stock or warrants or options at cost.

Participations and Joint Financings—Schedule 4

Show in this schedule the financings in which the reporting licensee participated as well as financings made jointly by the reporting licensee and one or more other lenders or investors during the period or which were outstanding at any time during such period. Identify each item in column (1) name of the financed small business concern; indicate by appropriate letter in column (2) the type of financing (loan, debt security, stock, warrants, and options).

In column (3) show the original total amount contributed by all parties in the participation or joint financing. The name of such participating or joint financing entities (including the name of the reporting licensee) shall be shown in column (4) with appropriate indication as to which is the initiating (sponsoring) entity.

Show in column (5), (6), and (7), as appropriate, the reporting licensee's outstanding principal balance, or other cost, of participation purchased, participation sold, or joint financing, as of the close of the period covered in the report. Enter in column (8) a description of collateral pertaining to each financing, together with information as to the percentage applicable to each party and as to any preferences agreed upon.

Cash and Invested Idle Funds—Schedule 5

Cash will be reported on Schedule 5(a) and Invested Idle Funds will be reported on Schedule 5(b).

SCHEDULE 5.—CASH

Name of licensee ..... License No..... Date——————, 19——

Schedule 5A.—Cash

Name of depository (1)	Location of depository (2)	Amount (3)
1. General funds—demand balances with:		
(a)		
(b)		
(c)		
(d)		
(e)		
(f)		
(g)		
2. Deposits in imprest accounts with:		
(a)		
(b)		

Schedule 5A.—Cash—Continued

Name of depository (1)	Location of depository (2)	Amount (3)
(c)		
(d)		
(e)		
(f)		
(g)		
3. Other investments in insured institutions:		
(a)		
(b)		
(c)		
(d)		
(e)		
(f)		
(g)		
4. Cash items in process of collection	XXX	
5. Petty cash	XXX	
6.		
7.		
8.		
9.		
10.		
11. Total Cash	XXX	

Identify compensating balances by a footnote

Cash—Schedule 5(a)

Show cash on hand and in general funds demand deposits; funds in imprest bank accounts. Demand deposits are balances subject to withdrawal without notice and shall be in commercial banks which are members of the Federal Deposit Insurance Corporation. Cash items in process of collection represent those cash items which have been placed with banks for collection. Petty cash shall represent the full amount of the petty cash imprest fund. The amount shown on line 11 should be the same amount reported on line 14 of the Statement of Financial Position.

Schedule 5B.—Schedule of Invested Idle Funds

Name of Licensee.....
License No.....
Date ——————, 19——

Schedule 58–1.—U.S. Government Obligations, Direct and Fully Guaranteed

Name of issuer and title of issue (1)	Interest rate (2)	Call date (3)	Maturity date (4)	Principal at Par (5)	Principal at cost (6)	Market value (7)
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10. Totals						

Schedule 58–2.—Insured Savings, and Time Certificates of Deposit

Name and location of depository				
Insured savings (1)	Time certificates of deposit (2)	Interest rate (3)	Insured savings balance (4)	Time certificates of deposit balance (5)
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				
16.				
17. Totals				
18. Total Insured Savings and Time Certificates of Deposit (column (4) plus column (5) item 17)				XXX
19. Total U.S. Government Obligations, Insured Savings, and Time Certificates of Deposit (item 18 plus total column (6) Schedule 5(b)(1)				XXX

Invested Idle Funds—Schedule 5(b)

Show in Schedule 5b(1) securities owned which have been issued or guaranteed by the U.S. Government, showing the name of the issuer and the title of each issue. Other required data, such as interest rate, call date, maturity date, and principal amount at par of bonds and notes, may be obtained by inspection of the securities or from records of securities pledged. The cost of the securities shall be shown in column (6) and the current market value thereof in column (7).

Show in Schedule 5b(2) funds invested in insured savings accounts and funds on time deposit evidenced by time certificates of deposit. Savings accounts shall be with institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation. Time deposits shall include all time certificates of deposit held by the company in commercial banks which are members of the Federal Deposit Insurance Corporation.

The amount shown in Schedule 5(b)(2) line 19 represents invested idle funds and should be the same amount as shown on line 15 of the Statement of Financial Position.

The amounts contained in this schedule can be obtained from the accounts as follows:

In Schedule 5(a), item 1 is based on accounts 100 through 108, item 2 is based on accounts 110 through 112, item 3 is based on account 118, and item 4 is based on account 120.

Schedule 5(b)(1) is based on account 130.

In Schedule 5(b)(2), columns 1 and 4 are based on accounts 131 through 134, and columns 2 and 5 are based on accounts 135 through 137.

In column 3 enter the rate of interest.

Schedule 6

Name of Licensee.....

License No.....

Schedule of Average Cash and Invested Idle Funds Balances on a Monthly Basis for Fiscal Year Ended ——

Determination of Inactivity

Month and Year	(1) Cash	+	(2) Idle funds	=	(3) Total
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13. Totals					

14. Average Idle Funds (Line 13 column 3 ÷ 12).
15. Line 26 of statement of financial position value at cost.
16. Twenty-five percent of Line 15.
17. Is Line 16 larger than line 14? ☐ Yes —— ☐ No ——
    If ANSWER IS YES—STOP.
    If ANSWER IS NO—CONTINUE.
18. Twenty-five percent of Line 14.
19. Amount of financing during the past 18 months.
20. Is Line 19 larger than Line 18? ☐ Yes —— ☐ No ——
    If ANSWER IS YES—STOP.
    If ANSWER IS NO—LICENSEE IS INACTIVE.

Average Cash and Invested Idle Fund Balances on a Monthly Basis—Schedule 6

This schedule is designed to measure cash or cash items available for investment and is a basis for measuring the licensee's level of activity.

A monthly average is to be computed which fairly represents cash and invested idle funds available during the month. The average amount of cash available can usually be obtained from the licensee's bank statements. The average of invested idle funds is to be a "simple" average based on the number of days in the month and giving consideration to the liquidation value of such short-term securities.

The schedule is to include the 12-month period prior to the statement date. Should there be cash or idle funds that are encumbered or restricted (compensating balances, pledged funds, etc.), such amounts will be eliminated.

The amounts contained in the schedule can be obtained from the accounts as follows:

Column 1, cash, is based on accounts 100 through 120.

Column 2, idle funds, is based on accounts 130 through 138.

If the computation as shown on Schedule 6 show the licensee to be inactive as defined by Regulation, licensee should attach a statement listing extenuating circumstances, if any exist.

Schedule 1

[Use Only If Licensee Is a Corporation]

Name of Licensee.....

License No.....

Schedule 1—Continued

[Use Only If Licensee Is a Corporation]

As of ——————, 19——

Shareholders, Officers, and Directors of the Licensee

Name and address	Officer, director, and manager, give exact title	Title of class	Type of ownership	Amount owned		Percent owned of class outstanding
				Number of shares	Total par or stated value	
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Totals by Class			X X X			

Shareholders, Officers, and Directors of the Licensee—Schedule 7

Furnish in this schedule the information as required by the form regarding equity securities issued by the licensee and regarding the licensee's officers, directors and manager.

in column (1) list:

(a) Each person or company directly or indirectly owning, controlling, or holding with power to vote, 10 percent or more of the outstanding voting securities of the company.

(b) Each person or company owning of record or being known to own beneficially more than 10 percent of any other class of equity securities of the company.

(c) Each officer, director, or manager of the licensee. (List and identify officers and directors, and manager regardless of whether or not they own any equity securities of the company.)

Show in column (2) whether each natural person listed in column (1) is an officer, director, manager of the licensee or specific combination of any of the three and the total remuneration for the period received by each from the licensee. Column (3) shall show the title of each class of stock owned by any person or company and column (4) shall indicate whether the securities of the specific class are owned both of record and beneficially, or record only, or beneficially only.

In column (5), (6), and (7), respectively, show the number of shares of each class owned by each listed person or company, the total par or stated value of such shares, and the percentage of the total number of shares of this class outstanding which is represented by the shares owned by the particular person or company.

Summarize the foregoing information by class of equity security at the bottom of the schedule.

Schedule 7

[Use Only if Licensee Is A Partnership]

Name of licensee.....

License No.....

As of——————, 19——

General Partners, Limited Partners and Advisory Directors of the Licensee

Name and address	Officer, director, and manager* give exact title	General or limited partner	Type of ownership	Amount owned		Percent owned of class outstanding
				Percent of total partnership	Total dollar value	
(1)	(2)	(2)	(4)	(5)	(6)	(7)

*See Glossary For Definitions: Totals by class—General partner, X; Limited partner, X; General partner, X.

General Partners, and all control persons whether limited partner, advisory director or other person–Schedule 7

Furnish in this schedule the information as required regarding the partnership interests of the licensee and licensees partners. The definitions of Director and Executive Officer should be reviewed to insure that the Schedule is complete.

In Column 1 list:

(a) each person or company directly or indirectly owning or controlling a 10 percent or more partnership interest.

(b) each officer, director or manager of the licensee whether or not they own any partnership interest.

Show in column 2 whether any person listed in column 1 is an officer, director, manager of the licensee or specific combination of any of the three and the total remuneration for the period received by each from the licensee.

Column 3 shall show the type of partnership interest (general or limited) of each listed person.

Column 4 shall indicate whether the partnership interest is owned both of record and beneficially, of record only or beneficially only.

Column 5 will show the percent of total partnership interest owned.

Column 6 will show the total dollars of Partner's capital contribution.

Column 7 will show the percent owned of the total general partnership interest or the percent of the total limited partnership interests.

Management Certification

The Annual Report for Fiscal Year Ended ———, 19— submitted by ——— (Licensee) to the Small Business Administration, and consisting of the Audited Financial Statements specified in SBA Form 468 (except those statements listed below which have been omitted) are hereby certified to be correct.

Date: ———
Chief Financial Officer:[1] ———
Title: ———
Statements and Schedules Omitted:

VERIFICATION

I hereby attest that the minutes of the meeting of Board of Directors [1] of ——— (Licensee) on ———, 19—, show that the Board[1] at such meeting, reviewed and approved the Annual Report of such company for the Fiscal Year Ended ———, 19—, covered by the above certification of the chief financial officer.

Date ———
Secretary[1] ———

Title 18, Sections 1001 and 1006 of the U.S. Code subjects to punishment by fine and/or imprisonment any person who makes any oral or written statements, entry or representation to SBA, knowing it to be false, or willfully conceals a material fact, in a matter within SBA's jurisdiction or who with intent to defraud directly or indirectly shares any benefits derived from any act of an SBIC. Title 15, Section 645(a) subjects to punishment by fine and/or imprisonment any person making a false statement or willfully overvaluing any security, for the purpose of obtaining for himself or another any loan, extension thereof, or the acceptance, release, or substitution of security therefore, or for the purpose of influencing in any way the action of SBA, or for the purpose of obtaining money or anything of value.

Appendix II—Chart of Accounts for SBICs

Table of Contents

I. Introduction

A. *Statement of Policy.* Small Business Investment Companies (SBICs) licensed by the Small Business Administration (SBA) including 301(d) licensees are to maintain their books of account in accordance with the system of account classification and accounting policies herein prescribed. Accounting principles and practices set forth herein are in accordance with generally accepted accounting principles for investment companies as set forth by the American Institute of Certified Public Accountants.

The system of account classification is adaptable to manual or machine accounting procedures employing the double-entry method of accounting, and is otherwise designed to meet the specific needs of companies licensed in accordance with the provisions of the Small Business Investment Act of 1958, as amended.

Nothing contained in this system of account classification can/or is intended to authorize or approve any operation or action by a licensee, or any other action, not authorized or approved by the Small Business Investment Act of 1958, as amended, or the Rules and Regulations promulgated thereunder.

This system of Account Classification was prepared by the SBA. Any inquiries or comments relating to the system should be directed to the Staff Accountant, Investment Division, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

B. *Purpose of the System.* This system has been prescribed to insure that standard books of account are maintained by licensees and that uniform accounting policies are followed. By design, the system is basic and may be expanded by a licensee if necessary.

C. *Maintenance and Retention of Records.* The licensee's books and records shall be maintained at its principal place of business. Books and records shall include its books of account, and other records, and memoranda which support the entries in its books of account. These supporting records shall be maintained in such manner as to be able readily to furnish information on any item included in any account. The books and records referred to herein include not only accounting records in a limited technical sense, but other records, such as minute books, capital stock records, reports, correspondence, and memoranda which may be useful in developing the history of, or facts regarding, any transaction.

Memorandum Accounts are included in the chart of accounts to facilitate record keeping of nominal assets, contingent liabilities, commitments to provide future financing (directly or through participations) and guarantees.

Section 107.1002 of SBA Rules and Regulations specifies the time period licensee's records are to be maintained.

II. Accounting Policies and Practices

As a general rule, accounting policies followed by licensees are those promulgated by the American Institute of CAP's as generally accepted accounting principles. Certain of these principles and practices are prescribed in the AICPA's Audit Guide for Investment Companies.

The significant accounting policies licensees are to follow are summarized below. The summary is intended to highlight the more important accounting policies and practices rather than being an all inclusive statement.

A. *Accrual Basis of Accounting.* Books of account shall be maintained on an accrual basis and, at the end of each month, transactions shall be posted to the General Ledger. Entering in the records and posting to the General Ledger of accruals applicable to each month is optional but all accruals are to be entered in the records and posted at the end of the fiscal year, and as of such other dates as mark the close of periods to be covered by interim or special financial reports required to be furnished to SBA.

B. *Accounting and Reporting Loans and Investments on the Value Basis.* Loans and investments will be recorded at cost. However, unrealized appreciation or depreciation of such securities will be recognized in the accounts and as such will result in fair value accounting for loans and investments.

The practice of valuing loans and investments and reflecting in the accounts the resulting unrealized gain (loss) on such securities held has been expressed by the American Institute of CPA's as being a generally accepted accounting practice for investment companies. Accordingly, this practice has been adopted for SBICs.

The adoption of this practice causes unrealized appreciation on loans and investments to be recognized in the accounts. Unrealized depreciation, essentially allowance for losses, has always been recognized. An appropriate tax provision will be established for net unrealized appreciation or depreciation on securities held for all corporate SBICs. No provision for taxes is necessary for limited partnership SBICs.

C. *Equity Method of Accounting.* The carrying value of equity interests in unincorporated concerns will be determined by the equity method of accounting. However, for valuation purposes, the fair value of accounting will be used for the equity interest in unincorporated concerns.

[1] See Glossary For Definitions and Explain Correct title in this space.

The equity method of accounting will also apply to the investment in 301(d) licensees. Accordingly, an SBICs investment account will be adjusted for its proportionate share of net income (loss) of such investee as well as dividends paid by the investee. The result will be an investment carried at the book value of such stock.

Income reported on the equity method of accounting will be reported as a non-cash item of income.

D. 1. *Management Consulting Subsidiary for Corporate SBICs.* According to § 107.501(c) of SBA Regulations, consolidated financial statements are to be submitted to SBA when a licensee has a management consulting subsidiary, books of account are to be maintained for the subsidiary so as to properly account for its financial position and result of operations. Such accounts should also be compatible with this system of accounts.

Consolidated statements will include only the licensee and the management consulting subsidiary. Other subsidiaries are not to be reported on a consolidated basis.

2. *Management Consulting Company Investment of Limited Partnership SBICs.* Limited partnership, legally and technically, do not have subsidiaries. A limited partnership SBIC may have an investment in a management consulting company. It is required that in such cases the limited partnership SBIC will own 100 percent of the stock of the management consulting company. The investment in the management consulting company will be accounted for on the records of the limited partnership by the equity method. A combined balance sheet and statement of operations for the limited partnership SBIC and the management consulting company will be filed with SBA in addition to the annual report on SBA Form 468 and supporting schedules required for the limited partnership SBIC.

E. *Tax Allocation Policy.* Tax allocation policies as set forth in Accounting Principles Board Opinion No. 11, *Accounting for Income Taxes,* effective December 31, 1967, will be followed by licensees in accounting for income taxes.

A difference between the amount of gain or loss recognized for tax purposes and that recognized for accounting purposes may constitute a timing difference to be accounted for according to APB Opinion No. 11.

Such differences will result in either deferred credits or deferred charges to future income taxes.

The licensee and its accountant should also follow the current amendments and/or clarifications or interpretations to APB 11 which include FASB 37, FASB Interpretation 29 and FASB Technical Bulletin 82–1.

FASB Interpretation 29 is not an amendment of APB 11.

FASB Technical Bulletin 82–1 is not an amendment it is a clarification on disclosure only.

F. *Accounting for Dividend and Interest Income.*— 1. *Dividend Income*—As a general rule, cash dividends on investment securities are recorded as of the ex-dividend date. Occasionally, cash distributions represent a return of capital; under these circumstances the distributions should be credited to the investment account rather than to income.

Stock splits and dividends in stock of the same class as that owned, are not recorded as income since the Licensee's equity interest in the company declaring the dividend or split has not changed.

Dividends in kind are generally recorded as non-cash income at the fair value of the property received. When the recipient Licensee has the option to receive cash or stock, income should be recorded for the amount of cash that could have been received. When stock rights are received, a portion of the cost basis of the related investment may be allocated to the rights on a pro rata cost basis.

2. *Interest Income*—Interest Income will be accrued according to terms of interest bearing loans and investments. Interest will not be accrued if the ability of the small business concern to pay such accrued interest is doubtful. Indicators of uncollectible accrued interest arise when the SBC is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Other indicators are when principal and/or interest payments are in default more then 6 months or when the Board of Directors values the security below cost and considers collection to be doubtful.

Unearned premiums or discounts are an adjustment of interest income and are to be amortized over the stated life of the debt instrument on a ratable basis.

Interest on invested idle funds is usually accrued on a monthly basis.

G. *Profit Sharing.* As a general rule, profit sharing with the financed concern is an adjustment of the interest rate. An exception to this rule can arise when the licensee makes an investment in an unincorporated concern which takes the form of an equity interest rather than a loan, and the financed concern treats the profit sharing as an equity distribution rather than an expense.

H. *Financing Discounts and Fees.* Discounts on debt instruments resulting from financing made to small business concerns are considered an upward adjustment of the interest rate and are to be amortized over the stated life of the instrument on a ratable basis. Accordingly, the discount is considered earned as it is amortized.

Fees as a general rule, are considered earned at the time of financing since they are for services rendered in connection with the financing. To the extent fees are for services to be rendered in the future, such amount will be considered unearned until the services are performed, at which time such fees will be considered earned.

I. *Realization of Gain (Loss) on Sale of Securities.* In accordance with the accrual basis of accounting, gain or loss on sale of securities or other assets of a licensee will be realized at the time of sale rather than at the time of collection. this practice assumes that the sale represents the final transaction, that the collectability of the gain is reasonably assured, and that the earnings process is complete, i.e., the licensee is not obligated to perform significant activities after the sale in order to earn the gain. Accordingly, this practice of recognizing gain is in accordance with generally accepted accounting principles.

Any transaction with recourse upon the licensee or involving any understanding, agreement, option, privilege, or other rights to repurchase by and/or resell to the Licensee may not be considered as a final transaction.

Any gain on sale of securities which does not qualify as realized gain in accordance with the foregoing shall be deferred pending such realization.

When part of the net sales price is other than cash, gain will be realized at the time of sale unless the sale is not a final transaction or unless collection of the proceeds is not reasonably assured. However, such non-cash gains will be restricted in the sense that they will be unavailable for capitalization or distribution until converted to cash. When collected, application of cash will first be made to the recovery of the licensee's cost of securities sold and then to gain. This is not the cost recovery method if the gain is recognized at the time of sale. It is a method of calculating gains available for distribution similar to the cost recovery method.

Losses are recognized at the point of sale and are shown as a reduction of undistributed net earnings realized. They have no effect on non-cash gains.

Cost of securities sold is usually the carrying value of such assets on the licensee's books. Occasionally, a licensee will acquire shares of an investee's stock (which shares are of the same class) at different times and prices. The average cost method of determining cost of such securities when sold is preferred. If a basis other than the average cost method is used, the difference (if material) in gain (loss) between that determined on the average cost method and that on the method actually used should be disclosed.

J. *Unrealized Gain (Loss) on Securities Held.* Unrealized gain (loss) on securities held results from the licensee's directors/general partner(s) valuation of Loans and Investments. Unrealized appreciation represents the valuation above cost and unrealized depreciation represents valuation below cost. After considering an appropriate provision for taxes, the net amount will be unrealized gain (loss) on securities held for corporate licensees. Limited partnership licensees will not have a provision for taxes.

The Statement of Operations measures the realized activities of a licensee that can be objectively measured. Unrealized gain (loss) on securities held is in many ways a subjective determination by a licensee: therefore, measurement in a separate statement would be most appropriate with the final results being reflected in the equity section of the Statement of Financial Position. Accordingly, unrealized gain (loss) on securities held will be measured separately in the equity accounts rather than being a measurement of earnings. Such accounting treatment is not at variance with Accounting Principles Board Opinion No. 9, *Reporting the Results of Operations,* issued by the AICPA and effective December 31, 1966, or with accounting practices set forth in the AICPA Audit Guide for Investment Companies as applied to SBICs.

K. *Undistributed Realized Earnings.* Undistributed realized earnings will encompass all realized earnings whether in cash or non-monetary receipts such as notes

receivable, stock, etc. Earnings realized in other than cash will not be available for distribution or otherwise made available for capitalization until converted to cash. Gain or loss on securities held is unrealized and, therefore, not measured in undistributed earnings.

L. *Accounting for Non-Monetary Transactions.* Non-monetary transactions involve both reciprocal and non-reciprocal transfers of assets or liabilities not involving cash between the licensee and another entity or person, or between the licensee and its stockholders/partners. Accounting Principles Board Opinion No. 29, issued by the AICPA and effective October 1, 1973, should be followed by licensees to the extent applicable when accounting for non-monetary transactions.

1. *Loan and Investment Transactions*—Non-monetary exchanges with portfolio concerns or others whereby the licensee transfers certain securities or assets for other securities or assets will not be considered transactions where gain (loss) is realized whether such transactions are taxable or non-taxable exchanges. The accounting basis for assets received will be the same basis as assets transferred and unrealized gain (loss) on securities held will be the result of the valuation process.

2. *Dividends and Spin-offs*—Dividends in kind are nonreciprocal transfers of non-monetary assets to owners and should be accounted for at fair value. Fair is defined as being not less than the value as reported on the most recent SBA Form 468 and the gain will be reported as a non-cash gain.

Assume the following facts:

Licensee has an investment. Cost $100 Value $500, and wishes to distribute the asset to the shareholders. If this item is isolated from the remainder of the records the balance sheet would appear as follows:

The appropriate asset account	$100	
The appropriate appreciation account	400	
Account 440-Stockholders Unrealized Appreciation on Loans and Investments		$400
Account 451-Stockholders Undistributed Net Realized Earnings		100

At the time that a decision is made to distribute the asset, immediately prior to distribution the licensee will make the following journal entries:

1. Dr Account 440-Stockholders Unrealized Appreciation on Loans and Investments	$400	
Cr Account 450-Stockholders Non-cash Gains on Sale of Securities		$400

Explanation—The distribution of the asset is equivalent to a sale which results in a non-cash gain.

2. Dr The appropriate asset account	$400	
Cr The appropriate appreciation account		$400

Explanation: The appreciation of the asset has been now realized.

At the time of distribution the following entry would be made.

3. Dr Account 450-Stockholders' Non-cash Gain on Sales of Assets	$400	
Dr Account 451-Stockholders Net Realized Earnings	100	
Cr The appropriate asset account		$500

M. *Special Policies Applying to 301(d) Licensees.*—1. *Three percent non-voting Preferred Stock Purchased by SBA.* Although considered leverage funds, preferred stock purchased by SBA of a 301(d) licensee is treated like other equity securities for *accounting purposes.* Dividends on such stock receive the conventional treatment of dividends and are declared and paid out of "retained earnings". If arrearages of dividends exist on the preferred stock purchased by SBA, the balance sheet should indicate that a footnote should be read in conjunction with the preferred stock. The footnote should explain the amount of the arrearages and the number of arrearages. Dividends or other distributions may not be made if (a) Retained Earnings is a deficit or (b) there are any arrearages of dividends on preferred stock issued to SBA.

2. *Capitalized Operating Expenses.* Frequently, 301(d) licensees that have parent companies will be allowed to increase capital by transfers of allocated operating expenses incurred on the part of the licensee but paid for by the parent company. Another form of the same type of transaction exists when the parent company increases private capital of a subsidiary licensee by a cash transfer in which funds are designed to be used for budgeted operating expenses.

Such transfers will be deferred (account No. 383) expenses rather than assets on the basis that they have no future value.

N. *Allowance for Losses on Loans and Investments.* The value basis of accounting does not contemplate a general allowance for losses on loans and investments as does the cost basis. Rather, value accounting requires the licensee's Board of Directors/General Partner(s) to value each loan or investment as of the statement date. When value is determined to be less than cost, unrealized depreciation will result. The Unrealized Depreciation, which is the SBIC's good faith valuation of certain investments below cost, is the amount that should be shown as an "Allowance for Losses on Loans and Investments" in the Computation of Earnings Available for Dividend Declaration or Capitalization. The total amount shown on Line Item 10, Column 2, of the Statement of Financial Position should, under normal conditions, be the amount of the "Allowance for Losses." Any material difference between the amount reported on Line 10, Column 2 of the Statement of Financial Position and the amount reported as the Allowance for Losses on Loans and Investments in the Computation of Earnings Available for Dividend Declaration or Capitalization should be explained by a footnote(s). It should be noted, however, that the adoption of value accounting will have no effect on the licensee's reserve for losses for tax purposes (see I.R.C.)

III. Chart of Accounts

A. *Account Numbering System.* This system provides for two-digit number designations for major categories under which accounts are listed, and three-digit number designations for individual general ledger accounts. The first two digits of an individual account number refer to the major category under which the account is classified and the third digit identifies the specific account. Digits from zero through nine are use to identify specific accounts; the first deposit bank account established will be designed "100" and the second "101." It will be noted that some categories encompass individual accounts in sufficient number to require assignment of more than one two-digit number to identify the category. For example, "Cash on Hand and in Banks" has been assigned category numbers "10," "11," and "12."

B. *Additional Accounts.* Licensees may incorporate such additional accounts into their accounting system as are considered necessary.

Any account may be subdivided provided that such subaccounts do not impair the integrity of the accounts set forth in the prescribed system. Subaccounts shall refer by number and title to the accounts to which they apply. Use of a decimal system is required for extending the account numbers to identify such subaccounts.

C. *Primary Classification of Accounts.* The primary classification of accounts is as follows:

Account No.	Description
General Ledger	
100 to 299	Asset and valuation accounts.
300 to 399	Liability accounts.
400 to 499	Capital accounts.
500 to 599	Income accounts.
600 to 699	Expense accounts.
Memorandum Records	
NA-10-NA-14	Nominal assets.
CL-15-CI-17	Contingent liabilities.
OCS-1	Options on company's stock.
AL-1	Actual (realized) losses.
WI	Worthless investments-written off.
PDA	Preferred dividend arrearages on preferred stock sold SBA.

D. *Detail Chart of Accounts.* The detail chart of accounts is organized according to the primary classification of accounts and identifies the account number and title of each account. The page where a description of the account can be found is indicated at the right of the account title.

Asset and Valuation Accounts

10-12—Cash on Hand and in Banks

100-108—Deposits in _____ bank.
110-112—Deposits in imprest account in _____ bank.
118—Cash items in process of collection.
120—Petty cash fund.

13—Invested Idle Funds

130—U.S. Government obligations, direct and fully guaranteed.
131—Insured savings accounts.
135-137—Time certificates of deposit in _____ bank.
138—Other investments in insured institutions.

14—Receivables

140—Notes receivable.
141—Accounts receivable.
142—Allowance for uncollectible notes and accounts receivable.
143—Accrued interest receivable.
144—Allowances for uncollectible interest receivable.
145—Dividends receivable.
146—Receivables from parent.

15—Current Maturities and Other Current Assets

150—Current maturities on portfolio securities.
152—Current maturities on assets acquired in liquidation of portfolio securities.
153—Current maturities on operating concerns acquired.
154—Current maturities on other securities.
156—Other current assets.

18—Investment in 301(d) Licensee

160—Investment in 301(d) licensee.

17—Loans to Small Business Concerns

170—Loans.
171—Appreciation of loan values.
172—Depreciation of loan values.
173—Unearned discount, fees, and other charges on loans.

18—Debt Securities of Small Business Concerns

180—Debt securities, convertible, and with stock purchase warrants or options.
184—Debt securities divested of stock rights.
186—Appreciation of debt securities values.
187—Depreciation of debt securities values.
188—Unearned discount, fees, and other charges on debt securities.

19—Equity Interests of SBCs

190—Capital stock of SBCs, with stock purchase warrants or options, and/or convertible.
191—Capital stock of SBCs—other.
192—Appreciation of capital stock values.
193—Depreciation of capital stock values.
194—Equity interests of unincorporated concerns.
195—Appreciation of equity interests in unincorporated concerns.
196—Depreciation of equity interests in unincorporated concerns.
197—Warrants, options, and other stock rights acquired from SBCs.
198—Appreciation of warrants, options, and other stock rights acquired from SBCs.
199—Depreciation of warrants, options and other stock rights acquired from SBCs.

20—Assets Acquired in Liquidations of Portfolio Securities

200—Receivables from debtors on sale of assets acquired in liquidation of portfolio securities.
203—Depreciation in values of receivables from debtors on sale of assets acquired in liquidation of portfolio securities.
204—Assets acquired in liquidation of portfolio securities.
205—Appreciation of assets acquired in liquidation of portfolio securities.
206—Depreciation of assets acquired in liquidation of portfolio securities.

21—Operating Concerns Acquired

210—Operating concerns acquired.
211—Appreciation of operating concerns acquired.
212—Depreciation of operating concerns acquired.

22—Other securities

220—Notes and other securities received on sale of portfolio securities.
221—Other securities received.
222—Appreciation of other securities.
223—Depreciation of other securities.

23—Prepaid Expenses and Deferred Charges

230—Prepaid expenses.
231—Deferred charges.

24—Furniture and Equipment

240—Furniture and equipment.
241—Accumulated depreciation on furniture and equipment.

25—Corporate Premises Owned

250—Corporate premises owned.
251—Accumulated depreciation on corporate premises owned.
252—Leasehold improvements.

26—Other Assets

265—Amounts due from directors, officers, general partners, limited partners and employees.
266—Organization costs.
267—Funds in escrow.
269—Other assets.

Liability Accounts

30—Notes and Other Obligations Payable to SBA for Funds Borrowed

300—Notes payable to SBA.
301—Debentures payable issued to SBA.

31—Notes and Other Obligations Payable to Other than SBA for Funds Borrowed

310—Notes payable to other than SBA—guaranteed by SBA.
311—Notes payable to other than SBA—not guaranteed by SBA.
312—Mortgages payable for funds borrowed.
313—Mortgages payable on assets acquired in liquidation of portfolio securities.

32—Notes Payable—Other

320—Notes payable—other.

33—Current Maturities of Long-Term Debt

330—Current maturities of notes and debentures payable to or guaranteed by SBA.
331—Current maturities of notes and debentures payable to others not guaranteed by SBA.

34—Accounts Payable

340—Accounts payable.
341—Accounts payable due parent or partners.

35—Accrued Expenses and other current Liabilities

350—Accrued interest payable.
351—Accrued taxes.
354—Estimated income taxes accrued.
358—Other current liabilities.

36—Dividends and Distributions Payable

360-364—Dividends payable on type and class capital stock.
365-369—Distributions payable to general and limited partners.

37—Trust Receipts

370—Employee taxes withheld.
374—Unapplied receipts.
378—Miscellaneous trust receipts.

38—Deferred Credits

380—Deferred credit to future income taxes.
383—Other deferred credits.

39—Other Liabilities

390—Other liabilities.

Capital Accounts

40-41—Capital Stock

400-404—(type and class) capital stock authorized.
405-409—(type and class) unissued capital stock.
410-411—(type and class) capital stock subscribed.
413-414—Capital stock subscriptions receivable (type and class).
415-419—Treasury stock (type and class).

42—Paid-in Surplus

420—Paid-in surplus.

43—3 Percent Preferred Stock [301(d) Licensees only]

430—3 percent preferred stock, cumulative, non-voting issued to SBA.

44—Stockholders' Unrealized Gain (Loss) on Securities Held

440—Stockholders' unrealized appreciation on loans and investments.
445—Stockholders' unrealized depreciation on loans and investments.
448—Stockholders' estimated taxes on net unrealized gain (loss) on securities held.

45—Stockholders' Undistributed Realized Earnings

450—Stockholders' non-cash gains on sale of securities.
451—Stockholders' undistributed net realized earnings.

46—Stockholders' and Partners Profit and Loss Clearing

460—Stockholders' profit and loss summary.
461—Stockholders' realized gain and loss summary in cash.
462—Stockholders' non-cash realized gain summary.
463—Stockholders' non-cash income from investments reported on the equity method of accounting.
465—Partners' profit and loss summary.
466—Partners' realized gain and loss summary in cash.
467—Partners' non-cash realized gain summary.
468—Partners' non-cash income from investments reported on the equity method of accounting.

47—Partners' Capital Contributions

470—General Partners' Permanent Capital Contribution Summary.
471—Corporate General Partners' Permanent Capital Contribution.
472—Individual General Partners' Permanent Capital Contribution.
475—Limited Partners' Permanent Capital Contribution Summary.
476—Limited Partners' Permanent Capital Contribution.

48—Partners' Unrealized Gain (Loss) on Securities Held

481—Corporate General Patners' Unrealized Appreciation on loans and investments.
482—Individual General Partners' Unrealized Appreciation on loans and investments.
483—Corporate General Partners' Depreciation on loans and investments.
484—Individual General Partners' Depreciation on loans and investments.
485—Limited Partners' Unrealized Appreciation on loans and investments.
486—Limited Partners' Unrealized Depreciation on loans and investments.

49—Partners' Undistributed Realized Earnings

491—Corporate General Partners' non-cash gains.
492—Individual General Partners' non-cash gains.
493—Corporate General Partners' undistributed net realized earnings.
494—Individual General Partners' undistributed net realized earnings.
495—Limited Partners' non-cash gains.
496—Limited Partners' Undistributed net realized earnings.

Income Accounts

50—Commitment Income

500—Commitment Income.

51–52—Interest Income

510—Interest on invested idle funds.
512—Interest on loans.
516—Interest on debt securities.
520—Interest income—other.

53—Fee Income

532—Management service fees.
534—Investigation and service fees charged other lenders.
536—Application and appraisal fees.

54—Dividends and Other Earnings

540—Dividends on capital stock of SBCs.
541—Sharings in income or revenue of SBCs.
542—Non-cash income from investments reported on the "Equity Method of Accounting."

57—Gain on Securities and Other Assets

570—Gain on U.S. Government securities.
571—Gain on loans.
572—Gain on debt securities.
574—Gain on capital stock of SBCs.
575—Gain on equity interests of unincorporated SBCs.
576—Gain on warrants, options, and other stock rights acquired from SBCs.
577—Gain on assets acquired in liquidation of portfolio securities.
578—Gain on operating concerns acquired.
579—Gain on other assets.

58—Miscellaneous Income

582—Income from assets acquired in liquidation of portfolio securities.
584—Other income.

Expense Accounts

60—Commitment Expense

600—Commitment expense.

61–62—Interest Expense

610—Interest on obligations payable to SBA.
622—Interest on obligations payable to other than SBA.

64—Stock Record and Other Financial Expenses

642—Stock record and other financial expenses.

65–67—Operating Expenses

650—Advertising and promotional costs.
651—Appraisal and investigation costs.
652—Auditing and examination costs.
653—Communications.
654—Cost of space occupied.
655—Depreciation of corporate premises owned, furniture, and equipment.
656—Amortization of leasehold improvements.
657—Directors' and stockholders' and partners' meetings costs.
658—Insurance.
659—Management services fees.
660—Investment adviser costs.
661—Legal services.
663—Salaries.
664—Taxes, excluding income taxes.
665—Travel.
670—Employee benefits expense.
672—Amortization of organization expense.
679—Miscellaneous operating expenses.

68—Estimated Losses on Receivables

680—Estimated losses on receivables.

70—Loss on Securities and Other Assets

700—Losss on U.S. Government securities.
701—Loss on loans.
702—Loss on debt securities.
704—Loss on capital stock of SBCs.
705—Loss on equity interests of unincorporated concerns.
706—Loss on warrants, options, and other stock rights acquired from SBCs.
707—Loss on assets acquired in liquidation of portfolio securities.
708—Loss on operating concerns acquired.
709—Loss on other assets.

71—Miscellaneous Expenses

710—Expense on assets acquired in liquidation of portfolio securities.
715—Other Expenses

72—Income Taxes

720—Income taxes—net income.
722—Income taxes—net realized gain on investments.

Memorandum Records

Nominal Assets

NA–10—Stock purchase warrants or options on stock of SBCs.

Contingent Liabilities

CL–15—Commitments outstanding.
CL–16—Guarantees outstanding.
CL–17—Other contingent liabilities.

Options on Company's Stock

OCS–1—Options on company's stock.

Actual Loss Experience

AL 1—Actual (realized) losses.

Worthless Investments

WI–1—Worthless investments written off.

Preferred Dividend Arrearages

PDA–1—Preferred dividend arrearages on preferred stock sold to SBA.

IV—Description of Accounts

Asset and Valuation Accounts

100–108—Deposits in ———— bank.

These accounts will represent funds on demand deposit in banks which are members of the Federal Deposit Insurance Corporation.
Debit:
(a) With amount of funds deposited.
Credit:
(a) With amount of funds withdrawn, and charges made by bank for such items as dishonored checks, transfer of funds by wire, collection, exchange, etc.

110–112—Deposits in imprest account in ———— bank.

These accounts will represent funds on demand deposit in imprest bank accounts to be drawn upon for the payment of operating expenses and to be reimbursed periodically through deposit therein of a check requiring dual signatures and drawn on the company's general funds bank account.
Debit:
(a) With amount of funds deposited.
Credit:
(a) With amount of funds withdrawn.

118—Cash items in process of collection

This account will represent the amount of cash items placed with banks for collection.
Debit:

(a) With amount of such items placed with banks for collection.

Credit:

(a) With amount of items collected.

(b) With amount of uncollected items returned or withdrawn.

120—Petty cash fund

This account will represent the imprest petty cash fund maintained for the purpose of making small disbursements.

Debit:

(a) With amount placed in the fund when established.

(b) With amount of increase in the fund.

Credit:

(a) With amount of decrease in the fund.

Note.—The petty cash fund may be reimbursed and expenditures recorded as often as circumstances require, but must be reimbursed at the close of the company's fiscal year. Checks to replenish the fund will be drawn on a general fund bank account and include "petty cash" as a payee. Debits totaling the amount of this replenishment should be made concurrently to the appropriate accounts.

130—United States Government obligations, direct and fully guaranteed

This account will represent the cost of temporary investments made from general cash funds in direct obligations of the United States Government and obligations guaranteed as to principal and interest by the United States Government. When United States Government Savings Bonds redeemable at par value on maturity are purchased at less than face value, the increase in redemption value may be periodically charged to this account with concurrent credit to account No. 510—Interest on invested idle funds.

Debit:

(a) With cost of such securities acquired.

(b) With increase in redemption value of United States Savings Bonds.

Credit:

(a) With redemption value of United States Savings Bonds redeemed.

(b) With cost of such securities sold or disposed of otherwise.

Note.—Increase in value over cost of United States Treasury Bills, which are issued at a discount and are noninterest bearing, will not be reflected in this account but will be debited to account No. 143–Accrued interest receivable, with concurrent credit to account No. 510-Interest on invested idle funds.

(See accounts Nos. 570 and 700.)

131—Insured savings accounts

This account will include the balances in subaccounts Nos. 131.1, 131.2, etc.

131.1—Insured savings in ————

This account will represent funds invested in an insured savings account (up to the amount of the insurance) in an institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

Debit:

(a) With amount of funds invested.

(b) With amount of interest earned on such invested funds.

Credit:

(a) With amount of funds withdrawn.

135–137—Time certificates of deposit in ———— bank.

These accounts will represent funds in Time Certificates of Deposit, maturing not later than one year after issuance, in banks which are members of the Federal Deposit Insurance Corporation.

Debit:

(a) With amount of funds deposited.

Credit:

(a) With amount of funds withdrawn.

138—Other investments in insured institutions

This account will represent funds deposited or invested in insured institutions that can not be classified in any of the prior categories.

Debit:

(a) With the amount of funds deposited or invested.

Credit:

(a) With the amount of funds withdrawn.

140—Notes receivable

This account will represent the unpaid balance of miscellaneous notes receivable, such as notes for management consulting services. Notes representing amounts due from debtors on sale of assets acquired in liquidation of portfolio securities will be reflected in account No. 200.

Debit:

(a) With amount of such miscellaneous notes received.

Credit:

(a) With amount collected on principal of such miscellaneous notes.

(b) With unpaid principal balance written off or disposed of otherwise.

Note.—Recording as income of amounts entered in this account should be discontinued with respect to any small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. The amounts in question should be credited as deferred income in account No. 383—other deferred credits, pending determination on the appropriate accounting. In less serious situations, when the debtor small business concern is in default more than 6 months to the licensee, or the fair value of its debt or equity instruments held by the company, as determined by the Board of Directors/General Partner(s), is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible notes and accounts receivable should be made in an amount equivalent to the receivable entered in this account, or, as an alternative, the receivable recorded as an asset should be concurrently credited as deferred income to account No. 383 as above indicated.

(See account No. 142.)

141—Accounts receivable

This account will represent the amount due on open account for management consulting, appraisal, and miscellaneous services rendered; and miscellaneous current receivables.

The account also will include the amount of accured compensation receivable for services rendered to "participating" companies and the amount of accrued commitment fees receivable for making funds available on a deferred basis to small business concerns and to "initiating" companies in connection with the latter s financing of small business concerns.

Accounts receivable representing receivables due from debtors on sale of assets acquired in liquidation of portfolio securities will be reflected in account No. 200.

Debit:

(a) With amount due the company.

Credit:

(a) With amount collected.

(b) With amount written off or disposed of otherwise.

Note.—Recording as income of amounts entered in this account should be discontinued with respect to any small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. The amounts in question should be credited as deferred income in account No. 383—Other deferred credits, pending determination on the appropriate accounting. In less serious situations, when the debtor small business concern is in default more than 6 months to the licensee, or the fair value of its debt or equity instruments held by the company, as determined by the Board of Directors/General Partner(s), is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible notes and accounts receivable should be made in an amount equivalent to the receivable entered in this account, or, as an alternative, the receivable recorded as an asset should be concurrently credited as deferred income to account No. 383 as above indicated.

(See account No. 142.)

142—Allowance for uncollectible notes and accounts receivable

This account will represent the valuation reserve provided for estimated losses on notes and accounts receivable and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands, so that this account will reflect the best available estimate or probable losses on notes and accounts receivable.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of notes and accounts receivable written off.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

(c) With amount of recoveries on notes and accounts receivable written off.

Notes.—When a note receivable or an account receivable is recorded with respect to any debtor small business is in default more than 6 months to the licensee, or the fair value of whose debt or equity instruments held by the company, as determined by the Board of Directors/General Partner(s), is less than cost, or recovery thereon is doubtful, an

addition to the allowance for uncollectible notes and accounts receivable reflected in this account should be made in an amount equivalent to the recorded receivable, or, as an alternative, the amount of the receivable recorded as an asset should be concurrently credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting.

(See accounts Nos. 140, 141 and 680.)

143—Accrued interest receivable

This account will represent the amount of interest accrued on portfolio loans to and debt securities of small business concerns, United States Government obligations, direct and fully guaranteed, notes receivable, sales contracts, and other interest-bearing amounts due from debtors, including funds placed in escrow pending the closing of financing and assets acquired in liquidation of portfolio securities as well as interest accrued on other securities.

Debit:

(a) With amount of interest accrued on all items covered by this account.

Credit:

(a) With amount of interest payments received.

(b) With amount of accrued interest transferred to assets acquired in liquidation of loans and debt securities.

(c) Upon disposition of interest-bearing obligations, with amount of accrued interest thereon included in this account.

(d) With amount of accrued interest written off or disposed of otherwise.

Note 1.—At the option of the company, interest payments received in cash from debtors prior to the interest maturity date may be credited to account No. 374—Unapplied receipts, until the maturity date.

Note 2.—Accrual of interest receivable should be discontinued with respect to any loan or debt security financing a small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Any interest payments received from such a debtor should not be treated as interest income, but should be either credited as payments on principal of the debt or credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when interest receivable is accrued under circumstances in which the financed small business concern is in default to the licensee; or the fair value of the loan or debt security as determined in good faith by the Board of Directors/General Partners is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable should be made in an amount equivalent to the accrual of interest receivable, or, as an alternative, the interest income should be deferred in account No. 383 as above indicated.

(See account No. 144.)

144—Allowance for uncollectible interest receivable

This account will represent the valuation reserve provided for estimated losses of accrued interest receivable, and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands, so that this account will reflect the best available estimate of probable losses of accrued interest receivable.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of accrued interest receivable written off.

Credit:

(a) With amount of increases in such reserve established.

(b) With amount of increases in such reserve.

(c) With amount of recoveries of accrued interest receivable written off.

Note.—When interest receivable is accrued under circumstances in which the financed small business concern is in default over six months to the licensee, or the fair value of the loan or debt security as determined in good faith by the Board of Directors/General Partner(s) is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable reflected in this account should be made in an amount equivalent to the accrual of interest receivable, or, as an alternative, the interest income should be deferred in account No. 383—Other deferred credits, pending determination of the appropriate accounting.

(See accounts Nos. 143 and 680.)

145—Dividends receivable

This account will represent cash dividends that have been declared on capital stock of small business concerns but have not been distributed to stockholders.

Debit:

(a) With amount due the licensee of cash dividend declared.

Credit:

(a) With amount distributed to the licensee of the dividend declared.

(See account No. 540.)

Note 1.—Stock splits or dividends in stock of the same class as that owned are not recorded as dividend receivable or income because the licensee's equity interest in the company declaring the dividend or split has not changed.

Therefore, stock splits or dividends will be measured in the appropriate investment account.

(Account Nos. 190 or 191.)

Note 2.—Dividends in kind will be recorded as income at the fair market value of the securities received and will be recorded in account No. 221, Other securities received.

146—Receivables from parent

This account will represent receivables due licensee from its parent. Receivables due from parent will generally be from one of two sources: (1) Expenses shared pro-rata with the parent paid by the licensee, but not yet reimbursed by the parent and/or (2) licensee has a tax loss from which the parent (and/or consolidated group) have received a tax benefit.

Debit:

(a) Parent's share of any expense shared with the licensee which was paid by the licensee.

(b) Licensee's share of any tax benefit derived by the parent from the filing of a consolidated tax return when the licensee has a taxable loss.

(c) And other receivable due from parent arising from any other source.

Credit:

(a) Cash received from parent.

(b) Income taxes due from licensee but paid by the parent.

Note.—The credit for income taxes due from licensee but paid by the parent can only arise in the case of a prior benefit being derived by the parent.

If the licensee has had a previous tax benefit by reason of a tax loss from some other member of the consolidated group the credit would be to account No. 341—Accounts payable due parent.

150—Current Maturities of Portfolio Securities

The account will represent the principal amounts due the licensee on a cost basis of loans and debt securities of small business concerns that are reasonably expected to be collected in the normal course of business in the next 12 months of operations.

Debit:

(a) With amount due the licensee during the current year.

Credit:

(a) With amount of current maturities collected by the licensee.

(b) With amount not considered collectible on a current basis and restored to loan or debt security accounts.

(See accounts Nos. 170, 180, and 184.)

152—Current maturities on assets acquired in liquidation of portfolio securities

This account will represent the current principal amounts due the licensee on a cost basis of amounts due from debtors on sale of assets acquired; or the current principal amounts of their debt instruments that are classified as assets acquired in liquidation of portfolio securities.

This account will represent only those amounts reasonably expected to be collected in the normal course of business in the next 12 months of operations.

Debit:

(a) With amount due the licensee during the current year.

Credit:

(a) With amount of current maturities collected by the licensee.

(b) With amount not considered collectible on a current basis and restored to the appropriate asset acquired in liquidation of portfolio securities account.

(See accounts Nos. 200, 204.)

153—Current maturities on operating concerns acquired

This account will represent the principal amounts due the licensee on a cost basis of debt instruments classified as operating concerns acquired that are reasonably expected to be collected in the normal course

of business in the next 12 months of operations.

Debit:

(a) With amount due the licensee during the current year.

Credit:

(a) With amount of current maturities collected by the licensee.

(b) With amount not considered collectible on a current basis and restored to other securities accounts.

(See account No. 210.)

154—Current maturities on other securities

This account will represent the principal amounts due the licensee on a cost basis of debt instruments classified as "other securities" that are reasonably expected to be collected in the normal course of business in the next 12 months of operations.

Debit:

(a) With amount due the licensee during the current year.

Credit:

(a) With amount of current maturities collected by the licensee.

(b) With amount not considered collectible on a current basis and restored to other securities accounts.

(See accounts Nos. 220 and 221.)

156—Other current assets

This account will represent current assets not otherwise classified of the licensee that are expected to be converted to cash or expensed in the normal course of business in the next twelve months.

Debit:

(a) With amount of such asset.

Credit:

(a) With amount collected.

(b) With the proportionate amount allocated to the period as an expense.

160—Investment in 301(d) licensee

This account will represent the licensee's investment in capital stock of a special purpose SBIC. The account will be maintained on the equity method of accounting basis and will show licensee's investment after considering proportionate share of realized income (loss) of the 301(d) licensee's operations and dividends declared by the 301(d) licensee.

Debit:

(a) With cost of capital stock of such 301(d) licensee.

(b) With the licensee's proportionate share of the 301(d) licensees:

(1) Net investment income, and

(2) Net realized gain on the sale of securities.

Credit:

(a) With the licensee's proportionate share of:

(1) Net investment loss.

(2) Net realized loss on sale of securities.

(b) With the licensee's proportionate share of cash dividends or dividends in kind at fair value.

(c) With the value on equity basis of stock in 301(d) licensee when sold.

170—Loans

This account will represent the unpaid principal balance of loans made to small business concerns pursuant to Section 305 of the Small Business Investment Act of 1958, as amended.

Debit:

(a) With face amount of direct loans.

(b) With portion retained by company of loans in which participations are sold to others.

(c) With amount of participations in loans of others.

(d) With unpaid principal of loans represented by renewal notes accepted or notes taken in substitution for those held.

(e) With reversal of prior credits when checks received representing repayments are dishonored, etc.

Credit:

(a) When amount collected on face amount of direct loans.

(b) With company's share of amount collected on principal of loans in which participations are sold to others.

(c) With amount by which participations in loans of others are reduced by repayments transmitted by the "initiating" company.

(d) With unpaid principal of loans represented by notes renewed or for which other notes have been substituted.

(e) With amount transferred to assets acquired in liquidation of portfolio securities.

(f) With unpaid principal of loans written off or disposed of otherwise.

Note 1.—A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—It is assumed that in all loan participation arrangements the "initiating" company will service the loans.

Note 3.—It is recommended that individual loan ledger cards or sheets be maintained for all loans. Such ledger cards or sheets should contain the detailed information needed for account No. 173—Unearned discount, fees, and other charges on loans.

(See accounts Nos. 171 and 172.)

171—Appreciation of loan values

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued loans about cost.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of loans.

(b) With amount of appreciation attributable to loans sold or otherwise disposed of.

(See account No. 440.)

Note.—See Note 1 to account 172.

172—Depreciation of loan values

This account will represent the downward valuation of loans and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of such loans written off.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

(c) With amount of recoveries on such loans written off.

(See accounts Nos. 170 and 445.)

Note.—Usually, this account will be subdivided into at least two accounts:

172.1 *Allowance for Losses*—which represents losses the licensee expects to realize on specific loans.

172.2 *Other Depreciation of Loan Values*—which represents the Board of Directors/General Partner(s) downward valuation of specific loans. However, if securities are held to maturity, no loss would be expected. An example would be money mortgage discounts.

173—Unearned discount, fees, and other charges on loans

This account will represent the amount of unearned discount, fees, and other charges included in the face amount of loans made to small business concerns pursuant to Section 305 of the Small Business Investment Act to such small business concerns.

Debit:

(a) With amount of unearned discount, fees, and other charges included in the face amount of loans, but withheld from disbursements to debtor small business concerns, which becomes earned through collection or passage of time.

(b) With amount earned of that portion of unearned discount, fees, and other charges included in the face amount of loans, but withheld from disbursements to debtor small business concerns, which is retained by the company in connection with loans participated in by other lenders (the amount to be recorded becomes earned through collection or passage of time).

(c) With amount earned of that portion of unearned discount, fees, and other charges included in the face amount of loans, but withheld from disbursements to debtor small business concerns, which is assigned to the company in connection with its participations in loans of other lenders (the amount to be recorded becomes earned through collection of passage of time).

(d) With amount of unearned discount, fee, and other charges included in the face amount of loans, but withheld from disbursement to debtor small business concerns, which is rebated to borrowers upon early repayment of loans, or is closed into the asset account upon liquidation of loans at less than full amount.

Credit:

(a) With amount of unearned discount, fees, and other charges included in the face amount of loans but withheld from disbursements to debtor small business concerns.

(b) With portion retained by the company of total amount of unearned discount, fees, and other charges included in the face amount of loans, but withheld from

disbursements to debtor small business concerns, in connection with loans participated in by other lenders.

(c) With portion assigned to the company of total amount of unearned discount, fees, and other charges included in the face amount of loans, but withheld from disbursements to debtor small business concerns, in connection with its participation in loans of other lenders.

Note 1.—A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—Unearned discount in this account will be transferred, as appropriate to account No. 512—Interest on loans, as it becomes earned, and unearned fees and other charges will be transferred to account No. 536—application and appraisal fees, under similar circumstances.

Note 3.—Any fees and other charges considered earned immediately upon closing of loans will be recorded in the income account at once without first being entered in this account.

Note 4.—Appropriate subsidiary records should be maintained for all unearned amounts included in this account to permit identification of such amounts with the particular loans to which they relate.

190—Debt securities, with stock purchase warrants or options, and/or convertible

This account will represent the unpaid principal balance of small business concerns' debt securities, with attached stock purchase warrants or options, and/or convertible, acquired by the company pursuant to Section 304 of the Small Business Investment Act of 1958, as amended. If the stock purchase warrants, options, or other stock rights have separate purchase cost, or if a separate cost has otherwise been determined for them, the warrants, options, or other stock rights will be reflected at such cost in account No. 197.

Debit:

(a) With face amounts of debt securities, with stock purchase warrants or options, and/or convertible, acquired.

(b) With portion retained by company of debt securities, with stock purchase warrants or options, and/or convertible, in which participations are sold to others.

(c) With amount of participations in purchases by others of debt securities, with stock purchase warrants or options, and/or convertible.

(d) With reversal of prior credits when checks received representing repayments are dishonored, etc.

Credit:

(a) With amount collected on face amount of debt securities, with stock purchase warrants or options, and/or convertible.

(b) With company's share of amount collected on principal of debt securities, with stock purchase warrants or options, and/or convertible, in which participations are sold to others.

(c) With amounts by which participations in purchases by others of debt securities, with stock purchase warrants or options, and/or convertible, are reduced by repayments transmitted by the "initiating" company.

(d) With unpaid principal of debt securities, with stock purchase warrants or options, and/or convertible, or portions thereof, converted into capital stock.

(e) With unpaid principal of debt securities, with stock purchase warrants or options, and/or convertible, which have been divested of stock rights through (1) the expiration of the conversion privilege, (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options, or (3) the detachment of detachable stock purchase warrants or options.

(f) With unpaid principal of debt securities, with stock purchase warrants or options, and/or convertible, transferred to assets acquired in liquidation of loans and debt securities.

(g) With unpaid principal of debt securities, with stock purchase warrants or options, and/or convertible, written off or disposed of otherwise.

Note 1.—A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—It is assumed that in all arrangements for participation in the purchase of debt securities, with stock purchase warrants or options, and/or convertible, the "initiating" company will service the financing.

Note 3.—It is recommended that individual ledger cards or sheets be maintained for all debt securities, convertible, and with stock purchase warrants or options. Such ledger cards or sheets should contain the detailed information needed for account No. 188—Unearned discount, fees, and other charges on debt securities, and for activities pertaining to participations purchased or sold.

(See accounts Nos. 184, 186, 187, 188 and memorandum record No. NA-10.)

184—Debt securities divested of stock rights

This account will represent the unpaid principal balance of small business concerns' debt securities which have been divested of stock rights through (1) the expiration of the conversion privilege of convertible debt securities, (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options of debt securities, or (3) the detachment of detachable stock purchase warrants or options, obtained in connection with the acquisition of debt securities pursuant to Section 304 of the Small Business Investment Act of 1958, as amended.

Debit:

(a) With unpaid principal of debt securities divested of stock rights through (1) the expiration of the conversion privilege, (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options, or (3) the detachment of detachable stock purchase warrants or options.

(b) With company's retained portion of debt securities participated in by others which have been subsequently divested of stock rights.

(c) With amount of participations in purchases by others of debt securities which have been subsequently divested of stock rights.

(d) With reversal of prior credits when checks received representing repayments are dishonored, etc.

Credit:

(a) With amount collected on face amount of debt securities divested of stock rights.

(b) With company's share of amount collected on principal of debt securities participated in by others which have been subsequently divested of stock rights.

(c) With full amount by which participations in purchases by others of debt securities which have been subsequently divested of stock rights are reduced by repayments transmitted by the "initiating" company.

(d) With unpaid principal of debt securities divested of stock rights transferred to assets acquired in liquidation of loans and debt securities.

(e) With unpaid principal of debt securities divested of stock rights written off or disposed of otherwise.

Note.—It is recommended that individual ledger cards or sheets be maintained for all debt securities which have been divested of stock rights. Such ledger cards or sheets should contain the detailed information needed for account No. 188—Unearned discount, fees, and other charges on debt securities.

(See accounts Nos. 186, 187, and 188.)

186—Appreciation of debt securities of SBC's

This account will represent the amount by which the licensee's Board of Directors/General partner(s) has valued debt securities with equity features above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

(See account No. 440.)

Note.—See Note 1 to account 187.

187—Depreciation of debt securities values

This account will represent the downward valuation of debt securities, with stock purchase warrants or options, and/or convertible, and debt securities divested of stock rights and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of reserve established in this account for debt securities which are written off, sold, or disposed of otherwise.

(c) With amount of writedown of such debt securities, not to exceed the amount of reserve established therefor in this account.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

Note 1.—When debt securities of small business concerns are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received. Account 702 will be debited for the amount of the loss, and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account No. 572. The amount of the reserve which has been established in this account for the debt security sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—Usually, this account will be subdivided into at least two accounts:

187.1 *Allowance for Losses*—which represents losses the licensee expects to realize on specific debt securities.

187.2 *Other Depreciation of Debt Securities Values*—which represents the Board of Directors/General Partner(s) downward valuation of specific debt securities. However, if securities are held to maturity no loss would be expected. An example is money mortgage discount.

188—Unearned discount, fees and other charges on debt securities

This account will represent the amount of unearned discount, fees, and other charges included in the face amount of small business concerns's debt securities acquired pursuant to Section 304 of the Small Business Investment Act of 1958, as amended, and which is withheld from disbursements to such small business concerns.

Debit:

(a) With amount of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursements to debtor small business concerns, which becomes earned through collection or passage of time.

(b) With amount earned of that portion of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursements to debtor small business concerns, which is retained by the company in connection with purchases of debt securities participated in by other investors (the amount to be recorded becomes earned through collection or passage of time).

(c) With amount earned of that portion of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursements to debtor small business concerns which is assigned to the company in connection with its participations in purchases of debt securities by other investors (the amount to be recorded becomes earned through collection or passage of time).

(d) With amount of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursements to debtor small business concerns, which is rebated to borrowers upon early repayment of debt securities, or is closed into the asset account upon liquidation of debt securities at less than full amount.

Credit:

(a) With amount of unearned discount (including that equivalent to the determined cost of warrants, options, and other stock rights, as explained in Note 2 of the account No. 197), fees, and other charges included in the face amount of debt securities but withheld from disbursements to debtor small business concerns.

(b) With portion retained by the company of total amount of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursement to debtor small business concerns, in connection with purchases of debt securities participated in by other investors.

(c) With portion assigned to the company of total amont of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursement to debtor small business concerns, in connection with its participations in purchases of debt securities by other investors.

Note 1.—A participation is defined as an undivided interest shared with one or more lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—Unearned discount in this account will be transferred, as appropriate, to account No. 516—Interest on debt securities, as it becomes earned, and unearned fees and other charges will be transferred to account No. 536—Application and appraisal fees, under similar circumstances.

Note 3.—Any fees and other charges considered earned immediately upon closing of financing through purchase of debt securities will be recorded in the income account at once without first being entered in this account.

Note 4.—Appropriate subsidiary records should be maintained for all earned amounts included in this account to permit identification of such amounts with the particular debt securities to which they relate.

190—Capital stock of SBCs, with stock purchase warrants or options, and/or convertible

This account will represent the value at cost of small business concerns' capital stock, with attached stock purchase warrants or options, and/or convertible, acquired by the company pursuant to Section 304 of the Small Business Investment Act of 1958, as amended. If the stock purchase warrants, options, or other stock rights have a separate purchase cost, or if a separate cost has otherwise been determined for them, the warrants, options, or other stock rights will be reflected at such cost in account No. 197.

Debit:

(a) With cost of such capital stock of SBCs, with stock purchase warrants or options, and/or convertible, acquired.

(b) With portion retained by company of the capital stock of SBCs, with stock purchase warrants or options, and/or convertible, in which participations are sold to others.

(c) With amount of participations in acquisitions by others of capital stock of SBCs, with stock purchase warrants or options, and/or convertible.

Credit:

(a) With cost of such capital stock of SBCs, with stock purchase warrants or options, and/or convertible, which has been divested of stock purchase rights through (1) the expiration of the conversion privilege, (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options, or (3) the detachment of detachable stock purchase warrants or options.

(b) With cost of such capital stock of SBCs, with stock purchase warrants or options, and/or convertible, converted to another class of capital stock.

(c) With cost of such capital stock of SBCs, with stock purchase warrants or options, and/or convertible, written off or disposed of otherwise.

Note 1.—A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—It is assumed that in all arrangements for participation in the acquisition of capital stock of SBCs, with stock purchase warrants or options, and/or convertible, the "initiating" company will service the financing.

Note 3.—It is recommended that individual ledger cards or sheets be maintained for all capital stock of SBCs, with stock purchase warrants or options, and/or convertible.

(See accounts Nos. 191, 193 and memorandum record No. NA-10.)

191—Capital stock SBCs—other

This account will represent the value at cost of small business concerns capital stock acquired by the company without conversion privileges or stock purchase warrants or options, or existing on the books as the result of (1) the expiration of the conversion privilege of convertible capital stock of SBCs, (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options, or (3) the detachment of detachable stock purchase warrants or options, obtained in connection with the acquisition of capital stock of small business concerns pursuant to Section 304 of the Small Business Investment Act of 1958, as amended.

Debit:

(a) With cost of such capital stock of SBCs—other acquired through (1) purchase (2) conversion of convertible debt securities or convertible capital stock of SBCs, or (3) exercise of rights conveyed by stock purchase warrants or options issued by small business concerns in connection with their debt securities or capital stock acquired by the company.

(b) With cost of such capital stock of SBCs—other resulting from (1) the expiration of the conversion privilege of convertible

capital stock of SBCs, (2) the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options, or (3) the detachment of detachable stock purchase warrants or options, obtained in connection with the acquisition of capital stock of small business concerns.

(c) With portion retained by company of the capital stock of SBCs—other in which participations are sold to others.

(d) With amount of participations in capital stock of SBCs—other acquired by or subsequently existing on the books of others without conversion privileges or stock purchase warrants or options.

Credit:

(a) With cost of such capital stock of SBCs—other written off or disposed of otherwise.

Note 1.—It is recommended that individual ledger cards or sheets be maintained for all capital stock of SBCs—other acquired or subsequently existing without conversion privileges or stock purchase warrants or options.

Note 2.—In acquisitions of capital stock through exercise of rights conveyed by stock purchase warrants or options issued by small business concerns in connection with their debt securities or capital stock previously acquired by the company, the amount of the expenditure made by the company in the current acquisition of the capital stock will be considered the cost of the stock in those instances when the stock purchase rights surrendered have only a nominal value; otherwise, the cost of the stock will comprise the current expenditure plus cost of the warrants or options surrendered.

Note 3.—In conversion of convertible debt securities of small business concerns into capital stock, or in conversions of convertible capital stock of SBCs into another class of capital stock, the value at cost of the particular convertible security should be considered the cost of the capital stock received in the conversion.

(See account Nos. 190, 193, and 197.)

192—Appreciation of capital stock of SBCs

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued capital stock of SBCs above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

(See account No. 440.)

Note.—See Note 1 to account No. 193.

193—Depreciation of capital stock values

This account will represent the downward valuation of (1) capital stock of SBCs, with stock purchase warrants or options, and/or convertible, and (2) capital stock of SBCs—other, and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of reserve established in this account for capital stock which is written off, sold, or disposed of otherwise.

(c) With amount of writedown of such capital stock, not to exceed the amount of reserve established therefor in this account.

Credit:

(a) With amount of such reserve established.

(b) With amount of increase in such reserve.

Note 1.—When capital stock of SBCs is sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received. Account 704 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account No. 574. The amount of the reserve which has been established in the account for capital stock sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—Usually, this account will be subdivided into at least two accounts:

193.1 *Allowance for Losses*—represents losses the licensee expects to realize on specific capital stock investments.

193.2 *Other Depreciation of Stock Values*—represents the downward valuation of specific stock investments. However, the licensee's management expects the decline to be temporary and thereby suffer no loss on the investment. An example is a temporary market decline of public tradeable stocks that are unrestricted.

(See accounts Nos. 190, 192, and 445.)

194—Equity interests of unincorporated concerns

This account will represent the licensee's investment in equity types securities of a limited partnership or other type of unincorporated concern. The account will be maintained on the equity method of accounting basis and will show the licensee's investment after considering its proportionate share of realized income (loss) of the unincorporated concern as well as distributions.

Debit:

(a) With cost of equity interest acquired.

(b) With the licensee's proportionate share of the concern's net income.

Credit:

(a) With the licensee's proportionate share of net loss.

(b) With the licensee's proportionate share of cash distributions.

(c) With the value on equity basis of the licensee's investment when sold or disposed of otherwise.

(See accounts Nos. 195 and 196.)

195—Appreciation of equity interest of unincorporated concerns

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued equity interests of unincorporated concerns above the carrying value of such securities on the equity method of accounting.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

Note.—See Note 1 to account 196.

(See account Nos. 194, and 440.)

196—Depreciation of equity interests of unincorporated concerns

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued equity interests of unincorporated concerns below the carrying value of such securities on the equity method of accounting.

Debit:

(a) With decrease in amount of such depreciation resulting from increase in fair value of such equity interests.

(b) With amount of depreciation attributable to equity interests sold or otherwise disposed of.

Credit:

(a) With amount of such depreciation recognized.

(b) With amount of increase in such depreciation recognized.

Note—1. When equity interests are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received. Account 705 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account No. 575. The amount of the reserve which has been established in the account for equity interest sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—This account will usually be the same as allowance for loss on equity interests of unincorporated concerns. Otherwise, the account should be subdivided.

(See account Nos. 194, 195 and 445.)

197—Warrants, options, and other stock rights acquired from SBCs

This account will represent the value at purchase price or at cost as otherwise determined of warrants, options, and other stock rights acquired by the company from small business concerns pursuant to Section 304 of the Small Business Investment Act of 1958, as amended. The account will include conversion rights for which a separate cost has been determined.

Detachable stock purchase warrants or options on stock of SBCs for which no consideration is given distinct from that surrendered for the debt securities or capital stock which they accompany, or for which no separate cost has been determined, will be

reflected in memorandum record No. NA-10, if retained after the financing instruments which they accompanied have been disposed of.

Debit:

(a) With cost of such warrants, options, or other stock rights acquired.

(b) With portion retained by company of the warrants, options, or other stock rights in which participations are sold to others.

(c) With amount of participation in acquisitions by others of warrants, options, or other stock rights.

Credit:

(a) With cost of such warrants, options, or other stock rights surrendered in exercising the stock rights.

(b) With cost of such warrants, options, or other stock rights written off or disposed of otherwise.

(c) With cost of such warrants, options, or other stock rights for which the exercise period has expired.

Note 1.—It is recommended that individual ledger cards or sheets be maintained for all warrants, options, or other stock rights acquired from SBCs.

Note 2.—The cost of warrants, options, and other stock rights acquired from SBCs for a separate consideration will be charged to this account, with a credit to cash. If warrants, options, or other stock rights are acquired from SBCs without a separate consideration and a cost thereof is otherwise determined, such cost will be established in this account. (The determined cost of warrants, options, and other stock rights acquired with debt securities without a separate consideration therefore shall be arrived at giving full consideration to the grade of the debt security.) The payment for the debt security or capital stock certificate which accompanied the stock rights will be allocated between the obligation or stock and the stock rights. Cash will be credited for the determined cost of the stock rights. Cash also will be credited for the amount of the debt security or stock received less the amount withheld from disbursement in relation to the debt security or stock received, which is equivalent to the determined cost of the stock rights plus (in the case of a debt security) any other withholding from net funds advanced. In the purchase of a debt security the deduction equal to the determined cost of the stock rights, plus any other withholding from net funds advanced, will be treated as unearned discount on the debt security and credited to account No. 188—Unearned discount, fees, and other charges on debt securities. In the case of a purchase of capital stock, the deduction equal to the determined cost of the stock rights will serve to reduce the cost of the stock to be recorded in account No. 190—Capital stock of SBCs, with stock purchase warrants or options, and/or convertible.

(See accounts Nos. 199, 576 and 706.)

198—Appreciation of warrants, options, and other stock rights acquired from SBCs

This account will represent the amount by which the licensee's Board of Directors General Partner(s) has valued warrants, options and other stock rights above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

(See account Nos. 197, 199 and 440.)

Note.—See Note 1 to account No. 199.

199—Depreciation of warrants, options, and other stock rights acquired from SBCs

This account will represent the Board of Directors/General Partner(s) downward valuation of warrants, opinions, and other stock rights acquired from SBCs, and should represent an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of reserve established in this account for warrants, options, and other stock rights acquired from SBCs which are written off, sold, or disposed of otherwise (contra credit will be made to account No. 445).

(c) With amount of writedown of such warrants, options, and other stock rights acquired from SBCs, not to exceed the amount of reserve established therefor in this account.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

Note 1.—When warrants, options, and other stock rights acquired from SBCs are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received, account 706 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account 576. The amount of the reserve which has been established in the account for warrants, options, or other stock rights acquired, sold or disposed of otherwise will be reversed and offset against account 445.

Note 2.—This account will usually represent the allowance for losses on warrants, options, and other stock rights. Otherwise, this account should be subdivided.

(See accounts Nos. 197, 198, and 445.)

200—Receivables due from debtors on sale of assets acquired in liquidation of portfolio securities

This account will represent the unpaid balance of accounts receivable, notes receivable, sales contracts, purchase money mortgages, and similar evidences of indebtedness to the company arising from the sale or assets acquired in liquidation of portfolio securities.

Debit:

(a) With amount of such receivables.

(b) With amount of participation in amounts due from debtors on sale of assets acquired in liquidation of portfolio securities of other lenders or investors.

Credit:

(a) With amount collected on principal of such receivables.

(b) With amount transferred to account No. 204—assets acquired in liquidation of portfolio securities. (Noncash assets other than receivables obtained on sale of assets acquired in liquidation of portfolio securities should be reflected at cost in account No. 204).

(c) With unpaid principal balance written off or disposed of otherwise.

Note.—It is recommended that subsidiary records to be maintained in sufficient detail to disclose for report and tax purposes all transactions affecting amounts due from debtors on sale of assets acquired in liquidation of portfolio securities.

(See accounts Nos. 203, 204.)

203—Depreciation in values of receivables from debtors on sale of assets acquired in liquidation of portfolio securities

This account will represent the downward valuation on amounts due from debtors and securities received on sale of assets acquired in liquidation of portfolio securities, and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount due from debtors on sale of assets acquired in liquidation of portfolio securities written off.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

(c) With amount of recoveries on such items written off.

Note.—Occasionally, this amount will be subdivided into at least two accounts:

203.1 *Allowance for Losses*—which represents losses the licensee expects to realize on specific receivables from debtors.

203.2 *Other Depreciation of Receivables from Debtors*—Represents the Board of Directors/General Partner(s) downward valuation of specific receivables from debtors. However, if securities are held to maturity no loss would be expected. An example is money mortgage discount.

(See accounts Nos. 200 and 445.)

204—Assets acquired in liquidation of portfolio securities

This account will represent the company's investment in assets acquired by foreclosure, or otherwise, in liquidation of portfolio securities. Judgments, sheriffs' certificates (including property acquired subject to redemption), etc., will be reflected in this account.

The investment in property at the date of acquisition by the company should be determined by the Board of Directors/General Partner(s) on the most suitable of the following basis: (1) Bid-in price of the property; (2) agreed consideration for the property; (3) fair appraised value of the property. Any remaining indebtedness will be written off unless the company expects further liquidation of the debt from other sources. Insofar as practicable, investment values will be determined for each individual asset, or unit, at the time such assets are recorded in this account, and when an asset is sold only an amount equal to the investment in such asset will be credited to this account.

The company's investment in mortgaged real property acquired in liquidation of portfolio securities should be recorded at gross value as determined by the Board of Directors/General Partner(s), reduced as necessary to bring the net recorded value to no more than the outstanding principal balance of the related portfolio securities involved. The amount of the existing mortgage or mortgages on such property acquired by the company will be reflected in account No. 313.

The company's investment in judgments should be recorded at the face amount of the judgment. When the company acquires the underlying security to the related portfolio securities outright or subject to redemption, the investment in the property should be determined in accordance with the basis set forth in the second paragraph.

Debit:

(a) With amount of the company's investment in the assets at the time of the acquisition.

(b) With amount of the company's investment in the assets at the date of judgment, sheriff's certificate, etc.

(c) With amount of participation in assets acquired by others in liquidation of portfolio securities.

Credit:

(a) With proceeds of partial sale of the assets.

(b) With amount of the company's investment at date of sale, or other disposition of the assets.

(c) With amount written off.

Note 1.—Collateral notes receivable acquired in the liquidation of portfolio securities will be reflected in this account; but notes receivable that are subsequently accepted in connection with the disposition of assets acquired in the liquidation of portfolio securities will be included in account No. 200—Receivables from debtors on sale of assets acquired in liquidation of portfolio securities.

Note 2.—It is recommended that subsidiary records be maintained in sufficient detail to disclose for report and tax purposes all transactions affecting assets acquired in liquidation of portfolio securities.

(See accounts Nos. 170, 180, 184, and 200.)

205—Appreciation of assets acquired in liquidation of portfolio securities

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued assets acquired above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

Note.—See Note 1 to account No. 206.

(See accounts Nos. 204, 206, and 440.)

206—Depreciation of assets acquired in liquidation of portfolio securities

This account will represent the downward valuation of assets acquired in liquidation of portfolio securities, and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of reserve established in this account for assets acquired in liquidation of portfolio securities which are written off, sold, or disposed of otherwise (contra credit will be made to account No. 445).

(c) With amount of writedown of such assets acquired in liquidation of portfolio securities, not to exceed the amount of reserve established therefor in this account.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

Note 1.—When assets acquired in liquidation of portfolio securities are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received, account 707 will be debited for the amount of the loss and account No. 204 will be credited for the related cost value carried therein. If a gain over recorded investment in the assets acquired in liquidation is realized, such gain will be credited to account No. 577. The amount of the reserve which has been established in this account for other assets acquired in liquidation of portfolio securities will be reversed and offset against account 445 when such assets are sold or disposed of otherwise.

Note 2.—This account will usually represent the allowance for losses on other assets acquired in liquidation of portfolio securities. Otherwise, it should be subdivided.

(See accounts Nos. 204 and 445.)

210—Operating concerns acquired

Occasionally, a licensee takes action to protect its investment in a portfolio concern and as a result acquires a controlling interest in an operating concern. In such cases, the licensee will reclassify the aggregate amount due from the portfolio concern to this account. If the concern has ceased operations and is being liquidated, the aggregate amount due from the portfolio concern will be classified as assets acquired in liquidation of portfolio securities (account No. 204) rather than this account.

Debit:

(a) With total amount of the licensee's investment in the operating concern at the time of the acquisition.

(b) With additional financing provided by the licensee.

Credit:

(a) With amount collected from such operating concern.

(b) With proportionate cost of interest sold or disposed of otherwise.

(c) With amounts written off.

Note.—It is recommended that individual ledger cards or sheets be maintained for individual loans and investments by operating concerns acquired.

(See accounts Nos. 211 and 212.)

211—Appreciation of operating concerns acquired

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued securities of operating concerns acquired above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

(See accounts 210, 212, and 440.)

Note.—See Note 1 to account No. 212.

212—Depreciation of operating concerns acquired

This account will represent the amount by which the licensee's Board of Directors/General Patner(s) has valued securities of operating concerns acquired below cost of such securities.

Debit:

(a) With decreases in amount of such depreciation resulting from increases in fair value of such equity interests.

(b) With amount of depreciation attributable to equity interests sold or otherwise disposed of.

Credit:

(a) With amount of such depreciation recognized.

(b) With amount of increase in such depreciation recognized.

Note 1.—When investments in operating concerns are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received. Account 706 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein.

If a gain over cost is realized, such gain will be credited to account No. 578. The amount of the reserve which has been established in the account for the investment

sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—Usually, this account will be subdivided into at least two accounts:

212.1 *Allowance for Losses*—which represents losses the licensee expects to realize on the specific operating concern acquired.

212.2 *Other Depreciation of Values*—represents the Board of Directors/General Partner(s) downward valuation of specific loans. However, if securities are held to maturity no loss would be expected. An example is money mortgage discount.

(See account Nos. 210, 211, and 445.)

220—Notes and other securities received on sale of portfolio securities

This account will represent the securities taken by the licensee as part of the net sales price of portfolio securities sold.

Debit:

(a) With assigned cost of such securities when acquired.

Credit:

(a) With cost of such securities when sold.

(b) With cost of such securities when written off or disposed of otherwise.

Note 1.—It is recommended that individual ledger cards or sheets be maintained for securities received on sale of portfolio securities.

(See account 221, 222, and 223.)

221—Other securities received

This account will represent securities received by the licensee for which no funds were provided and which would not otherwise be classified as loans and investments. An example of such securities would be a dividend in kind received by licensee from a portfolio concern.

Debit:

(a) With fair value of such securities when received.

Credit:

(b) With carrying value of such securities when sold, written off or disposed of otherwise.

(See accounts 220, 222, and 223.)

222—Appreciation of other securities

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued other securities with equity features above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

Note.—See Note 1 to account No. 223.

(See accounts 220, 221, 223, and 440.)

223—Depreciation of other securities

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued other securities below the carrying value of such securities.

Debit:

(a) With decreases in amount of such depreciation resulting from increase in fair value of such securities.

(b) With amount of depreciation attributable to other securities sold or otherwise disposed of.

Credit:

(a) With amount of such depreciation recognized.

(b) With amount of increase in such depreciation recognized.

Note 1.—When other securities are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received. Account 709 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account No. 579. The amount of the reserve which has been established in the account for securities sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—Frequently, this account will be subdivided into at least two accounts:

223.1 *Allowance for Losses*—represents losses the licensee expects to realize on specific other securities.

223.2 *Other Depreciation of Values*—represents the Board of Directors/General Partner(s) downward valuation of specific securities. However, if securities are held to maturity, no loss would be expected. An example is money mortgage discount. Another example would be temporary market decline of marketable securities.

(See account Nos. 220, 221, 222, and 445.)

230—Prepaid expenses

This account will represent the unexpired or unconsumed portion of expenses expressly applicable to future periods for which no specific accounts have been provided. Such expenses should be amortized over the appropriate period. An example of such prepaid expense is debt discount and expense that may result from obtaining leverage funds.

Debit:

(a) With amount of prepaid expenses.

Credit:

(a) With the proportional amount of such expenses applicable to the period.

Note.—Subsidiary records should be maintained to identify the items reflected in this account and to facilitate their amortization.

231—Deferred charge

Timing differences will exist between accounting income and taxable income and thereby may cause a prepayment of taxes which is considered to be a deferred charge to future tax expense. The prepayment is based on accounting income and primarily will result from provision for loss on stock or SBCs. This account will represent such deferred charges recognized.

Debit:

(a) Such account for amounts when prepaid.

Credit:

(a) Such account for amounts that have been previously prepaid that are being applied during the period.

(See account No. 380.)

240—Furniture and equipment

This account will represent the cost of furniture, fixtures, and equipment, including automobiles, owned by the company. The cost of freight, drayage, cartage, express, etc., in connection with the purchase of such items of furniture and equipment, will be included in this account.

Debit:

(a) With cost of such assets purchased.

Credit:

(b) With cost of such assets at the time of sale or other disposition.

Note.—An inventory record should be maintained for all such assets and each item should be tagged or numbered to facilitate ready identification.

(See account No. 241.)

241—Accumulated depreciation of furniture and equipment

This account will represent the valuation reserve provided for depreciation of furniture, fixtures, and equipment, including automobiles, owned by the company. This account should be maintained in an amount not less than a conservative estimate of the expired service life of such assets while owned by the company.

Debit:

(a) With amount of depreciation accumulated, when such an asset is sold or disposed of otherwise.

Credit:

(a) With amount necessary to depreciate the cost of such assets over the estimated service life.

(See accounts Nos. 240 and 655.)

250—Corporate premises owned

This account will represent the actual cost of acquisition of the land and building used as the company's office quarters. The account also will include the actual cost of any improvements, such as street, sidewalk and other benefits, applicable to the land, and any improvements applicable to the building.

Debit:

(a) With actual cost of acquisition of the land and building.

(b) With actual cost of any improvement to the land and/or building.

Credit:

(a) With the acquisition cost of the land and/or building, plus the cost of improvements made thereto, when the land and/or building is sold or disposed of otherwise.

(See account No. 251.)

251—Accumulated depreciation of corporate premises owned

This account will represent the valuation reserve provided for depreciation of the building and other depreciable improvements of corporate premises owned and used as the company's office quarters. This account should be maintained in an amount not less than a conservative estimate of the expired

service life of such building and improvements while owned by the company.

Debit:

(a) With amount of depreciation accumulated, when such an asset is sold or disposed of otherwise.

Credit:

(a) With the amount necessary to depreciate the cost of such assets over the estimated service life.

(See accounts Nos. 250 and 655.)

252—Leasehold improvements

This account will represent the actual cost of improvements to leased property used as the company's office quarters. The amount of this account will be amortized through account No. 656 over the life of the lease or the life of the improvements, whichever is the shorter.

Debit:

(a) With actual cost of improvements to leasehold.

Credit:

(a) With the amount necessary to amortize the cost of leasehold improvements.

265—Amounts due from directors, officers, general partners, limited partners and employees

This account will represent the unpaid balance of amounts advanced to directors, officers, general partners, limited partners and employees.

Debit:

(a) With amount of such advances made.

Credit:

(a) With amount collected on such advances.

(b) With amount transferred to appropriate expense classification upon proper authorization.

(c) With amount written off or disposed of otherwise.

(See account No. 709.)

266—Organization costs

This account will represent the amount of legal fees, promotional expense, stock certificate cost, incorporation fees, taxes, and other related costs incurred in organizing the company.

Debit:

(a) With amount of such costs incurred.

Credit:

(a) With the amount necessary to amortize the organization costs.

(See account No. 672.)

267—Funds in escrow

This account will represent the amount of funds placed in escrow pending the closing of financing for small business concerns.

Debit:

(a) With amount of funds placed in escrow.

Credit:

(a) With amount of funds withdrawn from escrow.

269—Other assets

This account will represent the amount of assets of the company, at cost, not specifically provided for in other accounts, including recoverable amounts advanced for the protection and preservation of the company's investments (such as the payment of taxes on mortgaged property), but not including short-term loans or debt securities issued to protect the company's interests in previously issued long-term loans or equity securities.

Debit:

(a) With amount of the company's investment in such assets.

Credit:

(a) With amount of such assets sold or disposed of otherwise.

(See account No. 709.)

Liability Accounts

300—Notes payable to SBA

This account will represent the long-term principal balance of notes payable (1) for funds borrowed and received directly from the Small Business Administration and (2) for funds borrowed from others through guaranteed loans which subsequently have been purchased by the Small Business Administration.

Debit:

(a) With amount of principal payments made on such notes.

(b) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds borrowed.

(b) With unpaid principal balance of guaranteed loans purchased by SBA (contra debit will be made to account No. 310).

(See account 330.)

301—Debentures payable issued to SBA

This account will represent the loan-term principal balance of funds received by the company under its debentures payable issued to the Small Business Administration for funds borrowed.

Debit:

(a) With amount of principal payments made to SBA on such debentures.

(b) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds received from SBA under such debentures.

(See account 330.)

310—Notes payable to other than SBA—guaranteed by SBA

This account will represent the long-term principal balance of notes payable for funds borrowed from other than the Small Business Administration and guaranteed by the Small Business Administration.

Debit:

(a) With amount of principal payments made on such notes.

(b) With unpaid principal balance of guaranteed loans purchased by SBA (contra credit will be made to account No. 300).

(c) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds borrowed.

(See account 330.)

311—Notes payable to other than SBA—not guaranteed by SBA

This account will represent the loan-term principal balance of notes payable for funds borrowed from other than the Small Business Administration and not guaranteed by the Small Business Administration.

Debit:

(a) With amount of principal payments made on such notes.

(b) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds borrowed.

(See account 331.)

312—Mortgages payable for funds borrowed

This account will represent the long-term principal balance of mortgages payable for funds borrowed on corporate premises or other real estate owned by the company. Purchase money mortgages, conditional sales contracts, or similar documentary evidence of indebtedness given by the company in the acquisition of real property will be included in this account.

Debit:

(a) With amount of principal payments made on such indebtedness.

(b) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds borrowed.

(See account 331.)

313—Mortgages payable on assets acquired in liquidation of portfolio securities

This account will represent the unpaid principal balance of existing mortgages payable on assets acquired by the company in liquidation of portfolio securities.

Debit:

(a) With amount of principal payments made on such indebtedness.

Credit:

(a) With amount of such indebtedness.

(See account No. 204.)

320—Notes payable—other

This account will represent the unpaid principal balance of notes payable in evidence of amounts owned by the company other than for funds borrowed. Notes payable, conditional sales contracts, and liens for the acquisition of furniture, fixtures, equipment, and automobiles will be included in this account.

Debit:

(a) With amount of principal payments made on such notes.

Credit:

(a) With amount of unpaid principal of such notes executed.

330—Current maturities of notes and debentures payable to or guaranteed by SBA

This account will represent the principal amount due on a current basis (payable by the licensee in the next 12 months of operations) of long-term debt shown in accounts 300, 301 and 310.

Debit:

(a) With amounts paid by the licensee or disposed of otherwise.

Credit:

(a) With amounts that become due by the licensee on a current basis.

(See accounts Nos. 300, 301, and 310.)

331—Current maturities of notes and debentures payable to others not guaranteed by SBA

This account will represent the principal amount due on a current basis (payable by the licensee in the next 12 months of operations) of long-term debt shown in accounts 311 through 313.

Debit:

(a) With amounts paid by the licensee or disposed of otherwise.

Credit:

(a) With amounts that become due by the licensee on a current basis.

(See account Nos. 311 through 313.)

340—Accounts payable

This account will represent amounts payable on open account. The account also will include accrued compensation payable for services rendered to the company on its participations in financing transactions, and accrued commitment fees payable for having funds made available on a deferred basis by "participating" companies in connection with the financing of, or commitments to finance, small business concerns.

Debit:

(a) With amount of such indebtedness paid, or disposed of otherwise.

Credit:

(a) With amount of such indebtedness incurred.

Note 1.—A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—A deferred participation is defined as a commitment under a participation agreement whereby the "participating" company will make funds available on a deferred basis to the "initiating" company in connection with the latter's financing of, or commitment to finance, a small business concern, or in connection with a "initiating" small business investment company's acquisition of loans or equity securities from other such companies.

(See accounts Nos. 141, 600, and 715.)

341—Accounts payable due parent and partners

This account will represent payables due parent from licensee. Payables due parent will generally be from one of two sources: (1) Expenses shared (pro-rata with the parent, paid by the parent but not yet reimbursed by the licensee and/or (2) parent (and/or consolidated group) has a tax loss from which the licensee has received a tax benefit.

Debit:

(a) Cash paid to parent and partners.

(b) Income taxes due from licensee but paid by the parent.

Note.—The above debit can only arise when the licensee has had the benefit of a prior tax loss from the filing of a consolidated return.

Credit:

(a) Licensee's share of any expense shared with parent and paid by parent.

(b) Licensee's share of any tax benefit resulting from the filing of a consolidated tax return with the parent if the licensee has taxable income but the consolidation has a loss.

(c) Any other payable due parent or partner arising from any other source.

350—Accrued interest payable

This account will represent the amount of liability for interest accrued on the company's notes, mortgages and debentures payable. The account will also include accured interest payable on other interest-bearing obligations of the company.

Debit:

(a) With amounts of such interest paid or disposed of otherwise.

Credit:

(a) With amounts of such interest accrued on all interest-bearing obligations covered by this account.

351—Accrued taxes

This account will represent the balance of accrued taxes on payroll, such as the company's portion of social security taxes, which have not been remitted to the appropriate collectors of such taxes.

Debit:

(a) With amount of such taxes paid.

Credit:

(a) With amount of such taxes accrued.

(See account No. 664.)

354—Estimated income taxes accrued

This account will include the balances in subaccounts Nos. 354.1, 354.2, 354.3, etc.

354.1—*Estimated Federal income taxes accrued.*

This account will represent the balance of estimated Federal income taxes accrued which have not been remitted to the Internal Revenue Service.

Debit:

(a) With amount of such taxes paid.

Credit:

(a) With amount of such taxes accrued.

(See subaccounts Nos. 720.1 and 722.1.)

354.2—*Estimated State income taxes accrued.*

This account will represent the balance of estimated State income taxes accrued which have not been remitted to the appropriate collector of such taxes.

Debit:

(a) With amount of such taxes paid.

Credit:

(a) With amount of such taxes accrued.

(See subaccounts No. 720.2 and 722.2.)

358—Other current liabilities

This account will represent other current liability not provided for in other accounts.

Debit:

(a) With amount of such expenses paid of disposed or otherwise.

Credit:

(a) With amount of such expenses accrued.

Note.—Increases or decreases in the liability for accrued expenses, through accruals or adjustments, will be offset by increases or decreases, respectively, in the appropriate expenses accounts.

360-364—Dividends payable on (Type of class) ———— *capital stock*

These accounts will represent the company's liability for dividends declared by the company's Board of Directors on the respective types and classes of capital stock issued and outstanding. A separate account should be used to reflect the dividends payable for each type and class of capital stock outstanding.

Debit:

(a) With amount of such dividends paid.

Credit:

(a) With amount of such dividends declared payable by the company's Board of Directors.

365-369—Partnership distributions payable to general partners/limited partners

Debit:

(a) With the amount of distributions paid.

Credit:

(a) With the amount of distributions accrued.

370—Employee taxes withheld

This account will represent the amount of income and social security taxes withheld from employee's salaries which have not been remitted to the appropriate collectors of such taxes.

Debit:

(a) With amount of such taxes remitted.

Credit:

(a) With amount of such taxes withheld.

374—Unapplied receipts

This account will represent the amount of funds received by the company which have not been applied to loans, debt securities, interest receivable, etc. This account will be used only in instances when the funds received cannot be applied promptly.

Debit:

(a) With amount of such funds applied or disposed of otherwise.

Credit:

(a) With amount of funds received which cannot be applied promptly.

378—Miscellaneous trust receipts

This account will represent the liability of the company for funds withheld or received in trust, for which no specific account is provided, including earnest money deposits, and funds withheld from employees' salaries for the purpose of United States Savings Bonds, payment of group life insurance premiums, payment of pension fund contributions, etc. The account will also include amounts due other companies that are participants in financing where the licensee is the sponsor and is servicing the debt.

Debit:

(a) With amount of such funds disbursed or disposed of otherwise.

Credit:

(a) With amount of such funds withheld or received.

380—Deferred credit to future taxes

Timing differences will exist between accounting income and taxable income and thereby cause a deferment of tax expense. Such deferred credits usually will result from provision for loss on loans and debt securities. This account will represent such deferred tax payments.

Debit:

(a) Such account with amount of taxes paid which had been previously deferred.
Credit:
(a) Such account with amount of tax payments when deferred.
(See account No. 231 and 448.)

383—Other deferred credits

This account will represent the amount of deferred credits of the company not specifically provided for in other accounts.
The account will include any gain on sale of assets which does not qualify as realized gain.
Debit:
(a) With amount of such deferred credits transferred to income or gain, or disposed of otherwise.
Credit:
(a) With amount of such deferred credits established.

Note 1.—Accrual of interest receivable should be discontinued with respect to any loan or debt security financing a small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Any interest payments received from such a debtor should not be treated as interest income, but should be either credited as payments on principal of the debt or credited as deferred income in this account, pending determination of the appropriate accounting. In less serious situations, when interest receivable is accrued under circumstances in which the financed small business concern is in default to licensee over 6 months, or the fair value of the loan or debt security as determined in good faith by the Board of Directors/General Partner(s) is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable should be made in an amount equivalent to the accrual of interest receivable, or, as an alternative, the interest income should be deferred in this account as above indicated.

Note 2.—Deferred gain in this account will be transferred to appropriate gain accounts as it is realized.

390—Other liabilities

This account will represent the amount of liabilities of the company not specifically provided for in other accounts.
Debit:
(a) With amount of such liabilities paid or disposed of otherwise.
Credit:
(a) With amount of such liabilities incurred.

Capital Accounts

400–404 ———— capital stock authorized.

(Type and class)

These accounts will represent the total par or stated value of the capital stock authorized, as provided for in the company's charter. A separate account should be provided for each type and class of capital stock authorized.
Debit:
(a) With amount of reductions of such capital stock authorized.
Credit:
(a) With original amount of such capital stock authorized.
(b) With additional amounts of such capital stock authorized.
(See accounts Nos. 405–409 and "Note" of accounts Nos. 415–419.)

405–409 ———— unissued capital stock.

(Type and class)

These accounts will represent the total par or stated value of unissued capital stock of the company. A separate account should be provided for each type and class of unissued capital stock.
Debit:
(a) With original amount of such unissued capital stock, as provided for in the company's charter.
(b) With additional amounts of such unissued capital stock authorized.
(c) With par or stated value of capital stock retired.
Credit:
(a) With amount of such capital stock issued (contra debit will be made to accounts Nos. 410–411).
(b) With amount of reductions of capital stock authorized.
(See accounts Nos. 400–404 and "Note" of accounts Nos. 414–419.)

410–411 ———— capital stock subscribed.

(Type and class)

These accounts will represent the total amount at the subscription price of the company's capital stock subscribed. A separate account should be provided for each type and class of capital stock subscribed. These accounts will reflect the company's responsibility to issue shares of its stock to subscribers who have made final payment of their capital stock subscriptions.
Debit:
(a) With amount at the subscription price of such subscribed capital stock issued (contra credits will be made to accounts Nos. 405–409 and, as appropriate, No. 420).
(b) With amount at the subscription price of such subscribed capital stock canceled or disposed of otherwise.
Credit:
(a) With amount at the subscription price of such capital stock subscribed.
(See accounts Nos. 413–414 and "Note" of accounts Nos. 415–419.)

413–414—Capital stock subscriptions receivable————

(Type and class)

These accounts will represent the total unpaid balances of capital stock subscriptions receivable from subscribers of the company's authorized capital stock. A separate subscriptions receivable account should be provided for each type and class of capital stock subscribed.
Debit:
(a) With amount of such capital stock subscriptions received.
Credit:
(a) With amount collected on such capital stock subscriptions.
(b) With amount of such capital stock subscriptions canceled or disposed of otherwise.
(See accounts Nos. 410–411 and "Note" of accounts Nos. 415–419.)

415–419—Treasury stock————

(Type and class)

These accounts will represent the total amount of the company's issued capital stock which has been reacquired through purchase or donation and has not been retired. A separate account should be provided for each type and class of such capital stock held by the company.
Debit:
(a) With cost of such capital stock acquired through purchase.
(b) With amount of fair market value or par value of such capital stock acquired through donation (contra credit will be made to account No. 420).
Credit:
(a) With cost of such capital stock acquired through purchase, when sold or disposed of otherwise.
(b) With amount of fair market value or par value of such capital stock acquired through donation, when sold or disposed of otherwise.

Note.—Appropriate subsidiary records should be maintained as deemed necessary.

420—Paid-in surplus

This account will represent the amount of surplus arising from (1) sales initially of the company's capital stock at a price in excess of par value (including amounts transferred from capital stock subscribed at a price above par, when shares are issued); (2) donations to the company of its issued capital stock carried as treasury stock at fair market value or par value; (3) retirements of capital stock purchased at less than the par value thereof; (4) sales of treasury stock in excess of its carrying value on the books of the company; (5) donations or gifts to the company of assets carried at not in excess of fair market value; and (6) other equity transactions with stockholders.
Debit:
(a) With amount of loss on treasury stock sold which was acquired through purchase, but not to exceed the total paid-in surplus. (Any amount of loss in excess of the total of such credits will be charged to account No. 451).
(b) With amount received by the company below fair market value, or par value, whichever applicable, for treasury stock sold which was acquired through donations.
(c) With amount paid by the company in excess of par value, but not to exceed the premium received initially, for shares of capital stock retired (any amount paid in excess of par plus initial premium received will be charged to account No. 451).
Credit:

(a) With amount paid in (including stock dividends from undistributed earnings), or transferred from capital stock subscribed, representing the excess after deduction of underwriters' fees and commissions) over par value of the company's capital stock, when shares are issued.

(b) With amount of fair value or par value of the company's capital stock acquired through donation.

(c) With amount of discount below par value of the company's capital stock acquired through purchases, when such stock is retired.

(d) With amount received by the company in excess of cost, or in excess of fair value or par value, whichever applicable, for treasury stock sold.

(e) With amount not to exceed fair market value of donations or gifts of assets to the company.

430—3% Cumulative preferred stock (Issued to SBA)

This account will be used by 301(d) licensees only and will represent the preferred stock sold to the Small Business Administration at its par value by the licensee. Such stock is not included in capital stock accounts Nos. 400 and 414 because such stock is not considered private capital for leverage or regulatory purposes.

Debit:

(a) Such account with the par value of preferred stock repurchased by the licensee.

Credit:

(a) Such account with the par value of preferred stock sold to SBA by the licensee.

440—Stockholders' unrealized appreciation on loans and investments

This is a credit balance account and will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued loans and investments above cost of such securities.

Debit:

(a) With decrease in amount of appreciation resulting from decline in fair value of securities held.

(b) With amount of appreciation attributable to securities sold or disposed of otherwise.

Credit:

(a) With amount of such appreciation recognized.

(b) With amount of increase in such appreciation recognized.

(See accounts Nos. 171, 186, 192, 195, 198, 205, 211, and 222.)

Note.—In the case of distributions in kind to stockholders, this account will be debited with an amount not less than the amount of unrealized gain reported on the most recent 468 for the asset being distributed. The offsetting credit will be to account No. 450, Non-cash gains.

445—Stockholders' unrealized depreciation on loans and investments

This is a debit balance account and will represent the amount by which the licensee's Board of Directors has valued loans and investments below cost of such securities.

Debit:

(a) With amount of "depreciation" of loans and investments recognized.

(b) With amount of increase in such depreciation recognized.

Credit:

(a) With decrease in the amount of depreciation resulting from increase in fair value of securities held.

(b) With amount of depreciation attributable to securities sold or disposed of otherwise.

(See accounts Nos. 172, 187, 193, 196, 199, 203, 206, 212 and 223.)

448—Stockholders' estimated taxes on net unrealized gain (loss) on securities held

This is a debit balance account that will represent the provision for income taxes on net unrealized appreciation (amount by which the Board of Directors valuation of all securities exceeds cost). As the valuation of securities changes, the provisions for taxes will change.

Debit:

(a) With provisions for taxes established on net unrealized gain.

(b) With increases in provisions for taxes.

Credit:

(a) With established provision for taxes attributable to securities sold or disposed of otherwise.

(b) With decrease in provision established.

Note.—Should the net amount (unrealized appreciation less unrealized depreciation) be a negative figure, (i.e., a net loss) the tax effect should be computed and reflected in the accounts.

(See account No. 380.)

450—Stockholders' non-cash gains on sale of securities

This is a credit balance account and represents gains realized on sale of securities that have not been converted to cash. While considered to be undistributed earnings, amounts in this account will not be available for distribution or capitalized by corporate action. Therefore, such amounts are considered restricted undistributed earnings realized.

Debit:

(a) With amount of cash collected of such non-cash gains previously recognized.

(b) With amount of non-cash gains written off or disposed of otherwise.

(c) With the amount previously credited to this account from stockholders' unrealized appreciation on loans and investments.

Credit:

(a) With amounts of non-cash gain when the securities generating such gain are sold.

(b) With the amounts of unrealized gain on the asset being distributed. This is the amount debited to account No. 440.

Note.—It is recommended that individual records be maintained for each non-cash gain realized.

(See accounts Nos. 462, 220, 579 and 709.)

451—Stockholders' undistributed net realized earnings

This is a credit balance account and represents the cumulative balance of periodic net investment income including realized gain (loss) on securities sold, less dividend distributions whether cash, stock, or cost portions of dividends in kind. Non-cash gain on sale of securities are included in account No. 450.

Debit:

(a) At the end of the fiscal year, with any debit balance in account No. 460 reflected in the profit and loss summary account, and/or the realized gain and loss summary account No. 461.

(b) With amount of dividends, other than stock dividends declared payable out of undistributed net realized earnings by the company's Board of Directors.

(c) With amount of stock dividends, at a per share value representing the higher of fair value existing at the time that the dividend is declared, which are declared by the company's Board of Directors and paid out of undistributed net realized earnings.

(d) With appropriate amount of loss on treasury stock sold which was acquired through purchase, representing the excess of such loss over the total of credits residing in paid-in surplus, account No. 420, relating to previous gains on treasury stock sold or retirement of capital stock at amounts less than the amounts previously paid in with respect thereto.

(e) With appropriate amount paid by the company in excess of par plus initial premium received on the type and class of shares of capital stock retired.

Credit:

(a) At end of the fiscal year, with the credit balances of the profit and loss summary account, No. 460 and the realized gain and loss summary account, No. 461.

(See account Nos. 450, 460, 461 and 462.)

460—Stockholders' profit and loss summary

This account will be used as a clearing account through which all income and expense accounts on the books of the company will be closed.

Debit:

(a) At end of the fiscal year, with the debit balance of all expense and income accounts.

(b) At the end of the year with any credits arising from investments in management service subsidiaries or unincorporated businesses reported on the equity method of accounting.

(c) At the end of the fiscal year, with the credit balance of the account (transfer to undistributed net realized earnings—account No. 451).

Credit:

(a) At the end of the fiscal year, with the credit balances of all income and expense accounts.

(b) At the end of the year, by means of a journal entry, credit profit and loss summary with the amount of cash received from a management services subsidiary and/or unincorporated business which is not in excess of amounts previously charged to Profit and Loss summary that were credited to account No. 463—Stockholders' non-cash income from investments reported on the Equity Method of Accounting.

(c) At the end of the fiscal year, with the debit balance of the account (transfer to undistributed net realized earnings—account No. 451).

(See account No. 451.)

461—Stockholders' realized gain and loss summary in cash

This account will be used as a clearing account through which all accounts for realized gains and losses on investments on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the balance of all accounts for losses on investments.

(b) At the end of the fiscal year, with the credit balance of the account (transfer to retained earnings).

Credit:

(a) At the end of the fiscal year, with the balance of all accounts for gains on investments.

(b) At the end of the fiscal year, with the debit balance of the account (transfer to retained earnings).

(See account No. 451.)

462—Stockholders non-cash realized gain summary

This account will be used as a clearing account through which all accounts for non-cash realized gains on investment on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the credit balance of the account (transfer to non-cash gains on sale of securities)—account No. 450.

Credit:

(a) At the end of the fiscal year, with the amounts of non-cash gains on investments sold during the period and recognized in accounts 572 through 579.

(See account Nos. 450 and 461.)

463—Stockholders non-cash income from investments reported on the Equity Method of Accounting

This account will be used as a clearing account for income from any investment being reported on the Equity Method of Accounting rather than on the Value Method of Accounting. Generally this will be from investments in management services subsidiaries and/or investments in unincorporated small businesses concerns. Licensee's losses will not be reported in this account.

Debit:

(a) At the end of the fiscal year by a journal entry debit with the amount of cash received from investments reported on the Equity Method of Accounting but not in excess of amounts previously credited to the account from account 460 on the same investment.

Credit:

(a) At the end of the fiscal year with the amount of the licensee's share of income from investments reported on the Equity Method of Accounting.

Note.—It is suggested that subsidiary records be kept of each investment being reported on the Equity Method of Accounting. Income from each investment is to be treated as a separate item.

Losses are not reported through this account but remain in account 460.

465—Partners' profit and loss summary

This account will be used as a clearing account through which all income and expense accounts on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the debit balance of all expense and income accounts.

(b) At the end of the fiscal year with any credit arising from a management services investments or unincorporated businesses reported on the Equity Method of Accounting.

(c) At the end of the fiscal year, with the credit balance (transfer to the appropriate partners' undistributed net realized earnings account, i.e., account 493—Corporate General Partners' undistributed net realized earnings, 494—Individual General Partners' undistributed net realized earnings and 496—Limited Partners' undistributed net realized earnings.)

Credit:

(a) At the end of the fiscal year, with the credit balance of all income and expense accounts.

(b) At the end of the fiscal year, by means of a journal entry, credit profit and loss summary with the amount of cash received from a management services investment and/or unincorporated business which is not in excess of amounts previously charged to Profit and Loss Summary that were credited to Account 486—Partners Non-cash Income from Investment Reported on the Equity Method of Accounting.

(c) At the end of the fiscal year, with the debit balance of the account (transfer to the appropriate partners' Undistributed net realized earnings, i.e., 493, 494 and 496.

466—Partners' realized gain and loss summary-in cash

This account will be used as a clearing account through which all accounts for realized gains and losses on investments on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the balances of all accounts for losses on investments.

(b) At the end of the fiscal year, with the credit balance of the account (transfer to the appropriate partners' undistributed net realized earnings, i.e., 493, 494, and 496).

Credit:

(a) At the end of the fiscal year, with the balances of all accounts for gains on investments.

(b) At the end of the fiscal year, with the debit balances of the account (transfer to the appropriate partners' undistributed net realized earnings, i.e., 493, 494, and 496).

467—Partners' non-cash realized gain summary

This account will be used as a closing account through which all accounts for realized gains and losses on investments on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the credit balance of the account (transfer to the appropriate partners' non-cash gains on sale of securities, i.e. 491—Corporate General Partners' non-cash gain on sale of securities, 492—Individual General Partners' non-cash gain sale of securities, and 495—Limited Partners non-cash gain on sale of securities.

Credit:

(a) At the end of the fiscal year, with the amounts of non-cash gains on investments sold during the period and recognized in accounts 572 through 579.

468—Partners' non-cash income from investments reported on the Equity Method of Accounting

This account will be used as a clearing account for income from any investment being reported on the Equity Method of Accounting rather than on the Value Method of Accounting. Generally this will be from investments in management service investments and/or investments in unincorporated small business concerns. Licensee's losses will not be reported in this account.

Debit:

(a) At the end of the fiscal year by a journal entry, debit with the amount of cash received from investments reported on the Equity Method of Accounting but not in excess of amounts previously credited to the account from account 465.

Credit:

(a) At the end of the fiscal year credit with the amount of the licensee's share of income from investments reported on the Equity Method of Accounting.

Note 1.—It is suggested that subsidiary records be kept of each investment being reported on the Equity Method of Accounting. Income from each investment is to be treated as a separate item.

Losses are not reported through this account but remain in account 465.

Note 2.—This account should be divided into 468.1 for general partners and 468.2 for limited partners.

470—General Partners' Permanent Capital Contribution Summary

This is a summary account reflecting the balances of all general partners capital contributions. The credit balance in this account represents the amount of general partners' capital contributions that is a component in the computation of regulatory capital for leverage and overline purposes.

471—Corporate General Partners' Permanent Capital Contribution

This account respects the amount of the corporate general partners' capital contribution available for computation of regulatory capital.

Debit:

(a) Debit with the amount of any withdrawal during the fiscal period of capital contributions available for leverage.

Credit:

(a) Credit with the amount of additional cash contributed to the general partners' permanent capital contribution that is available for SBA leverage purposes.

(b) Credit with the amount transferred from account 493—Corporate General Partners' undistributed net realized earnings to increase the amount of capital available for SBA leverage and overline purposes.

Note 1.—This account performs the same function for a partnership licensee as a capital stock account performs for a corporate licensee. It represents capital available for leverage purposes, subject to certain regulatory adjustments.

Note 2.—This account performs an additional function for the partnership licensee. The credit balance in this account may be used to determine the percent of interest a corporate general partners has in the following items: (a) general partners' unrealized appreciation (depreciation), (b) general partners non-cash income from investments reported on the Equity Method of Accounting, (c) general partners' non-cash gain on sale of securities and (d) general partners undistributed net realized earnings.

Note 3.—Usually there is no relationship between the amount of capital contributed by general partners to the total partnership capital and the general partners' share of profits, losses and gains on securities. The ratio of the general partners' share of profits and gains is determined by the partnership agreement.

471—Individual General Partners' Permanent Capital Contribution

This account corresponds to account 471.

Debit:

(a) Debit with the amount of any withdrawals during the fiscal period of capital contributions available for leverage.

Credit:

(a) Credit with the amount of additional cash contributed to general partners' capital contribution that is available for computation of regulatory capital.

(b) Credit with the amount transferred from account 494—individual general partners undistributed net realized earnings to increase the amount of capital available for SBA leverage and overline purposes.

Note 1.—See notes 1, 2, and 3 to account 471.

Note 2.—It is suggested that subsidiary records be kept for each general partner.

475—Limited Partners Capital Permanent Contribution Summary

This is a summary amount reflecting the balance of all limited partners capital contributions. The credit balance in this account represents the amount of limited partners capital contributions that is available for computation of regulatory capital.

Note.—This account performs the same function for limited partners as account 470 performs for general partners.

476—Limited Partners Permanent Capital Contribution

This account performs the same function for limited partners that accounts 471 and 472 perform for general partners.

Debit:

(a) Debit with the amount of any withdrawals during the fiscal period of capital contributions available for computation of regulatory capital.

Credit:

(a) Credit with the amount of additional cash contributed to limited partners' permenent capital contribution that is available for computation of regulatory capital.

(b) Credit with the account transferred from account 496—Limited Partners Undistributed Net Realized Earnings to increase the amount of capital available for computation of regulatory capital.

Note 1.—The same rules apply to limited partners as apply to general partners. See Notes 1, 2, and 3 to account 471.

Note 2.—It is suggested that subsidiary records be kept for each limited partner.

481—Corporate General Partners' Unrealized Appreciation on Loans and Investments

This is a credit balance account representing the corporate general partners' share of the amount by which the general partner(s) has valued loans and investments above the cost of such securities.

Debit:

(a) With the decrease in the amount of appreciation resulting from the decline in fair value of securities held.

(b) With the amount of appreciation attributable to securities sold or disposed of otherwise.

Credit:

(a) With the amount of such appreciation recognized.

(b) With the amount of increase in such appreciation recognized.

(See accounts Nos. 171, 186, 192, 195, 198, 205, 211, and 222.)

482—Individual General Partner(s) Unrealized Appreciation on Loans and Investments

This is a credit balance account representing the individual general partners' share of the amount by which the general partner(s) has valued loans and investments above the cost of such investment.

Debit:

(a) With the decrease in the amount of appreciation resulting from the decline in fair value of securities held.

(b) With the amount of appreciation attributable to securities sold or disposed of otherwise.

Credit:

(a) With the amount of such appreciation recognized.

(b) With the amount of increase in such appreciation recognized.

(See accounts Nos. 171, 186, 192, 195, 198, 205, 211 and 222.)

483—Corporate General Partners' Depreciation on Loans and Investments

This is a debit balance account and will represent the corporate general partners share of the amount by which the licensee's general partner(s) has valued loans and investments below the cost of such securities.

Debit:

(a) With the amount of "depreciation" of loans and investments recognized.

(b) With the amount of increase in such depreciation recognized.

Credit:

(a) With the decrease in the amount of depreciation resulting from the increase in fair value of securities held.

(b) With the amount of depreciation attributable to securities sold or disposed of otherwise.

(See accounts Nos. 172, 187, 193, 196, 199, 203, 206, 212 and 222.)

484—Individual General Partners' Depreciation on Loans and Investments

This is a debit balance account and will represent the individual general partners' share of the amount by which the licensee's general partner(s) has valued loans and investments below the cost of such securities.

Debit:

(a) With the amount of "depreciation" of loans and investments recognized.

(b) With the amount of increase in such depreciation recognized.

Credit:

(a) With the decrease in the amount of depreciation resulting from the increase in fair value of securities held.

(b) With the amount of depreciation attributable to securities sold or disposed of otherwise.

(See accounts Nos. 172, 187, 193, 196, 199, 203, 206, 212, and 222.)

485—Limited Partners Unrealized Appreciation on Loans and Investments

This is a credit balance account and will represent the limited partners share of the amount by which the general partner(s) has valued loans and investments above the cost of such securities.

Debit:

(a) With the decrease in the amount of appreciation resulting from the decline in the fair value of securities held.

(b) With the amount of appreciation attributable to securities sold or disposed of otherwise.

Credit:

(a) With the amount of such appreciation recognized.

(b) With the amount of increase in such appreciation recognized.

(See accounts Nos. 171, 186, 192, 195, 198, 205, 211 and 222.)

486—Limited Partners Unrealized Depreciation on Loans and Investments

This is a debit balance account and will represent the limited partners share of the amount by which the general partner(s) has valued loans and investments below the cost of such securities.

Debit:

(a) With the amount of "depreciation" of loans and investments recognized.

(b) With the amount of increase in such depreciation recognized.

Credit:

(a) With the Decrease in the amount of depreciation resulting from the increase in fair value of securities held.

(b) With the amount of depreciation attributable to securities sold or disposed of otherwise.

(See accounts Nos. 172, 187, 193, 196, 199, 203, 206, 212 and 222.)

491—Corporate General Partners Non-cash Gains on Sale of Securities

This is a credit balance account and represents the corporate general partners'

share on gains realized on the sale of securities that have not been converted to cash. While considered to be undistributed earnings, the amounts in this account will not be available for distribution or capitalized by partnership action transferring amounts to Partners' Permanent Capital Contribution for SBA leverage. Therefore, such amounts are considered restricted undistributed earnings realized.

Debit:

(a) With the amount of cash collected from non-cash gains previously recognized.

(b) With the amount of non-cash gains written off or disposed of otherwise.

Credit:

(a) With the amounts of non-cash gain when the securities generating such gain are sold.

Note.—It is recommended that individual records be maintained for each non-cash gain realized.

(See accounts Nos. 467, 220, 579 and 709.)

492—Individual General Partners Non-cash Gain on Sale of Securities

This is credit balance account that performs the same function for individual general partners as account 491 performs for corporate general partners.

Debit:

(a) With the amount of cash collected from non-cash gains previously recognized.

(b) With the amount of non-cash gains written off or disposed of otherwise.

Credit:

(a) With the amount of non-cash gain when the securities generating such gain are sold.

Note.—It is recommended that individual records be maintained for each non-cash gain realized.

(See accounts Nos. 467, 220, 579, and 709.)

493—Corporate General Partners Undistributed Net Realized Earnings

This is a credit balance account and repesents the corporate general partners share of the limited partnership's cumulative balance of periodic net investment income including realized gain (loss) on securities sold less partnership distributions whether cash, stock or in kind and less non-cash gain on sales of securities which are included in account 491.

Debit:

(a) At the end of the fiscal year, with the corporate general partners' share of any debit balance in accounts (a) 465—Partners' profit and loss summary and/or (b) the debit balance in account 466—Partners' realized gain and loss summary in cash.

(b) With the amount of distributions made to corporate general partners whether cash, stock and/or in kind.

(c) With the amount transferred to corporate general partners capital contribution account 471 for SBA leverage purposes.

Credit:

(a) At the end of the fiscal year with the corporate general partners share of any credit balance in (a) account 465—Partners' profit and loss summary and/or (b) the credit balance in Account 466—Partners' realized gain and loss summary in cash.

494—Individual General Partners' Undistributed Net Realized Earnings

This is a credit balance account and represents the individual general partners' share of the limited partnerships' cumulative balance of periodic net investment income including realized gain (loss) on securities sold less partnership distributions whether cash, stock or in kind and less non-cash gain on sales of securities which are included in Account 492.

Debit:

(a) At the end of the fiscal year, with the individual general partners' share of any debit balance in accounts (a) 465—Partners' profit and loss summary and/or (b) the debit balance in 466—Partners' realized gain and loss summary in cash.

(b) With the amount of distributions made to individual general partners whether cash, stock and/or in kind.

(c) With the amount transferred to the individual general partners' capital contribution account 471 for SBA leverage purposes.

Credit:

(a) At the end of the fiscal year, with the individual general partners' share of any credit balance in (a) accounts 465—Partners' profit and loss summary and/or (b) the credit balance in account 466—Partners' realized gain and loss summary in cash.

495—Limited Partners' Non-cash Gains On Sale of Securities

This is a credit balance account and represents the limited partners' share of gains realized on the sale of securities that have not been converted to cash. While considered to be undistributed earnings, the amount in this account will not be available for distribution or capitalized by partnership action transferring amounts to partners capital contribution for SBA leverage. Therefore, such amounts are considered restricted undistributed earnings realized.

Debit:

(a) With the amount of cash collected from non-cash gains previously recognized.

(b) With the amount of non-cash gains written off or disposed of otherwise.

Credit:

(a) With the amounts of non-cash gains when the securities generating such gain are sold.

Note.—It is recommended that individual records be maintained for each non-cash gain realized.

(See accounts Nos. 467, 220, 579 and 709.)

496—Limited Partners' Undistributed Net Realized Earnings

This is a credit balance account and represents the limited partners' share of the licensee's cumulative balance of periodic net investment income including realized gain (loss) on securities sold less partnership distributions whether cash, stock or in kind and less non-cash gain on sales of securities which are included in Account 495.

Debit:

(a) At the end of the fiscal year, with the limited partners' share of any debit balance in (a) account 465—Partners' profit and loss summary and/or (b) the debit balance in Account 466—Partners' realized gain and loss summary in cash.

(b) With the amount of distributions made to limited partners whether cash, stock and/or in kind.

(c) With the amount transferred to limited Partners' capital contribution account 476 for SBA leverage purposes.

Credit:

(a) At the end of the fiscal year, with the limited partners' share of any credit balance in (a) account 465—Partners' profit and loss summary and/or (b) account 466—Partners' realized gain and loss summary in cash.

Income Accounts

500—Commitment income

This account will represent the amount of income earned on commitments to small business concerns for loans and equity securities. This account, on the books of the "participating" company, will include the amount of commitment income on deferred participations.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of income earned on commitments and deferred participations.

Note 1.—A deferred participation is defined as a commitment under a participation agreement whereby the "participating" company will make funds available on a deferred basis to the "initiating" company in connection with the latter's financing of, or commitment to finance, a small business concern, or in connection with an "initiating" small business investment company's acquisition of loans or equity securities from other such companies.

Note 2—Recording as income in this account of accrued commitment fees receivable should be discontinued with respect to any small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. The amounts in question should be credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when the small business concern or the fair value of its debt or equity instrument held by the company, as determined by the Board of Directors, is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible notes and accounts receivable should be made in an amount equivalent to the accrued commitment fees taken into income in this account, or as an alternative, the commitment income should be deferred in account No. 383 as above indicated.

(See account Nos. 141 and 142.)

510—Interest on invested idle funds

This account will represent the amount of interest earned on (1) time certificates of deposit in banks which are members of the Federal Deposit Insurance Corporation, (2) U.S. Government obligations, direct and fully guaranteed, owned by the company, and (3)

funds of the company in insured savings accounts in institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of interest earned on invested idle funds.

(See account Nos. 130 through 137, 143 and 144.)

512—Interest on loans

This account will represent the amount of interest earned on loans to small business concerns.

Debit:

(a) At the end of fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of interest earned on loans outstanding to small business concerns.

Note.—Accrual of interest receivable should be discontinued with respect to any loan to a small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Any interest payment received from such a debtor should not be credited to this account as interest income, but should be either credited as payments on principal of the debt or credit as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when interest receivable is accrued under circumstances in which the financed small business concern is in default to the licensee, or the fair value of the loan as determined in good faith by the Board of Directors is less than cost of recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable should be made in an amount equivalent to the accrued interest receivable taken into income in this account, or, as an alternative, the interest income should be deferred in account No. 383 as above indicated.

(See accounts Nos. 143, 144, 170 and 173.)

516—Interest on debt securities

This account will represent the amount of interest earned on debt securities of small business concerns owned by the company pursuant to section 304 of the Small Business Investment Act of 1958, as amended.

Debit:

(a) At the end of the fiscal year with the balance of account (transfer to profit and loss summary)

Credit:

(a) With amount of interest earned on debt securities owned.

Note.—Accrual of interest received should be discontinued with respect to any debt security of a small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Any interest payments received from such a debtor should not be credited to this account as interest income, but should be either credited as payments on principal of the debt or credited as deferred income in account No 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when interest receivable is accrued under circumstances in which the financed small business concern is in default to the licensee, or the fair value of the debt security as determined in good faith by the Board of Directors is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable should be made in an amount equivalent to the accrued interest receivable taken into income in this account, or, as an alternative, the interest income should be deferred in account No. 383 as above indicated.

(See accounts Nos. 143, 144, 180, 184 and 188.)

520—Interest income—other

This account will represent the amount of interest earned on miscellaneous notes receivable, funds in escrow, and interest-bearing receivables not otherwise classified.

Debit:

(a) At the end of the fiscal year with the balance of account (transfer to profit and loss summary)

Credit:

(a) With amount of interest earned on such receivables.

(See accounts Nos. 140, 143, and 267.)

532—Management service fees

This account will represent the amount of fees charged for management services rendered to small business concerns and other small business investment companies pursuant to section 107.601 of the Small Business Administration Rules and Regulations.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such fees charged.

Note.—Recording as income in this account of accrued management service fees receivable should be discontinued with respect to any small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. The amounts in question should be credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when the fair value of the financed concern's debt or equity instruments held by the company, as determined by the Board of Directors, is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible notes and accounts receivable should be made in an amount equivalent to the accrued management consulting service fees taken into income in this account, or, as an alternative, the management consulting service income should be deferred in account No. 383 as above indicated.

(See accounts Nos. 140, 141, and 142.)

534—Investigation and service fees charged other lenders

This account will represent the amount of fees charged for investigation and services rendered to banks or other lenders or investors, pursuant to section 308(a) of the Small Business Investment Act of 1958, as amended. The account will include compensation for financial services rendered in connection with participations sold.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such fees charged.

(See accounts Nos. 140, 141 and 142.)

536—Application and appraisal fees

This account will represent the amount of fees charged for application, appraisal, investigation, and related services rendered to small business concerns.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such fees charged.

(See accounts Nos. 173 and 188 and "Note" of accounts Nos. 140, 141 and 532.)

540—Dividends on capital stock of SBCs

This account will represent the amount of income from dividends on capital stock of small business concerns.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of income from such dividends.

(See account No. 145.)

541—Sharings in income or revenue of SBCs

This account will represent the amount of sharing or participations in the income or revenue of small business concerns which the company has financed by means of loans or debt securities.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such sharings.

(See accounts Nos. 140, 141 and 145.)

542—Non-cash income from investments reported on equity method of accounting

This account is a summary account of all income and losses from investments required to be reported on the Equity Method of Accounting. The sources of entries will be primarily from any of the following sources.

1. Corporate licensees' management service subsidiary.

2. Limited partnerships' investment in a management services company.

3. Investments in unincorporated small business concerns.

It is important that separate records be kept of each source of investments reported on the Equity Method of Accounting since losses and gains are not reported in the same manner.

Debit:

(a) At the end of the fiscal year with the amounts of all gains, which will be credited

to account 463—Stockholder non-cash income from investments reported on the Equity Method of Accounting or to account 468—Partners' non-cash income from investments reported on the Equity Method of Accounting.

(b) With the amount of losses resulting from investments to be reported on the Equity Method of Accounting.

Credit:

(a) With the amount of income from investments to be reported on the Equity Method of Accounting.

(b) With the amount of losses from investments to be reported on the Equity Method of Accounting. If the licensee is a corporation the offsetting debit will be to account 460. If the licensee is a limited partnership the offsetting debit will be to account No. 465.

570—Gain on U.S. Governemnt securities

This account will represent the amount of gain on the sale or other disposition of U.S. Government obligations, direct and fully guaranteed, carried in account No. 130.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such securities sold or disposed of otherwise.

Note.—Increase in value over cost of United States Treasury bills, which are issued at a discount and are noninterest bearing, will not be reflected in this account but will be credited to account No. 510—Interest on invested idle funds, with concurrent debit to account No. 143—Accrued interest receivable.

571—Gain on loans.

This account will represent the amount of gain on the sale or other disposition of loans of small business concerns carried in account No. 170, and will include recoveries on loan losses previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462)

Credit:

(a) With amount of gain on such loans sold or disposed of otherwise.

(b) With amount collected on portions of loans previously charged to the loss account.

(See accounts Nos. 383 and 701.)

572—Gain on debt securities

This account will represent the amount of gain on the sale or other disposition of debt securities of small business concerns carried in accounts Nos. 180 and 184, and will include recoveries on debt security losses previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such debt securities sold or disposed of otherwise.

(b) With amount collected on portions of debt securities previously charged to the loss account.

(See accounts Nos. 383 and 702.)

574—Gain on capital stock of SBCs

This account will represent the amount of gain on the sale or other disposition of capital stock of small business concerns carried in accounts Nos. 190 and 191, and will include recoveries on capital stock losses previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such capital stock sold or disposed of otherwise.

(b) With amount realized on capital stock of SBCs previously charged to the loss account.

(See accounts Nos. 383 and 704.)

575—Gain on equity interest of unincorporated concerns

This account will represent the amount of gain on the sale or other disposition of equity interests of unincorporated concerns carried in account 194 and will include recoveries of losses on equity interests of unincorporated concerns previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such equity interests sold or disposed of otherwise.

(b) With amount realized on equity interests previously charged to the loss account.

576—Gain on warrants, options, and other stock rights acquired from SBCs

This account will represent the amount of gain on the sale or other disposition of warrants, options, and other stock rights acquired from SBCs, and will include recoveries on stock rights losses previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such warrants, options, and other stock rights acquired from SBCs sold or disposed of otherwise.

(b) With amount realized on warrants, options, and other stock rights previously charged to the loss account.

(See accounts Nos. 197, 383 and 706, and memorandum record No. NA-10.)

577—Gain on assets acquired in liquidation of portfolio securities

This account will represent the amount of gain on the sale or other disposition of assets acquired in liquidation of portfolio securities of small business concerns carried in accounts Nos. 200, and 204, and will include recoveries on losses on assets acquired in liquidation previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such assets acquired in liquidation of portfolio securities sold or disposed of otherwise.

(b) With amount realized on assets in liquidation of portfolio securities previously charged to the loss account.

(See accounts Nos. 383 and 707.)

578—Gain on Operating Concerns Acquired

This account will represent the amount of gain on the sale or other disposition of investments in operating concerns acquired and will include recoveries on losses previously charged to the related loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such assets sold or disposed of otherwise.

(b) With amount realized on other assets previously charged to the loss account.

(See accounts Nos. 210, 221, 383, and 708.)

579—Gain on other assets

This account will represent the amount of gain on the sale or other disposition of assets not specifically provided for in other accounts, and will include recoveries on losses on other assets previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such assets sold or disposed of otherwise.

(b) With amount realized on other assets previously charged to the loss account.

(See accounts Nos. 220, 221, 383, and 709.)

582—Income from assets acquired in liquidation of portfolio securities

This account will represent the amount of income earned on assets acquired in liquidation of portfolio securities, including the operation of properties, carried in accounts Nos. 200, 204.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such income earned.

Note.—In instances when a liquidating agent is employed to supervise the disposition of the assets, appropriate subsidiary accounts should be maintained by the agent. Cash collected from the sale of assets by the liquidating agent should be remitted immediately to the company. The company should maintain a local depository bank account, in which all receipts of the agent are deposited when direct remittances to the company are not feasible. Deposit balances in this account should be subject to withdrawal by check only by the company and should be reflected on the company's records in the same manner as other bank accounts.

Any advances to a liquidating agent for expenses incident to the operation or the disposition of assets accquired in the liquidation of portfolio securities should be charged to account No. 230—Prepaid expenses.

584—Other income

This account will represent the income earned not specifically provided for in other accounts.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary)

Credit:

(a) With amount of such income earned.

Expense Accounts

600—Commitment expense

This account will represent the amount of commitment expense on commitments from lending institutions.

On the books of the "initiating" company, this account also will include the amount of commitment expense on deferred participations.

Debit:

(a) With amount of expense incurred on commitments and deferred participations.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Note.—A deferred participation is defined as a commitment under a participation agreement whereby the "participating" company will make funds available on a deferred basis to the "initiating" company in connection with the latter's financing of, or commitment to finance, a small business concern, or in connection with an "initiating" small business investment company's acquisition of loans or equity securities from other such companies.

(See account No. 340.)

610—Interest on obligations payable to SBA

This account will represent the amount of interest expense accrued on obligations payable to the Small Business Administration for funds borrowed.

Debit:

(a) With amount of such interest accrued.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

(See accounts Nos. 300, 301 and 350.)

622—Interest on obligations payable to other than SBA

This account will represent the amount of interest expense accrued on obligations payable to other than the Small Business Administration for funds borrowed.

Debit:

(a) With amount of such interest accrued.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

(See accounts Nos. 310, 311, 312, 313, 320 and 350.)

642—Stock record and other financial expenses

This account will represent the amount of charges to the company by transfer agent and the registrar for services rendered in connection with the issuance and transfer of company's capital stock, and will include other financial expenses not provided for elsewhere.

Debit:

(a) With amount of such interest incurred.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

(See account No. 340.)

650–679—Operating Expenses

The accounts under this caption will represent the amounts of operating expenses incurred.

Debit appropriate account:

(a) With amount of operating expenses incurred.

Credit appropriate account:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

650—Advertising and promotional costs

This account will represent the cost of advertising and promoting the company's services, including the cost of entertaining prospective borrowers and clients.

651—Appraisal and investigation costs

This account will represent the amount of charges made by outside firms and individuals for appraisal, investigation, and related services rendered to the company.

652—Auditing and examination costs

This account will represent the amount of charges for auditing, examination, and bookkeeping services rendered by accountants not on the company's payroll, and charges for services rendered by SBA examiners.

653—Communications

This account will represent telephone, telegraph, and postage expense.

654—Cost of space occupied

This amount will represent the cost of space occupied such as rent, alterations, light, heat, power, janitor service, maintenance and repair expenses on buildings, furniture, and equipment (other than automobiles), etc.

655—Depreciation of corporate premises owned, furniture, equipment and automobiles

This account will represent the amount of provision applicable to the fiscal year for depreciation of the buildings and other depreciable improvements of corporate premises owned and used as the company's office quarters. The account also will include the amount of provision applicable to the fiscal year for depreciation of furniture, equipment and automobiles owned by the company.

656—Amortization of leasehold improvements

This account will represent the amortization of leasehold improvements.

657—Directors, stockholders' or partners' meetings costs

This account will represent director's fees and travel expense for attendance at directors' and stockholders' or partners' meetings. The account also will include the cost of holding stockholders' or partners' meetings, such as rental of the meeting hall and related expenses.

658—Insurance

This account will represent fire, theft, employee group life insurance, and other insurance expense, including fidelity bond, premiums and insurance on automobiles. The portion, if any, of employee group life insurance premiums withheld from salaries or received from employees will be reflected in account No. 378. Insurance premiums to be amortized will be charged to account No. 230.

659—Management services fees

This account will represent the amount of charges made by outside firms or individuals for management services provided to licensee pursuant to management agreement approved by SBA.

660—Investment advisor costs

This account will represent the amount of charges made by outside firms and individuals for furnishing consultation and advice to the company with respect to the desirability of investing in, purchasing, or selling loans, debt securities, and capital stock of small business concerns and other property.

661—Legal services

This account will represent the cost of legal services rendered to the company.

663—Salaries

This account will include the balance in subaccounts Nos. 663.1 and 663.2.

663.1—*Salaries of officers or Partners*

This account will represent the salary cost of all officers/partners of the company, including director's salaries, if any, but not director's fees for attendance at meetings.

663.2—*Salaries of employees*

This account will represent the salary cost of all employees other than officers/partners, including salaries of any temporary or part-time employees engaged for specific assignments.

664—Taxes, excluding income taxes

This account will represent the cost of all taxes, including those on corporate premises owned, motor vehicle, and personal property, social security taxes (company's portion), and other taxes charged to the company, exclusive of income taxes.

665—Travel

This account will represent all travel expense, including transportation charges, automobile maintenance, operating expense, meals, lodging, telephone, telegraph, and

other company cost incurred by officers and employees while in a travel status.

670—Employee benefits expense

This account will represent the cost assumed by the company in contributing to funds providing for employee retirement benefits and other types of employee benefits, except group life insurance. The portion, if any, of the cost of employee benefits withheld from salaries or received from employees will be reflected in account No. 378.

672—Amortization of organization expense

This account will represent the amount of legal fees, promotional expense, stock certificate costs, incorporation fees, taxes, and other related costs incurred in organizing the company, which are charged to expense (this account) as incurred or are transferred to this account periodically through the amortization of organization costs established as an asset in account No. 266.

679—Miscellaneous operating expenses

This account will represent the amount of operating expenses not specifically provided for in other accounts. There will be included expenses incurred in connection with dues, subscriptions, donations, and similar items; charges made to the company for custodial or safekeeping services in connection with its portfolio securities; and bank service charges, exchange on checks, protest fees, etc., and the cost of office supplies such as stationery, accounting forms, binders, pencils, etc.

680—Estimated losses on receivables

This account will represent the amount of estimated losses applicable to the fiscal year on notes and accounts receivable, and interest receivable.

Debit:

(a) With amount of such estimated losses incurred.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

700—Loss on U.S. Government securities

This account will represent the amount of loss on the sale or other disposition of United States Government obligations, direct and fully guaranteed, carried in account No. 130–135.

Debit:

(a) With amount of loss on such securities sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 460 or 462).

(See account No. 570.)

701—Loss on loans

This account will represent the amount of loss on the sale or other disposition of loans of small business concerns carried in account No. 170.

Debit:

(a) With amount of loss on such loans written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to realized gain and loss summary—account No. 461).

(See account No. 571.)

702—Loss on debt securities

This account will represent the amount of loss on the sale or other disposition of debt securities of small business concerns carried in accounts Nos. 180 and 184.

Debit:

(a) With amount of loss on such debt securities written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to realized gain and loss summary—account No. 461).

(See account No. 572.)

704—Loss on capital stock of SBCs

This account will represent the amount of loss on the sale or other disposition of capital stock of small business concerns carried in accounts Nos. 190 and 191.

Debit:

(a) With amount of loss on such capital stock written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 574.)

705—Loss on equity interest of unincorporated concern

This account will represent the amount of loss resulting from sale or other disposition of equity interests of unincorporated concerns carried in account No. 194.

Debit:

(a) With amount of loss on such equity interest sold, written off, or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 575.)

706—Loss on warrants, options, and other stock rights acquired from SBCs

This account will represent the amount of loss on the sale or other disposition of warrants, options, and other stock rights acquired from SBCs.

Debit:

(a) With amount of loss on such warrants, and other stock rights written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See accounts Nos. 197, 576, and memorandum record No. NA–10.)

707—Loss on assets acquired in liquidation of portfolio securities

This account will represent the amount of loss on the sale or other disposition of assets acquired in liquidation of portfolio securities of small business concerns carried in account No. 200, 204.

Debit:

(a) With amount of loss on such assets written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 577.)

708—Loss on Operating Concerns Acquired

This account will represent the amount of loss on the sale or other disposition of investments in operating concerns acquired.

Debit:

(a) With amount of loss on such assets or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 578.)

709—Loss on other assets

This account will represent the amount of loss on the sale or other disposition of assets not specifically provided for in other accounts.

Debit:

(a) With amount of loss on such assets or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 579.)

710—Expense on assets acquired in liquidation of portfolio securities

This account will represent the amount of expense incurred on assets acquired in liquidation of portfolio securities, including the operation and depreciation of properties, carried in account No. 204. The account also will include the amount of interest expense accrued on mortgages payable on assets acquired in liquidation of portfolio securities.

Debit:

(a) With amount of such expense incurred.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary—account No. 460).

Note.—In instances when a liquidating agent is employed to supervise the disposition of the assets, appropriate subsidiary accounts should be maintained by the agent.

Cash collected from the sale of assets by the liquidating agent should be remitted immediately to the company. The company should maintain a local depository bank account, in which all receipts of the agent are deposited when direct remittances to the company are not feasible. Deposit balances in this account should be subject to withdrawal by check only by the company and should be reflected on the company's records in the same manner as other bank accounts.

Any advances to a liquidating agent for expenses incident to the operation of or in the disposition of assets acquired in the liquidation of loans and debt securities should be charged to account No. 230—Prepaid expenses.

715—Other expenses

This account will represent the amount of nonoperating expenses not specifically provided for in other accounts, including, on the books on the "participating" company, the amount of compensation expense for financial services received from "initiating" companies in connection with participations purchased.

Debit:

(a) With amount of such expenses incurred.

Credit:

(b) At the end of fiscal year, with the balance of account (transfer to profit and loss summary—account No. 460).

(See account No. 340.)

720—Income taxes—net income

This account will include the balances in subaccounts Nos. 720.1, 720.2, 720.3, etc.

720.1—*Federal income taxes—net income.*

This account will represent the amount of Federal income taxes applicable to net income for the current fiscal year.

Debit:

(a) With amount of such taxes accrued.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary—account No. 460).

720.2—*State income taxes—net income.*

This account will represent the amount of State income taxes applicable to net income for the current fiscal year.

Debit:

(a) With amount of such taxes accured.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary—account No. 460).

(See subaccount Nos. 354.1 and 354.2.)

722—Income taxes—net realized gain on investments

This account will include the balance in subaccounts Nos. 722.1, 722.2, 722.3, etc.

722.1—*Federal income taxes—net realized gain on investments.*

This account will represent the amount of Federal income taxes applicable to net realized gain on investments for the current fiscal year.

Debit:

(a) With amount of such taxes accured.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to realized gain and loss summary account 461 or 462).

(See subaccount No. 354.1.)

722.2—*State income taxes—net realized gain on investments.*

This account will represent the amount of State income taxes applicable to net realized gain on investments for the current fiscal year.

Debit:

(a) With amount of such taxes accrued.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to realized gain and loss summary account 461 or 462).

(See subaccount No. 354.2.)

Memorandum Records

Nominal Assets

NA–10—*Stock purchase warrants or options on stock of SBCs.* This record will show the company's ownership of detachable stock purchase warrants or options on stock of SBCs, retained after the accompanying financing instruments have been disposed of, for which no consideration was given distinct from that surrendered for such financing instruments and for which no separate cost has otherwise been determined.

Each such detachable stock purchase warrant or option certificate should be entered in this record, upon detachment, at a nominal value of one dollar ($1.00). Upon sale of such a detached stock purchase warrant or option, upon exercise or expiration of rights conveyed by such a detached stock purchase warrant or option or upon the determination of a cost to be recorded for such a detached stock purchase warrant or option, the entry establishing such certificate in the memorandum records is to be discharged through an equivalent credit.

Debit:

(a) With nominal value of such detachable stock purchase warrants or options upon their detachment from capital stock certificates or debt securities.

Credit:

(a) With nominal value of such detachable stock purchase warrants or options upon exercise or expiration of rights conveyed by such warrant or option certificates.

(b) With nominal value of such detachable stock purchase warrants or options sold or disposed of otherwise.

(c) With nominal value of such detachable stock purchase warrants or options for which a separate cost has been established.

(See accounts Nos. 180, 190, and 197.)

Contingent Liabilities

CL–15—*Commitments outstanding.* This record will show the amount of financing commitments made and outstanding to small business concerns, including commitments for loans and for the acquisition of small business concerns' capital stock and debt securities. This record also will show the amount of deferred participations. A deferred participation is defined as a commitment under a participation agreement whereby the "participating" company will make funds available on a deferred basis to the "initiating" company in connection with the latter's financing of, or commitment to finance, a small business concern, or in connection with an "initiating" small business investment company's acquisition of loans or equity securities from other such companies. When funds are advanced against commitments, appropriate entry will be made in this record.

CL–16—*Guarantees outstanding.* This record will show the amount for which the company is contingently liable under guarantees issued to lending institutions in connection with obligations of portfolio concerns under notes, debentures, or other evidences of indebtness, or short-term advances to such concerns.

CL–17—*Other contingent liabilities.* This record will show the amount of miscellaneous contingent obligations not otherwise classified.

Options on Company's Stock

OCS–1—*Options on company's stock.* This record will show details of outstanding options on the company's capital stock granted in lieu of salary or in payment for services actually rendered to the company. The following data will be included:

1. Identification of person or entity holding options.
2. Number of shares optioned.
3. Type and class of stock called for by options.
4. Dates of grant and of expiration of options.
5. Price or prices at which options exercisable, with dates they apply.
6. Fair market value, per share, of stock called for at date each option was granted.
7. Price of each option as percent of fair market value of optioned stock at date option was granted.
8. Provisions for termination of options in case of death of retirement of optionees, or other circumstances.
9. Details of authorization, shares reserved for, issuance, exercise, lapse, and forfeiture of options provided for under the company's stock option plan.

Actual Loss Experience

AL–1—*Actual (realized) losses.* This record will show for each fiscal year, and also accumulatively, the amount of actual (realized) losses incurred through disposition, writedown, or write-off of loans and investments. Losses shall be stated in total for all loans and investments and also separately for loans; debt securities; capital stock of small business concerns; warrants; options, and other stock rights of small business concerns; assets acquired in liquidation of loans and debt securities; and amounts due from debtors on sale of assets acquired in liquidation of loans and debt securities. Losses realized shall be determined in relation to cost of the assets involved without regard to the existence or nonexistence of related allowances for losses.

WI—Worthless Investments Written Off.

PDA—Preferred Dividend Arrearages on Preferred Stock Sold SBA.

A memorandum account will be established showing:

(a) the amount of each arrearage
(b) the total amount of arrearage
(c) the number of arrearages
(d) the date the arrearages began.

The auditor will disclose the above information by an appropriate footnote.

[FR Doc. 85–16321 Filed 7–18–85; 8:45 am]

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Federal Register

Friday
July 19, 1985

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions, Notice

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Orders 9–83, 48 FR 35736 (1983), and 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in 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:	
AZ83–5102	Mar. 4, 1983.
AZ84–5005	Mar. 9, 1984.
Kansas: KS85–4009	May 10, 1985.
New Mexico: NM85–4014	June 14, 1985.
New Jersey: NJ84–3019	July 6, 1984.
New York:	
NY83–3018	May 20, 1983.
NY83–3032	July 29, 1983.
NY83–3027	July 22, 1983.
Ohio:	
OH83–5123	Dec. 2, 1983.
OH83–5124	Do.
OH83–5125	Dec. 23, 1983.
Oregon: OR85–5030	June 28, 1985.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

New Jersey: NJ84–3020 (NJ85–3032).	July 27, 1984.

Signed at Washington, D.C. this 12th day of July 1985.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

DECISION NO. AZ83-5102 - MODIFICATION NO. 11
(48 FR 9424-March 4, 1983)
Maricopa County Arizona

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Carpenters:		
Millwrights	$15.69	$2.84
Plasterers	15.69	3.06

DECISION NO. AZ84-5005 - MODIFICATION NO. 7
(49 FR 9059-March 9, 1984)
Statewide, Arizona

ADD:

	Basic Hourly Rates	Fringe Benefits
Millwrights	$15.69	$2.84

DECISION NO. NJ84-3019 - MOD. #5
(49 FR 27883 - July 6, 1984)
Bergen, Essex, Hudson, Hunterton, Middlesex, Morris, Passaic, Somerset, Sussex, Union and Warren Counties, New Jersey

EXCLUDE:

Ellis Island & Statue of Liberty Island from geographical scope of Decision.

DECISION NO. KS85-4009
MOD. NO. 2-(50FR19853)
May 10, 1985

DOUGLAS, JEFFERSON, LEAVENWORTH, MIAMI and SHAWNEE COUNTIES, KANSAS

CHANGE:

"Decision No. KS84-4009" listed on modification No. 1 published in Federal Register June 26, 1985 to read "Decision No. KS85-4009".

CHANGE:

LABORERS:

	Basic Hourly Rates	Fringe Benefits
Zone 1		
Group 1	$7.95	$2.30
Group 2	8.20	2.30
Zone 2		
Group 1	8.75	2.30
Group 2	9.00	2.30
Zone 3		
Group 1	9.10	2.40
Group 2	9.35	2.40
Zone 4		
Group 1	7.95	2.30
Group 2	8.20	2.30

(2)

DECISION NO. NY83-3032 - MOD. #2
(48 FR 34629 - July 29, 1983)
BRONX, KINGS, NEW YORK, QUEENS AND RICHMOND COUNTIES, NEW YORK

CHANGE:

	Basic Hourly Rates	Fringe Benefits
STEAMFITTERS	21.55	7.67

EXCLUDE:

Ellis Island & Statue of Liberty Island from geographical scope of Decision.

DECISION NO. NY83-3027 - MOD. # 1
(48 FR 33622 - July 22, 1983)
NASSAU, SUFFOLK COUNTIES, NEW YORK

CHANGE:

	Basic Hourly Rates	Fringe Benefits
STEAMFITTERS	21.55	7.67

(3)

DECISION #NM85-4014-MOD.#1
(49 FR 24997-June 14, 1985)
Statewide (excluding Eddy and Lea Cos. for Building Construction is New Mexico)

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Elevator Constructors:		
Mechanics	$16.335	$3.29 + a
Helpers	70%JR	3.29 + a
Helpers (Prob.)	50%JR	
Plumbers & Pipefitters:		
Light Commercial: All 5-N 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 40 tons per unit or less 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

MODIFICATION P. 3

DECISION NO. NY83-3018

LINE CONSTRUCTION CONT'D	Basic Hourly Rates	Fringe Benefits
Groundman truck driver (tractor trailer unit)	14.306	4.35+p +6.25%
Groundman mobile equipment operator; groundman truck driber; mechanic	13.464	4.35+p +6.25%
Groundman	10.098	4.35+p +6.25%
Overhead transmission line work (where other work is or has been involved):		
Lineman; Technician	19.61	4.35+p +6.25%
Groundman diggine machine operator; dynamite man	17.649	4.35+p +6.25%
Groundman truck driver (tractor trailer unit)	16.669	4.35+p +6.25%
Mobile equipment operator; groundman truck driver; mechanic	15.688	4.35+p +6.25%
Groundman	10.098	4.35+p +6.25%
PAINTERS:		
DUTCHESS; ULSTER;		
SULLIVAN:		
Brush	16.24	3.13
Structural Steel, Bridges, Towers, Fire Excapes, Smoke Stacks, Flagpoles, and other exposed areas 15' or more in height, Swing Stage, Window Jacks, Boatswain Chairs, Safety Belts and Spray Gun	16.54	3.13
ORANGE:		
Commercial	14.94	2.95
Spray, Sandblasting, Taping & paperhanging, epoxy & other toxic materials	15.94	2.95
Elevated work;		
Structural steel, power plants, Towers	15.94	2.95
Smoke stacks, Bridges	16.62	2.95
PLUMBERS & STEAMFITTERS:		
DUTCHESS; ULSTER (Remainder of County)	18.70	6.90

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits
DUTCHESS (Poughkeepsie & South thereof):		
BUILDING:		
Group I-A	19.8525	1.20+ 18.25%+ 1
Group I-B	17.785	"
Group II	18.94	"
Group III-A	18.0475	"
Group III-B	16.7275	"
Group IV-A	17.765	"
Group IV-B	16.585	"
Group V-A	16.7625	"
Group V-B	15.4425	"
Group VI-A-1	21.22	"
Group VI-A-2	20.3675	"
Group VI-A-3	19.3675	"
Group VI-A-4	20.0825	"
Group VI-A-5	24.0825	"
Group VI-A-6	17.5125	"
Group VI-A-7	23.7975	"
Group VI-B-1	14.4625	"
Group VI-B-2	15.4275	"
Group VI-B-3	14.4775	"
Group VI-B-4	17.66	"
Group VII	19.855	"
HEAVY & HIGHWAY:		
Group I-A	19.75	1.20+ 17.75% +1
Group II	18.95	"
Group III	18.83	"
Group IV-A	17.70	"
Group IV-B	15.13	"
Group V-A-1	20.95	"
Group V-A-2	20.20	"
Group V-A-3	23.20	"
Group V-A-4	19.95	"
Group V-A-5	19.33	"
Group V-A-6	23.45	"
Group V-A-7	17.70	"
Group V-A-8	18.79	"
Group V-B-1	15.13	"
Group V-B-2	14.30	
POWER EQUIPMENT OPERATORS:		
DUTCHESS (Remainder of County):		
HEAVY & HIGHWAY		
Class I	17.12	4.00+m
Class II	16.55	4.00+m
Class III	14.94	4.00+m
Class IV	13.52	4.00+m
Class V	18.13	4.00+m

MODIFICATION P. 4

DECISION NO. NY83-3018

	Basic Hourly Rates	Fringe Benefits
ROOFERS	17.00	7.15+m
TRUCK DRIVERS		
Group 1	15.95	3.55+o
Group 2	15.85	3.55+o
Group 3	15.65	3.55+o
Group 4	15.55	3.55+o
Group 5	15.45	3.55+o

ADD:

FOOTNOTE:

p. Paid Holidays: A through F, plus Washington's Birthday, Good Friday, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after the holiday.

Basic Hourly Rates	Fringe Benefits

DECISION NUMBER OH83-5125 - MOD. #6
(48 FR 56896 - December 23, 1983)
Ashtabula, Cuyahoga, Lake, Lorain, Portage, Stark, & Summit Counties, Ohio

	Basic Hourly Rates	Fringe Benefits
Change:		
Bricklayers; Stonemasons:		
Area 2	$19.59	$4.12
Area 3	20.47	3.55
Area 6	17.59	3.27
Carpenters; Millwrights; Piledrivermen; & Soft Floor Layers:		
Area 1:		
Carpenters; Soft Floor Layers	18.95	5.16
Millwrights	18.50	5.61
Piledrivermen	18.50	5.61
Area 2:		
Millwrights	18.50	5.61
Piledrivermen	18.50	5.61
Area 3:		
Commercial Building:		
Millwrights	18.50	5.61
Piledrivermen	18.50	5.61
Area 4:		
Carpenters	17.68	3.37
Millwrights; Piledrivermen	19.16	3.37
Soft Floor Layers	17.51	3.37
Cement Masons:		
Area 2	20.85	3.52
Area 3	20.47	3.55
Electricians:		
Area 6:		
Family residences, not to exceed 6 units between fire walls, not exceeding 3 stories	11.72	1.20+ 3.2%
Elevator Constructors:		
Area 2:		
Mechanics	21.42	3.00+ a+f
Helpers	70%JR	3.00+ a+f
Probationary Helpers	50%JR	
Glaziers:		
Area 1	$20.03	$4.61
Area 2:		
Commercial Building	12.00	3.46
Residential	7.69	2.83
Ironworkers:		
Area 2:		
Ornamental; Reinforcing & Structural	20.62	4.13
Sheeters	20.87	4.13
Area 3:		
Ornamental; Reinforcing & Structural	16.96	5.36
Sheeters; Layout Man	17.96	5.36
Area 4	15.73	6.24
Marble Setters; Terrazzo Workers; & Tile Setters:		
Area 2:		
Terrazzo Workers	19.59	4.12
Area 3	20.47	3.55
Marble, Terrazzo, & Tile Finishers:		
Area 1	18.35	
Area 2:		
Marble & Tile Finishers	18.54	3.00
Terrazzo Finishers	18.57	3.00
Painters:		
Area 1:		
New Commercial Building:		
Brush; Roller; Paperhanger	19.46	3.17
Sandblasting; Spray; & Closed Steel Below 55 feet	19.86	3.17
Tapers	20.16	3.17
Commercial Building Repaint:		
Brush; Roller; Paperhanger	18.21	3.17
Sandblasting; Spray; & Closed Steel Below 55 feet	18.61	3.17
Tapers	18.91	3.17

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DECISION NUMBER OH83-5125 (CONT'D)

	Basic Hourly Rates	Fringe Benefits
Change:		
Painters (Cont'd):		
Area 1:		
Residential:		
Brush; Roller; Paperhanger	$15.81	$3.17
Sandblasting; Spray; & Closed Steel Below 55 feet	16.21	3.17
Tapers	16.51	3.17
Area 2:		
Commercial Building:		
Brush	14.00	3.17
Roller; Sandblast & Spray	14.50	3.17
Drywall; Wallpaper	14.75	3.17
Residential:		
Brush	12.20	3.17
Spray	12.50	3.17
Drywall; Wallpaper	13.00	3.17
Pipefitters; Plumbers; & Steamfitters:		
Area 1	18.86	3.32
Area 3	17.50	3.39+h
Plasterers:		
Area 3	20.47	3.55
Plumbers:		
Area 1	20.73	4.00
Sheet Metal Workers:		
Area 1:		
Commercial Building	20.21	4.40
Truck Drivers:		
Area 1:		
Group 1	14.29	1.91+1
Group 2	14.51	1.91+1
Group 3	14.76	1.91+1
Group 4	14.86	1.91+1
Omit:		
Laborers:		
Area 2 wage rates & Classifications		
Footnotes:		
a. $75.00 per year		
c. 2 Paid Holidays: C & D		
q. 2 Paid Holidays: C & D		

	Basic Hourly Rates	Fringe Benefits
Omit (Cont'd):		
Area Descriptions:		
Painters:		
Areas 1 & 2		
Add:		
Laborers:		
Area 2:		
Group 1	$10.00	$6.30
Group 2	15.00	6.30
Group 3	15.15	6.30
Group 4	15.25	6.30
Group 5	15.40	6.30
Group 6	15.48	6.30
Group 7	15.50	6.30
Group 8	15.65	6.30
Group 9	16.50	6.30
Footnote:		
c. 2 Paid Holidays: B & D		
Area Descriptions:		
Painters:		
Area 1: Ashtabula, Cuyahoga, Lake, Portage (N. of East West Turnpike), & Summit (N. of East West Turnpike) Cos.		
Area 2: Lorain Co.		
Laborers Classifications:		
Area 2:		
Group 1: Asbestos Removal; Final Cleanup Laborers (Not tending other crafts); Landscaping; Sewer Jet; & Unloading of Furniture & Fixtures		
Group 2: Building & Construction Laborers & Tenders		
Group 3: Firebrick Tenders		
Group 4: Air Track & Wagon Drill; Swinging Scaffolds		
Group 5: Mason Tender Handling Carbon Block & Bottom Block Material		
Group 6: Gunite Operating		
Group 7: Acid Brick Tenders; Blasters, Shooters, Caisson, Well, Cylinder, Cofferdams, & Mine Workers w/o Air		
Group 8: Bellman & Bottom Man in Blast Furnace & Stove		
Group 9: Lansing Burners		

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MODIFICATION P. 7

DECISION NUMBER OH83-5123 - MOD. #5
(48 FR 54419 - December 2, 1983)
Mahoning & Trumbull Counties, Ohio

	Basic Hourly Rates	Fringe Benefits
Change:		
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons:		
Area 2	$17.14	$3.25
Cement Masons:		
Area 1	17.70	2.65
Area 2	18.37	1.91+a
Ironworkers:		
Area 1	17.96	5.36
Area 2	15.73	6.24
Marble Setters; Terrazzo Workers; & Tile Setters:		
Area 1	19.33	
Marble Setters' Finishers; Terrazzo Workers' Finishers; & Tile Setters' Finishers:		
Area 1	18.35	
Plasterers:		
Area 1:		
Commercial	16.45	1.65
Area 2:		
Commercial	15.06	1.68
Roofers	16.82	3.18
Sheet Metal Workers	17.55	3.26
Truck Drivers:		
Group 1	14.29	1.91+d
Group 2	14.51	1.91+d
Group 3	14.76	1.91+d
Group 4	14.86	1.91+d

DECISION NUMBER OH83-5124 - MOD. #6
(48 FR 54422 - December 2, 1983)
Lucas County, Ohio

Change:		
Plumbers; Steamfitters; & Pipefitters:		
Commercial Building	$19.60	$4.12
Residential	14.70	4.12

DECISION NO. OR85-5030 - Mod #1
50 FR 26893 - June 28, 1985
Statewide Oregon

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
POWER EQUIPMENT OPERATORS:		
Group 1	$15.59	$5.15
Group 2	15.77	5.15
Group 3	15.93	5.15
Group 4	16.13	5.15
Group 5	16.17	5.15
Group 6	16.28	5.15
Group 7	16.35	5.15
Group 8	16.49	5.15
Group 9	16.58	5.15
Group 10	16.66	5.15
Group 11	16.68	5.15
Group 12	16.78	5.15
Group 13	16.88	5.15
Group 14	17.12	5.15
Group 15	17.31	5.15
Group 16	17.56	5.15
Group 17	17.76	5.15
Group 18	18.01	5.15
Group 19	18.19	5.15

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SUPERSEDEAS DECISION

STATE: New Jersey

COUNTIES: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean and Salem

DECISION NUMBER: NJ85-3032

DATE: Date of Publication

Supersedes Decision No. NJ84-3020 dated July 27, 1984, in 49 FR 30280.

DESCRIPTION OF WORK: Building (excluding single family homes and apartments up to and including 4 stories), Heavy and Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING and REFRIGERATION MECHANICS:		
Group 1	15.40	1.48+a
ASBESTOS WORKERS:		
Zone 1	18.61	4.92
Zone 2	18.47	4.945
Zone 3	18.30	6.825
Zone 4	19.64	4.04
Zone 5	18.75	4.45
BOILERMAKERS	18.27	.29+38%
BRICKLAYERS, STONEMASONS, MARBLE MASONS, CEMENT MASONS, PLASTERERS, TILE LAYERS, and TERRAZZO WORKERS:		
Zone 1	17.57	5.12
Zone 2:		
Bricklayers, Stone masons, Marble Masons, and Terrazzo Workers	17.52	4.32
Cement Masons	16.35	4.85
Plasterers	13.45	2.00
Zone 3	16.95	3.25
Zone 4	19.40	2.93
Zone 5	17.52	4.62
CARPENTERS, MILLWRIGHTS and INSULATORS:		
Zone 1	20.62	15.5%
Zone 2:		
Carpenters & Insulators	17.74	20.5%
Millwrights	19.99	20.5%
Zone 3:		
Carpenters & Insulators	19.74	20.5%
Millwrights	19.99	20.5%
Zone 4:		
Carpenters, Insulators & Millwrights	19.26	23.5%
	19.54	23.5%
Zone 5:		
Carpenters & Insulators	19.26	23.5%
Millwrights	19.76	23.5%
Zone 6:		
Carpenters & Insulators	16.70	15.5%
Millwrights	16.95	15.5%

	Basic Hourly Rates	Fringe Benefits
DIVERS & DIVER TENDERS:		
Zone 1:		
Divers	20.87	6.83
Diver Tenders	16.27	6.83
DOCK BUILDERS and PILEDRIVERMEN:		
Zone 1	15.97	7.76+c
Zone 2	17.66	6.75
DRYWALL TAPERS & FINISHERS		
Zone 1	14.85	3.35
Zone 2	16.03	6.69
ELECTRICIANS and CABLE SPLICERS:		
Zone 1	19.66	3.67+11%
Zone 2	19.68	1.00+16.7%
Zone 3	18.58	1.80+10%
Zone 4	18.41	2.89+10%
Zone 5	19.46	3.38+10%
ELEVATOR CONSTRUCTORS:		
Mechanics	14.62	2.474+c+d
Helpers	10.30	2.47+c+d
Probationary Helper	7.36	
GLAZIERS:		
Zone 1	16.90	6.60
Zone 2	7.80	.50
Zone 3	16.04	3.55
30' Above ground	16.64	3.55
Zone 4	9.41	.87
IRONWORKERS:		
Structural, Ornamental, and Reinforcing:		
Zone 1	15.00	6.80
Zone 2	15.68	7.95
Zone 3	18.10	5.80
Zone 4	17.20	10.00
MARBLE FINISHERS:		
Zone 1	7.84	2.75

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DECISION NO. WJ85-3032	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
Zone 1:		
New Construction and Major Alterations	13.30	4.85
Repaint-New Construction and Major Alterations	12.30	4.85
Repaint - Spray	12.90	4.85
Exterior over 3 stories and Steel	13.45	4.85
Repaint - Steel	12.45	4.85
Bridges, TV Towers	13.90	4.85
Zone 2:		
Painters on New Construction and Major Alterations	13.80	2.55
Painters on Repaint Work	12.70	2.55
Spraying or application of hazardous or dangerous materials on repaint work	13.30	2.55
Exterior work exceeding 3 stories in height for painting of open structual steel and tanks under 3 stories in height except Flat Tanks on the ground and on interior work which requires painting higher than 20' above (this shall not be applicable to machinery or equipment located therein)	13.95	2.55
Repaint Work as described above	12.85	2.55
On Bridges, Television and Radio Towers, Structural Steel and Tanks above 3 stories in height (30' or over), Smoke Stacks, Water Towers, Sandblasting, Steamcleaning, Sparying or application of hazardous materials	14.40	2.55
Paperhanging	14.30	2.55
Zone 3:		
Commercial Brush, Roller and Paperhanging	16.70	3.25
Comercial Spray or dipping, or the use of any special material, brushing or Rolling on Steel or Tanks, or Working Swing or Chair	17.45	3.25
Sandblasting or Power Tools; Spraying or the use of any special material on Steel or Tanks	18.70	3.25
Zone 4:		
New Construction: Brush or Roller; Paperhanging and Vinyl-wall covering	19.00	23½
Working on all Structural Steel and Iron, Steeples, Stacks, Tanks, Flagpoles, all Swing Work & Window Jack Work above 2 stories, Spray Painting & Sandblasting and Line Striping by machinery, all Power Tools and Hazardous materials (i.e. Creosote, Epoxy, Acid, Pitchmaster and Urethanes)	20.00	23½
Zone 5:		
General Painting	15.70	2.85
Spray, Special material and Blasting	17.85	2.85
Repainting Work except Bridges, Tanks, Towers, all other open structural Steel and Power Plants	14.00	2.85
PLUMBERS & PIPEFITTERS:		
Zone 1	18.72	5.15
Zone 2	18.62	5.06
ROOFERS:		
Zone 1:		
Shingle, slate and tile	14.15	2.42
Mechanic II for shingle, slate or tile work - handles and transports all materials, tools and equipment: clean-up debris.	6.25	2.42
All other work	20.12	2.83+p
Mechanic II for all other work - handles & transports all materials, tools and equipment: clean-up debris	8.25	2.83+p
Zone 2:		
Composition	16.50	3.50
Slate & Tile	16.625	3.50

DECISION NO. WJ85-3032	Basic Hourly Rates	Fringe Benefits
SHEET METAL WORKERS:		
Zone 1	18.89	4.89
Zone 2	18.63	5.10
Zone 3	18.43	5.35
Zone 4	18.73	5.54
SOFT FLOOR LAYERS:		
Zone 1	10.65	15.2%
Zone 2	17.22	1.50+ 13%
SPRINKLER FITTERS:		
Zone 1	15.62	2.50
Zone 2	17.67	3.23
TERRAZZO FINISHERS:		
Zone 1	7.82	2.75
TILE SETTERS FINISHERS:		
Zone 1	8.45	13%
Zone 2	7.61	2.75
LABORERS:		
Building Construction:		
Zone 1:		
Group 1	12.00	3.65
Group 2	12.15	3.65
Group 3	12.40	3.65
Zone 2:		
Group 1	12.40	3.22
Group 2	12.50	3.22
Group 3	12.625	3.22
Group 4	12.75	3.22
Zone 3:		
Group 1	12.80	2.85
Group 2	13.05	2.85
Zone 4	12.55	3.10
Zone 5:		
Laborers	11.40	3.70
Jackhammers	12.20	3.70
Zone 6:		
Laborers	11.95	4.72
Hod Carriers and Plasterers Tenders	11.50	4.72
Heavy & Highway Construction		
Zone 1:		
Group 1	13.10	2.50
Group 2	13.30	2.50
Group 3	13.60	2.50
Group 4	13.80	2.50
Group 5	14.05	2.50
Group 6	15.60	2.50
Zone 2:		
Group 1	13.20	2.50
Group 2	13.40	2.50
Group 3	13.70	2.50
Group 4	13.90	2.50
Group 5	14.15	2.50
Group 6	15.70	2.50
FREE AIR TUNNEL JOBS:		
Group 1	15.95	2.50
Group 2	14.25	2.50
Group 3	14.10	2.50
Group 4	13.60	2.50
ASPHALT CONSTRUCTION		
Street:		
Head Rakers	11.65	2.60
Rakers & Screed Men	11.50	2.60
Tampers, Smothers, Kettlemen, Painters, Shovelers & Roller Boys	11.25	2.60
Plant:		
Scale Mixers & Burner Men	11.50	2.60
Feeders and Dust Men	11.35	2.60
LINE CONSTRUCTION: (Excluding Railroad Construction):		
Zone 1:		
Linemen, Cable Splicers and Equipment Operators	19.66	4.37+ 11%
Groundmen	17.71	4.37+ 11%
Zone 2:		
Linemen, Cable Splicers, Truck Drivers, Equipment Operators and Technicians	15.27	.80+ 10.75%
Groundmen and Winch Operators	12.22	.80+ 10.75%
Zone 3:		
Linemen	19.40	3.30+ 10.75%
Groundmen & Winch Operators	16.95	3.30+ 10.75%
Zone 4:		
Linemen	18.41	1.85+ 10%
Line Digger Truck Drivers	13.94	1.85+ 10%
Groundmen	15.09	1.85+ 10%
Zone 5:		
Linemen, Equipment Operators, Technicians and Certified Linemen Welder	20.33	2.00+ 3.75%
Truck Drivers	14.64	2.00+ 3.75%
Groundmen	13.65	2.00+ 3.75%

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION CONT'D		
(Railroad ONLY):		
Zone 1:		
Linemen	16.96	25%
Line Equipment Operator	16.20	25%
Groundman Winch Op.	13.07	25%
Groundman	11.06	25%
Dynamite Man	14.20	25%
Street Light Mechanic	12.97	25%
Line Equipment Mechanic	12.90	25%
POWER EQUIPMENT OPERATORS:		
Building Construction Projects in which individual items of work are $100,000 or less (including clearing, and grading, excavation, for foundations, back filling, storm and sanitary sweres, sidewalks, street excavation and paving, curbing and landscaping, water and gas supply lines)	12.19	5.80+a
OTHER BUILDING CONSTRUCTION PROJECTS: HEAVY, HIGHWAY, ROAD, STREET, AND SEWER PROJECTS:		
Class A	21.92	5.80+a
Class B	20.33	5.80+a
Class C	18.42	5.80+a
Class D	16.79	5.80+a
Class E	15.08	5.80+a
Class F	23.74	5.80+a
TANK ERECTION:		
Class A	23.91	5.80+a
Class B	23.57	5.80+a
Class C	25.55	5.80+a
Class D	21.48	5.80+a
Class E	16.27	5.80+a
OILOSATATIC MAINLINES & TRANSPORTATION PIPELINES:		
Class A	22.55	5.80+a
Class B	20.90	5.80+a
Class C	18.76	5.80+a
Class D	17.26	5.80+a
Class E	15.54	5.80+a
Class F	24.48	5.80+a
STEEL ERECTION:		
Class A	23.74	5.80+a
Class B	22.83	5.80+a
Class C	21.49	5.80+a
Class D	18.83	5.80+a
Class E	17.30	5.80+a
Class F	15.54	5.80+a
Class G	25.55	5.80+a
TRUCK DRIVERS:		
Zone 1:		
Group 1	8.55	f+g+h+i
Group 2	8.65	f+g+h+i
Group 3	8.80	f+g+h+i
Group 4	8.95	f+g+h+i
Zone 2:		
Group 1	13.05	j+k+l+m
Group 2	13.75	j+k+l+m
Group 3	13.90	j+k+l+m
Group 4	13.95	j+k+l+m
Group 5	14.10	j+k+l+m
Group 6	14.30	J+k+l+m
Group 7	14.45	j+k+l+m
Zone 3:		
Group 1	14.97	1.855+ n+o
Group 2	15.20	1.855+ n+o
Group 3	15.25	1.855+ n+o
Group 4	15.35	1.855+ n+o
Group 5	15.45	1.855+ n+o
WELDERS - Rate for craft to which welding is incidental		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Paid Holidays: A through F plus Washington's Birthday, Presidential Election Day and Veterans Day, provided the employee works any of the 3 days in the 5-day workweek preceeding the holiday and the first work day after the holiday.
b. Paid Holidays: Washington's Birthday, Good Friday, Memorial Day; Independence Day; Presidential Election Day; Veteran's Day; and Thanksgiving Day
c. Paid Holidays: A through F
d. Employer contributes 4% of basic hourly rate for 5 years or more of service, or 2% of the basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
e. Paid Holidays: A through F, plus Washington's Birthday, Presidential Election Day and Veteran's Day provided the employee works any of the 3 days in the 5 work days preceeding the Holiday and the first work day after the recognized Holiday
f. Employer contributes $6.30 per day per employee to Health and Welfare Funds
g. Employer contributes $4.00 per day per employee to Pension Funds
h. One week vacation after one year's work; Two weeks vacation after three year's work
i. Paid Holidays: A through F, plus Washington's Birthday, Veteran's Day and Presidential Election Day provided the employee works 3 days in the week in which the Holiday falls
j. Employer contributes $65.50 per week per employee to Health and Welfare Funds
k. Employer contributes $65.00 per week per employee to Pension Funds
l. Employee who has worked or receive pay for 90 days within a year prior to his anniversary date shall receive 56 hours straight time vacation pay; for 3 years but less than 8 years of service he will receive 100 hours of straight time vacation pay; 15 years or more he will receive 165 hours of straight time vacation pay
m. Paid Holidays: A through F, plus Washington's Birthday, Presidential Election Day, Armistic Day, 2 Personal Holidays, Good Friday, and Christmas Eve afternoon (provided the employee works that morning) on the condition that the employee works or is available for work on at least 2 days in the week in which the Holiday occurs
n. Employees working or receiving pay for 80 days within a year receive one week's paid vacation(48 hours); 125 days receive two weeks' vacation (96 hours); 145 days receive 15 days (120 hours); 15 years seniority and 145 days receive 4 weeks vacation (160 hours)
o. Paid Holidays: A through F, plus Lincoln's Birthday, Washington's Birthday, Good Friday, General Election Day, Columbia Day and Veteran's Day provided the employee has been assigned to work or "shapes" one day of the calendar week during which the Holiday Falls
p. Paid Holiday: Election Day.
q. Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve providing the employee has worked 45 full days for the same employer during the 120 calendar days prior to the holiday and is available for work the day preceeding and the day following the holiday.

GROUP and ZONE DESCRIPTIONS

AIR CONDITIONING and REFRIGERATION MECHANICS:
Group 1: Installation of refrigeration equipment for any type of building where the combined compressor tonnage does not exceed 5 tons; Installation of water-cooled air-conditioning that does not exceed 10 tons (includes the piping of component system and the erection of the water tower); Installation of air-cooled air conditioning that does not exceed 15 tons

ASBESTOS WORKERS:
Zone 1: Atlantic, Burlington (Bass River and Washington Townships); Cape May, Cumberland and Ocean (Eaglewood, Lacy, Little Egg Harbor, Long Beach, Ocean, Stafford, Tuckerton, and Union Townships) Counties
Zone 2: Burlington (Bordentown, Burlington, Chesterfield, Easthampton, Florence, Mansfield, Mount Holly, New Hanover, North Hanover, Pemberton, Roebling, Springfield, Wrightstown, and Woodlawn Townships); Mercer, Monmouth (Allentown, Blainsinburg, Brielle, Englishtown, Farmingdale, Freehold, Howell, Manalapan, Manasquan, Millstone, Roosevelt, Sea Girt, South Belmar, Spring Lake Heights, Upper Freehold, Wall, and West Belmar Townships) and Ocean (Remainder of County) Counties
Zone 3: Monmouth (Remainder of County)
Zone 4: Salem County
Zone 5: Burlington (Remainder of County); Camden and Gloucester Counties

BRICKLAYERS, STONEMASONS, MARBLE MASONS, CEMENT MASONS, PLASTERERS, TILE LAYERS, and TERRAZZO WORKERS:
Zone 1: Atlantic and Cape May Counties
Zone 2: Camden, Gloucester, and Salem Counties
Zone 3: Cumberland County
Zone 4: Burlington and Mercer Counties
Zone 5: Monmouth and Ocean Counties

CARPENTERS, MILLWRIGHTS and INSULATORS:
Zone 1: Atlantic, Camden, Cape May, Cumberland, Gloucester and Salem Counties
Zone 2: Burlington County
Zone 3: Mercer County (beginning from the present Post Office in Lawrenceville to a point northward through the present "Radio Site" to the junction of Rosedale Road and Read's Mill Road to the junction of Pennington and Mount Rose Road to the Somerset County Line; again starting at the present Post Office in Lawrenceville and eastward to the junction of Brunswick Pike and Delaware and Raritan Canal Bridge taking the center of the road to Clarksville then south on Providence Line Road to the Pennsylvania Railroad then east on Dutch Neck North to Grover's Mills to the Middlesex County Line
Zone 4: Remainder of Mercer County.

Zone 5: Ocean County
Zone 6: Monmouth County

DIVER and DIVER TENDERS:
Zone 1: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean and Salem Counties

GROUP and ZONE DESCRIPTIONS (Cont'd)

DOCKBUILDERS and PILEDRIVERMEN
Zone 1: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer (Trenton Area), Ocean and Salem Counties
Zone 2: Mercer (Princeton Area) and Monmouth Counties

DRYWALL TAPERS and FINISHERS:
Zone 1: Atlantic, Burlington, Cape May, Cumberland, Mercer, Monmouth and Ocean Counties
Zone 2: Camden, Gloucester and Salem Counties

ELECTRICIANS and CABLE SPLICERS:
Zone 1: Monmouth and Ocean Counties
Zone 2: Burlington (that portion north of a line following the west and south limits of Burlington Borough from the Delaware River in a southeasterly direction to the Burlington - Mt. Holly Road, south-southeast along this road to and including the Town of Mt. Holly, east along the Pennsylvania Railroad to and including New Lisbon and continuing along the Pennsylvania Railroad to the Ocean County Line) and Mercer Counties
Zone 3: Burlington (Edgewater Park, Delanco, Delran, Cinnaminson, Moorestown, Mount Laurel, Willingsboro, Hainesport, Lumberton, Medford, Evesham Townships in the County and that portion of Shamong, Tabernacle, Woodland Townships north of the Central Railroad of New Jersey Line and that portion of Burlington, Westhampton, Easthampton, South Hampton and Pemberton Townships in the County south of a line starting at the Delaware River and following the southern boundary of Burlington Borough to the Burlington, Mount Holly Road, along this road to Mount Holly around but excluding Mount Holly to the Pennsylvania Railroad along the Pennsylvania Line through, but excluding Pemberton, through but excluding New Lisbon to the Ocean County Line), Camden, Gloucester (Washington, Deptford, West Deptford, Greenwich, East Greenwich, Manuta, Harrison, South Harrison, Woolwich and Logan Townships and Pitman Borough) and Salem (from Lower Penns Neck, Upper Pens Neck, Oldmans Townships and that portion of Mannington and Pilesgrove Townships north of a line following State Highway #45 northeast from Penswick Creek to the Borough of Woodstown, around and including Woodstown to U. S. Highway #40 and east on #40 to Upper Pittsgrove Townships Line) Counties
Zone 4: Atlantic (that portion south and west of a line following the White Horse Pike (U. S. Highway #30) in a southeasterly direction from Camden County to the Mays Landing-DaCosta Road, continuing south along that road to the Great Egg Harbour River near Weymouth along that river to the Harding Highway to the Mays Landing - Tuckahoe Road, south on that road to the north limits of Corbin City to the Tuckahoe River), Cumberland, Gloucester (remainder of County) and Salem (Remainder of County) Counties
Zone 5: Atlantic (Remainder of County), Burlington (Remainder of County) and Cape May Counties

GROUP and ZONE DESCRIPTIONS (Cont'd)

GLAZIERS:
Zone 1: Monmouth and Ocean and Mercer Counties
Zone 2: Atlantic and Cape May Counties
Zone 3: Camden, Gloucester and Salem Counties
Zone 4: Burlington (that portion north of a line that begins at Florence-Roebling and that extends in a southeasterly direction that includes Post Dix to the Ocean County Line) County

IRONWORKERS:
Zone 1: Monmouth and Ocean (northern half of County) Counties
Zone 2: Atlantic, Cape May, Cumberland (that portion east of a line drawn from the Delaware Bay through the Town of Cedarville and upwards to the point where the County Lines of Gloucester, Cumberland and Atlantic meet) and Ocean (Remainder of County) Counties
Zone 3: Burlington (southern portion of County up to but not including Lumberton and Chatsworth Townships), Camden, Cumberland (Remainder of County), Gloucester and Salem Counties
Zone 4: Burlington (Remainder of County) and Mercer Counties

MARBLE FINISHERS:
Zone 1: Camden, Gloucester, and Salem Counties

PAINTERS:
Zone 1: Monmouth and Ocean (except Townships of Ocean, Union, Stafford, Eaglewood and Little Egg Harbor) Counties
Zone 2: Mercer County
Zone 3: Burlington, Camden, Gloucester and Salem (the portion of County north of Salem Bridges) Counties
Zone 4: Atlantic, Cape May and Ocean (Remainder of County) Counties
Zone 5: Cumberland and Salem (Remainder of County) Counties

PLUMBERS and PIPEFITTERS:
Zone 1: Atlantic, Burlington (that portion of the County including Atsion, Bass River Township, Batsto, Chatsworth, Green Bank, Herman, Jenkins, New Gretna, Quaker Bridge, Wading River, Washington and Woodland Township), Cape May, Cumberland, Gloucester, Burlington (that portion of the County starting on the west by the Delaware River, on the north by a line following the center of High Street to the Pennsylvania Railroad running from Camden to Mount Holly, Birmingham, Seaside Park and Shore Points on the Jersey Coast and along aforesaid Railroad to the Town of Whittings; thence diagonally across Burlington County to the junction of Burlington, Camden and Atlantic Counties), Camden and Salem Counties.
Zone 2: Monmouth, Mercer, Ocean, Burlington County (Remainder of County)

GROUP and ZONE DESCRIPTIONS (Cont'd)

ROOFERS:
Zone 1: Atlantic, Cape May, Cumberland, Burlington, Camden, Gloucester, Salem, Mercer, Monmouth (Remainder of County) and Ocean (Remainder of County) Counties
Zone 2: Monmouth (the entire County except the southwest corner which includes Perrineville and the towns west thereof) and Ocean (from the County Line southward to Cassville, Lakehurst, Whitings, Wheatland and Cedar Bridge inclusive) Counties

SHEET METAL WORKERS:
Zone 1: Atlantic, Cape May and Cumberland Counties
Zone 2: Monmouth and Ocean Counties
Zone 3: Burlington and Mercer Counties
Zone 4: Camden, Gloucester and Salem Counties

SOFT FLOOR LAYERS:
Zone 1: Atlantic, Camden, Cape May, Cumberland, Gloucester, and Salem Counties
Zone 2: Burlington, Mercer, Monmouth and Ocean Counties

SPRINKLER FITTERS:
Zone 1: Camden, Gloucester, Mercer (Town of Trenton) and Salem (Penns Grove excluding Penns Grove Airport) Counties
Zone 2: Atlantic, Burlington, Cape May, Cumberland, Mercer (Remainder of County), Monmouth, Ocean and Salem (Remainder of County) Counties

TERRAZZO FINISHERS:
Zone 1: Camden, Gloucester, and Salem Counties

TILE SETTERS FINISHERS:
Zone 1: Atlantic and Monmouth Counties
Zone 2: Camden, Gloucester, and Salem Counties

ZONE and GROUP DESCRIPTIONS (Cont'd)

LABORERS
BUILDING CONSTRUCTION

Zone 1: Atlantic, Burlington (Townships of Washington and Bass River), Cape May, Cumberland (Townships of Fairfield, Millville, Maurce River, Lawrence, Dawne and Commercial) and Ocean (that portion of the County up to and including Lacy Township) Counties:

Group 1: Laborers, Mason' and Plasterers' Tenders, and Concrete Workers
Group 2: Tool Operators (except small hand tools) including operation of motorized buggies
Group 3:Gumnite Men and Gun Nozzle Operators for Gumnite and Asbestos Sandblasting

Zone 2: Burlington (Tpwnships of Edgewater Park, Delance, Willingsboro, West Hampton, East Hampton, Pemberton, Delran, Cinnaminson, Morrestown, Mt. Laurel, Hainesport, Lumberton, South Hampton, Evesham, Medford, Shamong, Tabernacle and Woodland), Camden, Gloucester and Salem and Cumberland (Remainder of County) Counties:

Group 1: Construction Laborers, Plasterers and Lathers Tenders Brick Tenders, Mortar Tenders, Scaffold Builders (brick), Hod Carriers (brick)
Group 2: Power Tool Operators
Group 3: Motorized Buggy Operators, Burners, Nozzlemen (Gunnite Work)
Group 4: Jackhammer Operators, Barko Tamper Operators and Concrete Vibrator Operators (over 27 lbs.)

Zone 3: Mercer (Townships of Princetown, Lawrence, West Windsor, and Borough of Princeton) County:

Group 1: Laborers
Group 2: Hod Carriers, Mason Tenders, Operators of Jackhammers, Tampers and Electric Hammers

Zone 4: Monmouth (Townships of Matawan, Union Beach, Raritan, Keansburg, Highlands, Holmdel, Middletown, Fair Haven, Red Bank, Mattawa Borough and Marlboro) Counties
Zone 5: Mercer (Townships of Washington, Eighstown and East Windsor), Monmouth (Remainder of County), and Ocean (Remainder of County) Cos.
Zone 6: Burlington (Remainder of County) and Mercer (Remainder of County) Counties

ZONE and GROUP DESCRIPTIONS (Cont'd)

LABORERS (Cont'd)
HEAVY and HIGHWAY CONSTRUCTION

Zone 1: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean and Salem Counties:
Zone 2: Monmouth County:

Group 1: Common Laborers, Landscape Laborers, Railroad Track Laborers, Traffic Directors, Salamander Tenders, Pitman, Dumpman, Waterproofing Laborers, Rakers and Tampers on Cold Patch Work, and Wrapping and Coating of all Pipes
Group 2: Powder Carrier, Magazine Tender, Wagon Drill Operator Helpers, Drill Master Helper, and Signalman
Group 3: Sewer Pipe, Laser Men, Conduit and Duct Line Layer, Power Tool Operator, Jack Hammer, Chipping Hammer, Pavement Breaker, Power Buggy, Cutter, Concrete Cutter, Asphalt Cutter, Sheet Hammer and Tree Cutter Operators, Sandblasting Cutting, Burning and such other power tools used to perform work usually done manually by Laborers
Group 4: Wagon Drill Operator, Timberman and Drill Master
Group 5: Finisher, Form Setter, Rammer, Paver, Gunite Nozzleman and Stonecutter
Group 6: Blaster

FREE AIR TUNNEL JOBS

Group 1: Blasterers

Group 2: Skilled Men (including Miners, Drill Runners, Iron Men, Maintenance Men, Conveyor Men, Safety Miners, Riggers, Block Layers, Cement Finishers, Rod Men, Caulkers, Powder Carriers, All other Skilled Men)

Group 3: Semi-skilled Men (including Miner's Helpers, Chuck Tenders, Track Men, Nippers, Brakemen, Derail Men, Cable Men, Hose Men, Grout Men, Gravel Men, Form Men, Bell or Signal Men (top or bottom), Form Workers and Movers, Concrete Workers, Shaft Men, Tunnel Laborers, Caulkers' Helpers, all other Semi-skilled)

Group 4: All others (including Powder Watchmen, Change House Attendants, Top Laborers)

ZONE DESCRIPTIONS (Cont'd)

LINE CONSTRUCTION:
Zone 1: Monmouth and Ocean Counties
Zone 2: Burlington (that portion north of a line following the west and south limits of Burlington Borough from the Delaware River in a southeasterly direction to the Burlington - Mt. Holly Road, southsoutheast along this road to and including the Town of Mt. Holly, east along the Pennsylvania Railroad to and including New Lisbon and continuing along the Pennsylvania Railroad to the Ocean County Line) and Mercer Counties
Zone 3: Burlington (Edgewater Park, Delanco, Delran, Cinnaminson, Moorestown, Mount Laurel, Willingsboro, Hainesport, Lumberton, Medford, Evesham Townships in the County and that portion of Shamong, Tabernacle, Woodland Townships north of the Central Railroad of New Jersey Line and that portion of Burlington, Westhampton, Easthampton, South Hampton and Pemberton Townships in the County south of a line starting at the Delaware River and following the southern boundary of Burlington Borough to the Burlington - Mount Holly Road, along this road to Mount Holly around but excluding Mount Holly to the Pennsylvania Railroad along the Pennsylvania Line through, but excluding Pemberton, through but excluding New Lisbon to the Ocean County Line), Camden, Gloucester (Washington, Deptford, West Deptford, Greenwich, East Greenwich, Manuta, Harrison, South Harrison, Woolwich and Logan Townships and Pitman Borough) and Salem (from Lower Penns Neck, Upper Penns Neck, Oldmans Townships and that portion of Mannington and Pilesgrove Townships north of a line following State Highway #45 northeast from Penswick Creek to the Borough of Woodstown, around and including Woodstown to U. S. Highway #40 and east on #40 to Upper Pittsgrove Townships Line) Counties
Zone 4: Atlantic (that portion south and west of a line following the White Horse Pike (U. S. Highway #30) in a southeasterly direction from Camden County to the Mays Landing-DaCosta Road, continuing south along that road to the Great Egg Harbour River near Weymouth along that river to the Harding Highway to the Mays Landing - Tuckahoe Road, south on that road to the north limits of Corbin City to the Tuckahoe River), Cumberland, Gloucester (Remainder of County) and Salem (Remainder of County) Counties
Zone 5: Atlantic (Remainder of County), Burlington (Remainder of County) and Cape May Counties

LINE CONSTRUCTION - Railroad ONLY:
Zone 1: Burlington, Camden, Cape May, Cumberland, Gloucester, Monmouth, Ocean and Salem Counties

DECISION NO. NJ85-3032 POWER EQUIPMENT OPERATORS

Class 1: Autograde - Combination Subgrader; Base Metal Spreader and 7 Base Trimmer (CMI and similar types); Autograde Placer, Trimmer, Spreader Combination (CMI and similar types); Autograde Slipform Paver (CMI and similar types); Backhoe; Central Power Plants (all types); Concrete Paving Machines; Cranes (all types, including Overhead and Straddle Travelling type); Cranes; Gantry; Derricks (Land or Floating); Drillmaster, Quarrymaster (down the Hole Drill) Rotary Drill; Self Propelled Hydraulic Drill; Self-powered Drill; Dragline; Elevator Graders; Front End Loaders (5 yds. and over); Gradalls; Grader; Raygo; Locomotive (large); Mucking Machines; Pavement and Concrete Breaker, i.e.; Superhammer and Hoe Ram; Pile Driver; Length of Boom including Length of Leads, shall determine premium rate applicable; Roadway-Surface Grinder; Scooper (Loader and Shovel); Shovels; Tree Chopper with Boom; Trench Machines

Class B: "A" Frame; Backhoe (combination); Boom Attachment on Loaders (rate based on size of Bucket) not applicable to Pipehook, Boring and Drilling Machines; Brush Chopper; Shredder and Tree Shredder; Tree shearer; Cableways; Carryalls; Concrete Pump; Concrete Pumping System; Pumpcrete and similar types; Conveyors, 125 ft. and over; Drill Doctor including Dust Collector, Maintenance); Front End Loaders (2 yds. but less than 5 yds.); Graders (Finisher); Groove Cutting Machine (ride on type); Header Planer; Hoists: (all types hoists, shall also include Steam, Gas, Diesel, Electric, Air Hydraulic, Single and Double Drum, Concrete Brick Shaft Caisson, Snorkel Roof, and/or any other similar type Hoisting Machines, portable or stationary, except Chicago Boom type); Hoists (Chicago Boom type); Hydraulic Cranes, 10 tons and under; Hydro-axle; Jacks Screw Air Hydraulic power operated unit or Console type (not Hand Jack or Pile Load Test type); Log Skidder; Pans; Pavers (all Concrete; Pumpcrete Machines; Squeezecrete and Concrete Pumping (regardless of size); Scrapers; Side Booms; Straddle Carrier; Ross and similar types; Winch Truck (hoisting)

Class C: Asphalt Curbing Machine; Asphalt Plant Engineer; Asphalt Spreader; Autograde Tube Finisher and Texturing Machine (CMI and similar types); Autograde Curercrete Machine (CMI and similar types); Autograde Curb Trimmer and Sidewalk; Shoulder; Slipform (CMI and similar types); Bar Bending Machines (power); Batchers; Batching Plant and Crusher on Site; Belt Conveyor Systems; Boom type Skimmer Machines, Bridge Deck Finisher; Bulldozers (all); Car Dumpers (railroad); Compressor and Blower type units (used independently or mounted on Dual Purposes Trucks, on job site or in conjuction with job site, in loading and unloading of Concrete, Cement, Fly Ash, Instancrete, or similar type materials); Compressor (2 or 3)(Battery); Concrete Finishing Machines; Concrete Saws and Cutters (ride on type); Concrete Spreaders; Hetzel; Rexomatic and similar types; Concrete Vibrators; Conveyors; under 125 ft.; Crushing Machines; Ditching Machine; Small (Ditchwitch or similar type); Dope Pots (Mechanical with or without Pump); Dumpsters Elevator; Fireman; Fork Lifts (Economobile; Lull and similar types of

equipment); Front End Loaders (1 yd. and over but less than 2 yds.); Generators (2 or 3) in Battery; Giraffe Grinders; Graders and Motor Patrols; Gunnite Machines (excluding Nozzle); Hammer Vibratory (in conjunction with Generator); Hoist (Roof, Tugger, Aerial Platform Hoist and House Cars); Hoppers; Hopper Doors (power operated); Ladders (motorized); Laddervator; Locomotive; Dinky type; Maintenance; Utility Man; Mechanics; Mixers (except Paving Mixers); Motor Patrols and Graders; Pavement Breakers, small; Self-propelled Ride on type (also maintaining Compressor or Hydraulic unit); Pavement Breaker; Truck mounted; Pipe Bending Machine (power); Pitch Pump; Plaster Pump (regardless of size); Post Hole Digger (Post Pounder and Auger); Rod Bending Machines (power); Roller; Black Top; Scales; Power; Seaman Pulverizing Mixer; Shoulder Widener; Silos; Skimmer Machines (boom type); Steel Cutting Machine; Services and Maintaning; Tractors; Tug Captain; Vibrating Plants (used in conjunction with unloading); Welder and Repair Mechanics

Class D: Brooms and Sweepers, Chippers, Compressor (single), Concrete Spreaders (small type), Conveyor Loaders (not including Elevator Graders), Engines, Large Diesel (1620 H.P.) and Staging Pump, Farm Tractors; Fertilizing Equipment (operation and maintenance) Fine Grade Machine (small type); Form Line Graders (small type); Front Loader (under 1 yd.); Generator (single); Grease, Gas, Fuel and Oil Supply Trucks; Heaters (Nelson or other type including Propane, Natural Gas or Flow-type units); Lights; Portable Generating Light Plants; Mixers; Concrete small; Mulching Equipment (operation and maintenance) Pumps (4 inch suction and over including Sumbersible Pumps); Pumps (2 or less than 4" suction and over including submersible pumps); Pumps (Diesel engine and Hydraulic) immaterial of power Road Finishing Machines (small type); Rollers; Grade; Fill or Stone Base; Seeding Equipment (operation and maintenance of); Sprinkler and Water Pump Trucks Steam Jennies and Boilers, Stone Spreader; Tamping Machines Vibrating Ride-on; Temporary Heating Plant (Nelson or other type, including Propane, Natrual Gas or Flow type units); Water and Sprinkler Trucks; Welding Machines (gas, diesel, and/or electric Converters of any type, single; two or three in a Battery); Welding System, Multiple (Rectifier Transformer type); Wellpoint Systems.

Class E: Oiler

Class F: Helicopter Pilot

Oilostatic Mainlines and Transportation Pipe Lines

Class A: Backhoe; Cranes (all types); Draglines; Front-end Loaders (5 yds. and over); Gradalls; Scooper (Loader and Shovel); Koehring and Trench Machines

Class B: "A" Frame; Backhoe (combination Hoe Loader); Boring and Drilling Machines; Ditching Machine, small; Ditchwitch or similar type; Fork Lifts; Front End Loaders (2 yds. and over but less than 5 yds.); Graders, finish (fine); Hydraulic Cranes, 10 tons and under (over 10 tons - Crane rate applies); Side Booms; and Winch Trucks (hoisting)

Class C: Backfiller; Brooms and Sweepers; Bulldozers; Compressors (2 or 3 in battery); Front-end Loaders (under 2 yds.); Generators; Giraffe Grinders; Graders and Motor Patrols; Mechanic; Pipe Bending Machine (power); Tractors; Water and Sprinkler Trucks, Welder and Repair Mechanic;

Class D: Compressor (single); Dope Pots (Mechanical with or without pump); Dust Collectors; Farm Tractors; Pumps (4 in. suction and over); Pumps (2 or less than 4 in. suction); Pumps; Diesel Engine and Hydraulic (Immaterial or power); Welding Machines; Gas or Electric Converters of any type, single; Welding Machines, gas or electric converters of any type, 2 or 3 in Battery multiple Welders; Wellpoint Systems (including installation and maintenance)

Class E: Oiler, Grease, gas, fuel and Supply Trucks and Tire Repair and Maintenance

Class F: Helicopter. Pilot

TANK ERECTION

Class A: Operating engineers--on all Cranes, Derricks, etc. with Vooms including Jib 140 ft. or more above the ground.

Class B: Operating Engineers--on all Equipment, including Cranes Derricks, etc. with Booms including Jib, less than 140 ft. above the ground.

Class C: Helicopters--Pilot.

Class D: Air Compressors, Welding Machines and Generators (Gas, Diesel, or Electrical driven equipment and sources of power from a permanment plant, i.e., Steam, Compressed Air, Hydraulic or other power, for the operating of any machine or automatic tools used in the Erection, Alteration, Repair and dismantling of tanks and any and all "dual purpose" Trucks used on the construction job site.

Class E: Oiler.

Power Equipment Operators (Cont'd)

STEEL ERECTION

Class A: Cranes - (all Cranes, Land or Floating with Booms including Job 140 Ft. and over, above ground); Derricks-(all Derricks, Land or Floating with Boom including Jib 140 ft. and over, above ground).

Class B: Cranes - (all cranes, Land or Floating with Booms including Jib less than 140 ft. above ground); Derricks (all Derricks, Land or Floating with Booms including Jib, less than 140 ft. above ground)

Class C: "A" Frame; Cherry pickers 10 tons and under; Hoists: all types Hoists shall also includes Steam, Gas, Diesel, Electric, Air Hydraulic, Single and Double Drum, Concrete, Brick Shaft Caisson, or any other similar type Hoisting Machines, Portable or Stationary, except Chicago Boom type; Jacks-Screw Air Hydraulic Power operated unit Console type (not Hand Jack or Pile Load Test type) Side Booms.

Class D: Aerial platform used Hoist; Compressor, 2 or 3 in Battery; Elevators or House Cars; Conveyors and Tugger Hoists; Fireman; Forklift; Generators, 2 or 3 maintenance-utility man; Rod Bending Machine (Power); Welding Machines--(Gas or Electric, 2 or 3 in Battery, including Diesels); Captain Power Boats; Tug Master Power Boats.

Class E: Compressor, single, Welding Machine, Single, Gas, Electric Converters of any type, Diesel; Welding System Multiple (rectifier Transformer type); Generator, Single.

Class F: Straddle Carrier.

Class G: Helicopter Pilot

TRUCK DRIVERS

Zone 1: Atlantic and Cape May Counties

Group 1: Warehousemen and Helpers

Group 2: Teamsters and Chauffeurs

Group 3: Drivers on Tractors, Trailers, 10 wheel Flats and Dumps

Group 4: Drivers on Euclids, 10 wheel Tractors and Tractor Trailer Trucks, Low Beds and Pole Trailers

Zone 2: Burlington (that portion west of the Jersey Turnpike to the Delaware River), Camden, Cumberland, Gloucester and Salem Counties.:

Group 1: Ten wheel Dump Truck Driver and Trailer Dump Driver off site

Group 2: Straight Truck Driver (helper)

Group 3: Warehousemen, Fork Lift Truck and Parts Men

Group 4: Straight Truck Driver including all "Dual Purpose" Trucks, (straight), Transit Mix Trucks, Fuel Trucks, Seeding Trucks, Fertilizing Trucks, Dumpcrete Trucks, Mulching Trucks, "A" Frame (when transporting material), Water Sprinkler Trucks, Tanks, Straight Trucks with mechanical Tailgates, Asphalt Distributor Trucks, Batch Trucks and similar type of equipment and Mechanics (Helper), Pick-up Trucks (only when transporting material), and Flat Bed Trucks

Group 5: All Truck Towing

Group 6: Winch Straight Tractor and Trailer Truck Driver and Euclid Trailer Dump (not self-loading), Fuel Truck Drivers and Asphalt Oil Distributors on Dumpcrete Trucks, Transit-Mixers, Flat Bed Trucks, Low Bed Trucks, Tanks, Water Tanks, Fuel Tanks, Euclid Water Sprinkler, Asphalt Distributor, Pole Trailer, Winch Trailer, I Beam Trucks, Euclids (all), and type equipment

Group 7: Mechanics

TRUCK DRIVERS (Cont'd)

Zone 3: Burlington (Remainder of County), Mercer, Monmouth and Ocean Counties:

Group 1: Mechanic Helper

Group 2: Drivers on the following type vehicles: Straight Dumps, Flats, Floats, Pick-ups, Container Haulers, Fuel, Water Sprinkler, road Oil, Stringer, Bead, Hot Pass, Bus, Dumpcrete, Transit Mixers, Agitator Mixer, Half Truck, Winch Truck, Side-o-matic, Dynamite, Power, X-ray, Welding, Skid, Jeep, Station Wagon, Stringer, A-Frame, all Dual Purpose Trucks, Truck with mechanical tailgate, Asphalt Distributor, Batch Trucks, Seeding, Mulching, Fertilizer, Air Compressor Trucks (in transit), Parts Chaser, Escort, Scissor, Hi-lift, Telescope, Concrete Breaker, Gin Pole, Stone, Sand, Asphalt Distributor and Spreader, Nipper, Fuel Trucks (Drivers on Fuel Trucks, including handling of unit), Skid Truck (Debris Container - entire unit), Concrete Mobile Trucks (entire unit), Expediter (parts chaser), Beltcrete Trucks, Pumpcrete Trucks, Line Truck, Reel Truck, Wreckers, Utility Trucks, Tank Trucks, Warehousemen, Warehouse Partsmen, Yardmen, Lift Truck in Warehouse, Helper when required on Lift Truck in Warehouse, Warehouse Clerk, Parts Man, Material Checkers, Receivers, Shippers, Binning Men (materials Cardex Man); Helper when required on Broyhill Coal Tar Epoxy Truck and Asphalt and Bituminous Distriburor Truck; Drivers on the following type vehicles: Broyhill Coal Tar Epoxy Trucks, Little-Ford Bituminous Distributor, Slurry Seal Truck or Vehicle, Thiokol Trackmaster Pick-up (Swamp Cat Pickup), Bucket Loader Dump Truck and any Rubber Tired Tractor used in pulling and towing farm wagons and trailers of any description, similar type vehicles; Off-site and On-site Repair Shop, Team Drivers, Vacuum or Vac-all Trucks (entire unit)

Group 3: Drivers on straight 3-axle materials; Truck and Floats

Group 4: Drivers on all Euclid-type Vehicle: Euclids, International Harvesters, Wabcos, Caterpillar, Koehring, Tractors, and Wagons, Dumptors, Straight, Bottom, Rear and Side Dumps, Carryalls and Scrapers (not self-loading - loading over the top), Water Sprinkler, Trailers, Water Pulls and similar types of Vehicles; Drivers on Tractors and Trailer type Vehicles: Flat, Floats, I-beam, Low Beds, Water Sprinkler, Bituminous Transit Mix, Road Oil, Fuel Bottom, Dump Hopper, Rear Dump, Office Shanty, Epoxy, Asphalt, Agitator Mixer, Mulching, Stringer, Seeding, Fertilizing Pole Spread, Bituminous Distributor, Water Pulls (entire unit)(tractor Trailer), Reel Trailer and similar types of vehicles

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))

(26)

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Federal Register

Friday
July 19, 1985

Part IV

Department of Labor

Employment and Training Administration

20 CFR Part 674
29 CFR Part 89
Senior Community Service Employment Program; Proposed Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 674

29 CFR Part 89

Senior Community Service Employment Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The Employment and Training Administration proposes to revise the regulations for the Senior Community Service Employment Program (SCSEP) to implement the Older Americans Act Amendments of 1984 and to make clarifying changes. These proposed regulations provide administrative and programmatic guidance and requirements for the implementation of the SCSEP.

DATE: Written comments on the proposed rulemaking must be received on or before August 19, 1985.

ADDRESS: Comments should be addressed to: Chief, Division of Older Worker Programs, Office of Special Targeted Programs, Employment and Training Administration, U.S. Department of Labor, Room 6122, 601 D Street NW., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT: Paul A. Mayrand, telephone (202) 376-6225.

SUPPLEMENTARY INFORMATION: As authorized by the Older American Community Service Employment Act (Act), the Department of Labor has established the Senior Community Service Employment Program (SCSEP). Older Americans Act of 1965, Pub. L. 89-73, as amended, secs. 502 *et seq.* (42 U.S.C. 3056 *et seq.*). SCSEP fosters and promotes useful part-time opportunities in community service activities for persons with low incomes who are fifty-five years old or older. The Employment and Training Administration (ETA) of the Department of Labor operates the program by means of grants, contracts, and other agreements with eligible organizations, such as governmental entities, and certain public and private nonprofit agencies and organizations.

The regulations for the SCSEP currently are at 29 CFR Part 89, among regulations of the Office of the Secretary of Labor, 29 CFR Subtitle A. As part of a process of consolidating all of the ETA regulations into 20 CFR Chapter V, the Department is proposing in this document to redesignate the regulations at 29 CFR Part 89 as 20 CFR Part 674.

In addition, the Older American Community Service Employment Act has been amended since the last revision of the regulations. Pub. L. 98-459, secs. 501-505; Pub. L. 97-115, sec. 12; Pub. L. 95-478, sec. 105. This document proposes regulations to conform to the statute as amended and to make clarifying changes based on the Department's experience in operating the SCSEP and a thorough review of the regulations by a specially-formed project sponsors' work group.

Major changes proposed include the schedule for implementation of new limits on costs of administration, a requirement for an annual report by States on the status of compliance with section 506(c) of the Act which provides for apportionment of projects within a State in an equitable manner, and a requirement for informing all persons associated with the SCSEP of allowable and unallowable political activities as set forth in section 502(b)(1)(O) of the Act. More details are provided in the "Summary of Changes" below.

Summary of Changes

In addition to changes reflecting the redesignation of SCSEP rules as 20 CFR Part 674 and various clarifying and editing changes which condense previous language, significant proposed changes as a result of amendments to Title V of the Act and the review of experience include:

In § 674.201, *Allotment of Title V funds*, language is added, in accordance with section 506(d) of the Act, requiring each State agency receiving funds under Title V to report at the beginning of each fiscal year on compliance with section 506(c) of the Act.

In § 674.205, *Responsibility review*, requirements are included for the Department to review previous experiences with a grantee prior to selecting a grant applicant as a potential grantee.

In § 674.306, *Enrollment priorities*, language is added to make clear that enrollment priorities for temporary positions are to parallel priorities for authorized positions.

In § 674.307, *Physical examinations*, the time period during which a physical examination must take place prior to enrollment is increased to 2 months to permit project sponsors more flexibility, and language is added to clarify examination requirements upon reenrollment following specified periods of termination.

In § 674.314, *Additional training*, language is added to encourage skill training for enrollees where appropriate and to make clear differences between required and voluntary training.

In § 674.315, *Placement into unsubsidized employment*, Language is changed to raise the goal for placement into unsubsidized employment to 20 percent of the number of authorized positions.

In § 674.316, *Duration of enrollment*, language is added to describe the conditions under which the Department will consider permitting grantees to set limits on enrollment.

In § 674.321, *Political activities; lobbying*, language is added to require that notices be posted and all persons associated with SCSEP be provided a written explanation of allowable and unallowable political activities; and to require nonprofit organizations to comply with the lobbying restrictions in OMB Circular A-122, Attachment B, paragraph B21.

In § 674.324, *Adverse action against enrollees*, language is changed to eliminate enrollee appeals to the Department except in cases alleging discrimination or other violations of law and in determining that established appeals procedures were followed.

In § 674.402, *Limitations on Federal funds*, the schedule is established for reducing maximum costs of administration to 12 percent as required by section 502(c)(3) of the Act.

Subpart C, *Project Operations*, and Subpart D, *Limitations on Federal Funds and Administrative Standards and Procedures for Grantees*, have been reorganized and condensed without substantive changes.

Other technical changes include statutory references in the various sections, and conformance of terminology to that used under the Job Training Partnership Act. See 20 CFR Part 626 *et seq.*

This document was prepared under the direction of Paul A. Mayrand, Director, Office of Special Targeted Programs.

REDESIGNATION TABLE

Old section of 29 CFR	New section of 20 CFR
89.1	674.101
89.2	674.201
89.3	674.103
89.5	674.202
89.6	674.203
89.7	674.204 and 674.205
89.8	674.204
89.9	674.206
89.10	674.208
89.11	674.207
89.12	674.209
89.15	674.301
89.16	674.302
89.17	674.303
89.18	674.304
89.19	674.305
89.20	674.306
89.21	674.307

REDESIGNATION TABLE—Continued

Old section of 29 CFR	New section of 20 CFR
89.22	674.308
89.23	674.309
89.24	674.313
89.25	674.310
89.26	674.314
89.27	674.312
89.28	674.312
89.29	674.315
89.30	674.316
89.31	674.324
89.32	674.311
89.33	674.311
89.34	674.318
89.35	674.310
89.36	674.317
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89.38	674.310 and 674.321
89.39	674.323
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89.60	674.406
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89.62	674.405
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89.65	674.405
89.71	674.401
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89.79	674.406
89.80	674.405
89.81	674.405
89.82	674.409
89.83	674.407
89.84	674.405
89.85	674.405
89.91	674.501
89.96	674.601
89.97	674.601
89.98	674.602
89.99	674.303

Regulatory Impact

This proposed rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete in domestic or export markets. Accordingly, no regulatory impact analysis is required.

The Department of Labor has notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to 5 U.S.C. 605(b) that the proposed rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act.

Paperwork Reduction Act

These proposed rules contain only one information collection requirement which will increase the Federal paperwork requirement on the private or public sector. Grantees must certify compliance with the lobbying requirement at § 674.321(c). OMB approval of this paperwork increase is being sought. Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and Executive Order 12291)).

(*Catalogue of Federal Domestic Assistance Number:* This program is listed in the catalogue of Federal Domestic Assistance at No. 17.235 "Senior Community Service Employment Program.")

List of Subjects in 20 CFR Part 674

Allotment, Award, Cooperative relationships, Community service employment, Eligibility, Limitations on Federal funds, Orientation, Placement, Political activities, Responsibility review, Suspension and termination procedures.

Proposed Rule

Accordingly, it is proposed that Part 89 of 29 CFR Subtitle A be transferred to 20 CFR Chapter V and redesignated as Part 674 and that the redesignated 20 CFR Part 674 be revised to read as follows:

PART 674—SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

Subpart A—Introductory Provisions

Sec.
674.101 Scope and purpose of the Senior Community Service Employment Program.
674.102 Format of the regulations.
674.103 Definitions.

Subpart B—Grant Planning and Application Procedures

674.201 Allotment of Title V funds.
674.202 Eligibility for Title V funds.
674.203 Soliciting applications for Title V funds.
674.204 Grant application requirements.
674.205 Responsibility review.
674.206 Grant application review.
674.207 Negotiation.
674.208 Rejection.
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Subpart C—Project Operations

674.301 General.
674.302 Basic responsibilities of the project sponsor.
674.303 Cooperative relationships.
674.304 Recruitment and selection of enrollees.
674.305 Eligibility for enrollment in SCSEP.
674.306 Enrollment priorities.
674.307 Physical examinations.
674.308 Orientation.
674.309 Assessment and evaluation of enrollees.
674.310 Community service employment.
674.311 Enrollee wages and fringe benefits.
674.312 Enrollee supportive services.
674.313 Training in preparation for community service employment.
674.314 Additional training.
674.315 Placement into unsubsidized employment.
674.316 Duration of enrollment.
674.317 Non-Federal status of enrollees.
674.318 Temporary positions.
674.319 Nondiscrimination.
674.320 Political patronage.
674.321 Political activities; lobbying.
674.322 Unionization.
674.323 Nepotism.
674.324 Adverse actions against enrollees.
674.325 Maintenance of effort.

Subpart D—Limitations on Federal Funds and Administrative Standards and Procedures for Grantees

674.401 General.
674.402 Limitations on Federal funds.
674.403 Administration costs waiver.
674.404 Sponsor share of project costs.
674.405 Administrative standards and procedures.
674.406 Fiscal and project performance monitoring and reporting requirements.
674.407 Suspension and termination procedures.
674.408 Department of Labor appeals procedure for project sponsors.
674.409 Grant closeout procedures.

Subpart E—Interagency Agreements

674.501 Administration.

Subpart F—Assessment and Evaluation

674.601 General.
674.602 Limitation.

Authority: 42 U.S.C. 3056(b)(2).

Subpart A—Introductory Provisions

§ 674.101 Scope and purpose of the Senior Community Service Employment Program.

(a) This Part 674 contains the regulations of the Department of Labor for the Senior Community Service Employment Program which is authorized by Title V of the Older Americans Act of 1965, as amended.

(b) It is the purpose of the Act to provide useful part-time community service employment for persons with low incomes who are 55 years old or older (section 502(a)).

(c) In order to carry out the provisions of the Act, the Department of Labor is authorized to enter into agreements with public agencies or private nonprofit organizations (section 502(b)).

§ 674.102 Format of the regulations.

(a) Regulations promulgated by the Department of Labor to implement Title V of the Older Americans Act of 1965 are set forth in 20 CFR Part 674. This part and other pertinent regulations expressly incorporated by reference contain all regulations applicable to the Senior Community Service Employment Program.

(b) Should the regulations at this part conflict with other regulations in the Code of Federal Regulations, the regulations at this part shall prevail with respect to the Senior Community Service Employment Program.

§ 674.103 Definitions.

The following definitions apply to all sections of this part:

"Act" means Title V of the Older Americans Act of 1965 (42 U.S.C. 3001) as amended.

"Allotment" means the initial designation of an amount of appropriated Title V funds to all project sponsors operating within States.

"Authorized position" means an enrollment opportunity during a program year. The number of authorized positions is derived by dividing the total amount of funds appropriated during a program year by the national average unit cost per enrollee for that program year as determined by the Department. The national average unit cost includes all administration costs, other enrollee costs, and enrollee wage and fringe benefit costs. An allotment is divided by unit cost to determine the total number of authorized positions for each grant agreement.

"Cash welfare payment" means public assistance through Federal, State, or local government cash payments for which eligibility is determined by a need or income test.

"Community service" means social, health, welfare, and educational services; legal assistance, and other counseling services, including tax counseling and assistance and financial counseling; library, recreational, and other similar services; conservation, maintenance, or restoration of natural resources; community betterment or beautification; pollution control and environmental quality efforts; weatherization activities; economic development, and other types of services which the Department may approve. It excludes building and highway construction (except that which normally is performed by the project sponsor) and work which primarily benefits private, profitmaking organizations.

"Department" means the United States Department of Labor, including its agencies and organizational units.

"Eligible individual" means a person who is 55 years of age or older and who has a low income as defined in this section. Persons who are 60 years of age or older have enrollment priority among eligible individuals (section 507(2)).

"Eligible organization" means an organization which is legally capable of receiving and using Federal funds under the Act and entering into a grant or other agreement with the Department to carry out provisions of Title V as provided in section 502(b).

"Employment and training program(s)" means publicly funded efforts designed to offer training and/or placement services which enhance an individual's employability. The term is used in this part to include but not be limited to the Job Training Partnership Act or similar successor legislation and State or local programs of a similar nature.

"Enrollee" means an individual who is eligible, receives services, and is paid wages for engaging in community service employment under a project.

"Grant agreement" means a legally binding agreement in document form which is a grant or other form of agreement entered into between the Department and an eligible organization and which awards Federal funds and provides for authorized activities under Title V of the Act.

"Host agency" means a public agency or a private nonprofit organization, other than a political party, exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954, which provides a worksite and supervision for an enrollee.

"Local government" means a local unit of government, including specifically a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, and other regional or interstate government entity, and for the purposes of Subpart D of this part, includes any agency or instrumentality of a local government, except institutions of higher education and hospitals.

"Low income" means, for purposes of this part, an income which, during the preceding 6 months on an annualized basis or the actual income during the preceding 12 months, whichever is more beneficial to the applicant, is not more than 125 percent of the poverty levels established and periodically updated by the U.S. Department of Health and Human Services. In addition, an individual who receives or is a member of a family which receives regular cash welfare payments shall be deemed to have a low income for purposes of this part.

"Project" means an undertaking by a project sponsor pursuant to a grant agreement between the Department and a project sponsor which provides for the employment of eligible individuals and the delivery of associated services.

"Project sponsor" means an eligible organization which has entered into a grant agreement with the Department.

"Project year" means the 12-month period covered by a grant agreement.

"Reallocation" means the redistribution of Title V funds as proposed by the Department from one State to another State(s) or from one project sponsor to another project sponsor(s).

"SCSEP" means Senior Community Service Employment Program as authorized under Title V of the Act.

"State" means any of the several States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Trust Territory of the Pacific Islands.

"State agency on aging" means that sole State agency designated by the State, in accordance with regulations of the Commissioner on Aging, pursuant to section 305(a)(1) of the Older Americans Act.

"Subproject agreement or contract" means an agreement entered into between a project sponsor and an organization which provides for the transfer of Federal funds to the organization for the purpose of carrying out activities authorized in the grant agreement.

"Subproject sponsor" means an organization which has entered into a subproject agreement or contract with a project sponsor.

"Temporary position" means an enrollment opportunity in addition to the authorized positions made available during a project year when a portion of project funds is not being used as planned in the grant agreement. Requirements for temporary positions are in § 674.318 of this part.

Subpart B—Grant Planning and Application Procedures

§ 674.201 Allotment of Title V funds.

(a) Funds shall be allotted for projects or subprojects in each State to assure, to the extent feasible, an equitable distribution of community service employment opportunities, in the

aggregate, among the States (section 506).

(b) The allotment of funds among designated State agencies and national organizations shall be in accordance with section 506 of the Act except as may be provided for by law.

(c) Funds may be reallotted from one State to another State only as permitted by section 506(b) of the Act.

(d) To the extent feasible, the amount allotted for projects in each State shall be apportioned among areas within a State in an equitable manner (section 506(c)).

(e) The State agency for each State receiving funds under Title V of the Act shall report at the beginning of each fiscal year on such State's compliance with section 506(c) of the Act. Each State's report shall include names and geographic locations of all projects receiving Title V funds for projects in the State and the amount allotted to each project. All sponsors operating in a State shall provide information necessary to compile the report (section 506(d)).

(f) The Department shall review the reports submitted pursuant to paragraph (e). In addition, the Department may review the distribution of projects within a State as provided in section 502(d)(2) of the Act.

(g) Prior to any reallocation within a State, the Department shall give notice and opportunity for a hearing on the record by all interested individuals and shall make a written determination of the findings and decision (section 502(d)(2)).

§ 674.202 Eligibility for Title V funds.

Agencies and organizations eligible to receive Title V funds shall be those specified in sections 502(b) and 506(a) of the Act.

§ 674.203 Soliciting applications for Title V funds.

The Department may solicit or request eligible organizations to submit applications for funds (sections 502(b)(1) and 506(a)(1)(A)).

§ 674.204 Grant application requirements.

(a) The Department shall establish by administrative directive schedules for submittal of grant preapplications and applications; contents of grant applications, including goals and objectives; amounts of grants; and grant budget and narrative formats.

(b) Applicants must comply with the requirements of the Department's regulations at 29 CFR Part 17 which implement the Single Point of Contact (SPOC) Clearance System. A Preapplication for Federal Assistance (Standard Form 424) filed as a result of the SPOC system shall contain an attachment which as a minimum lists the proposed number of authorized community service employment positions in each city, county, or other appropriate jurisdiction within the affected State. Grant applicants also are responsible for complying with section 502(d)(1) of the Act.

(c) A grant applicant planning to award project funds by subgrant or contract shall outline the nature and extent of the planned use of subproject sponsors. A project sponsor:

(1) Shall not enter into a subproject agreement which provides for any activity past the ending date of the grant agreement approved by the Department;

(2) Shall be held directly responsible for the performance of all activities implemented under subproject agreements and shall be held directly responsible for compliance by subproject sponsors with the Act and these regulations; and

(3) Shall assure, in the event that a subproject agreement is cancelled in whole or in part, that the project sponsor is prepared to develop procedures to provide continuity of services to enrollees.

§ 674.205 Responsibility review.

(a) Prior to final selection as a potential grantee, the Department will conduct a review of the available records to determine whether the applicant organization has failed any responsibility test. This review is intended to establish overall responsiblity to administer Federal funds. With the exceptions of paragraphs (a)(1) and (a)(2) of this section, the failure to meet any one of the tests would not establish that the organization is irresponsible unless the failure is substantial or persistent. The responsibility tests are:

(1) The agency's efforts to recover debts (for which three demand letters have been sent) established by final agency action have been unsuccessful, or failure to comply with an approved repayment plan.

(2) Established fraud or criminal activity within the organization.

(3) Serious administrative deficiencies identified in final findings and determinations, such as failure to maintain a financial management system as required by Federal regulations.

(4) Willful obstruction of the audit process.

(5) Substantial failure to provide services to eligible individuals as agreed to in a current or recent grant.

(6) Failure to correct deficiencies brought to the grantee's attention in writing as a result of monitoring activities, reviews, or assessments.

(7) Failure to return a grant closeout package or outstanding advances within 90 days of expiration date or receipt of closeout package, whichever is later, unless an extension has been requested and granted; final billings reflecting serious cost category or total budget cost overrun.

(8) Failure to submit required reports.

(9) Failure to report properly and dispose of government property as instructed by the Department.

(10) Failure to maintain cost controls resulting in excess cash on hand.

(11) Failure to procure or arrange for audit coverage for any period when required by the Department.

(12) Failure to audit subprojects within the required period, when applicable.

(13) Failure to establish a mechanism to resolve subproject audits within established time limits.

(14) Final disallowed costs in excess of 5 percent of the grant or contract award.

(b) Applicants failing to meet the requirements of this section will not be selected as potential grantees.

§ 674.206 Grant application review.

(a) The Department will review each grant application which is submitted by an eligible organization determined to be a potential grantee (section 502(b)(1)).

(b) In reviewing and considering an application, the Department will determine whether:

(1) Funds are available for the proposed project;

(2) The application has been prepared in accordance with instructions of the Department;

(3) The application demonstrates compliance with the requirements of the Act and these regulations;

(4) The application offers the best prospect of serving appropriate geographic areas; and

(5) The application demonstrates that effective use will be made of funds.

§ 647.207 Negotiation.

(a) The Department may negotiate with an eligible organization to arrive at a grant agreement if the application generally meets requirements set forth in § 674.204, 674.205, and 674.206.

(b) The subjects of negotiation may include, but are not limited to:

(1) Project components, including planned occupational categories of SCSEP employment and geographic locations of authorized positions;

(2) Subproject sponsors, if any;
(3) Funding level, including all budget line items; and
(4) Performance goals.
(c) The Department may reject any proposed project component if it is determined that the component will not serve the purposes of the Act.
(d) The Department may, if negotiation does not produce a mutually acceptable conclusion, reject a grant application. In this event, the Department will provide written notification in accordance with the procedures for rejection of an application as set forth in § 674.208.
(e) If the Department rejects an application as set forth in paragraph (d), the Department may solicit applications from other eligible organizations in order to arrive at a grant agreement.

§ 674.208 Rejection.

(a) When an application is not approved, the Department shall notify the applicant in writing and state the reason or reasons for rejection.
(b) Rejection of a proposal or application is final agency action and is not subject to further administrative review. Rejection will not affect consideration in the future of an application from an eligible organization.

§ 674.209 Award of funds.

Award of funds to implement a project will be accomplished through the execution of a grant agreement prepared by the Department when the applicant is a unit of State government or a public or private nonprofit organization or through an interagency agreement when the applicant is a unit of the Federal government other than the Department of Labor.

Subpart C—Project Operations

§ 674.301 General.

(a) This Subpart C states basic project operation standards and procedures which shall be followed by all organizations receiving Title V funds for the purpose of operating Senior Community Service Employment Programs.
(b) The primary purposes of a project are to provide useful part-time community service employment for persons with low incomes who are 55 years old or older and to provide useful community services (sections 502(a) and 507(3)).
(c) Project sponsors shall provide eligible individuals wages, skill acquisition or skill enhancement opportunities, periodic physical examinations, personal and employment-related counseling, assistance in transition to unsubsidized employment where feasible, and other benefits as approved by the Department (section 502).
(d) Project sponsors shall develop work assignments for eligible individuals which will result in the provision of community services as defined in sections 502(b) and 507(3) of the Act.

§ 674.302 Basic responsibilities of the project sponsor.

The Department will hold the project sponsor responsible for: (a) Following and enforcing the requirements set forth in the Act and regulations promulgated under the Act;
(b) Implementing and carrying out the project in accordance with the provisions of the grant agreement; and
(c) Assuring that, to the extent feasible, the project enrolls minority, Indian, and limited English-speaking eligible individuals in proportion to their numbers in the State (section 502(b)(1)(M)).

§ 674.303 Cooperative relationships.

(a) Each project sponsor shall, to the maximum extent feasible, cooperate with other project sponsors, with agencies providing services to elderly persons and to persons with low incomes, and with agencies providing employment and training services, including activities conducted under the Job Training Partnership Act (section 503 (a) and (b)).
(b) Objectives of cooperation shall include but not be limited to:
(1) Selection of community service employment occupational categories, work assignments, and host agencies to provide a variety of community service opportunities for enrollees and to produce a variety of services which respond to the community's total needs; and
(2) Establishment of cooperative relations with State agencies on aging designated under section 305(a)(1) and area agencies on aging designated under section 305(a)(2) of the Older Americans Act of 1965 and with State employment security agencies.

§ 674.304 Recruitment and selection of enrollees.

Each project sponsor shall use methods of recruitment and selection (including listing of vacancies with the State employment security agency) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project. Recruitment efforts shall be designed to assure equitable participation of groups described in § 674.302(c) of this part (section 502(b)(1)(H)).

§ 674.305 Eligibility for enrollment in SCSEP.

(a) *General.* Eligibility criteria set forth in this section apply to all SCSEP applicants and enrollees. Each project sponsor is responsible for assuring and documenting the eligibility of each enrollee.
(b) *Eligibility criteria.* To be eligible for initial enrollment, each individual shall meet the criteria for age, income, and place of residence. To be eligible for reenrollment or certification for continued enrollment, each individual shall meet the criteria for age and income. These criteria are:
(1) *Age.* Each individual shall be no less than 55 years of age. No person whose age is 55 years or more shall be determined ineligible because of age, and no upper age limit shall be imposed for initial or continued enrollment (section 502).
(2) *Income.* The income of an individual or of the family of which the individual is a member shall not exceed the low income standards defined in § 674.103 of this part and shall be applied to:
(i) Each individual seeking initial enrollment;
(ii) Each individual seeking reenrollment after termination from the SCSEP; and
(iii) Each enrollee seeking certification for continued enrollment (section 507(2)).
(3) *Place of residence.* Each individual, upon initial enrollment, shall have a place of residence in the State in which the project or subproject is authorized. The term place of residence shall mean an individual's declared permanent dwelling place. No requirement pertaining to length of residency prior to enrollment shall be imposed.
(c) *No additional eligibility requirement.* Project sponsors shall not impose any additional condition or requirement for enrollment eligibility.
(d) *Special responsibilities of the project sponsor.* (1) Project sponsors shall obtain and record the personal information necessary for a proper determination of eligibility for each individual and may request documentation to assure that only eligible individuals are enrolled.
(2) Each project sponsor shall recertify the income of each enrollee once each project year according to the schedule set forth in the grant agreement. Enrollees found to be ineligible for

continued enrollment because of income shall be given immediate written notice of termination and shall be terminated 30 days after the notice.

(3) If at any time a project sponsor determines that an enrollee was incorrectly declared eligible as a direct result of false information given by that individual, the individual shall be terminated immediately.

(4) If at any time the project sponsor determines that an enrollee was incorrectly declared eligible through no fault of the enrollee, the project sponsor shall give the enrollee immediate written notice, and the enrollee shall be terminated 30 days after the notice.

(5) When a project sponsor makes an unfavorable determination on continued eligibility, the sponsor shall explain in writing to the enrollee the reason or reasons for the determination. The project sponsor shall inform each individual affected by an unfavorable determination that the determination may be appealed pursuant to § 674.324 of this part.

(6) When a project sponsor terminates an enrollee for failure to perform assigned tasks, the enrollee shall be informed in writing of the reason or reasons for termination and of the right of appeal in accordance with procedures required in § 674.324 of this part.

(7) When a project sponsor makes an unfavorable determination of enrollment eligibility pursuant to paragraph (d)(2) or (d)(4) of this section, the project sponsor should assure that the individual is referred to other potential sources of assistance.

§ 674.306 Enrollment priorities.

(a) In selecting eligible individuals for enrollment in the SCSEP, project sponsors shall provide community service employment for persons with low incomes who are 55 years old or older, shall accord enrollment priority to eligible individuals who are 60 years old or older, and shall provide community services which will contribute to the general welfare of the community (sections 502(a), 502(b)(1)(D), 507(2), and 507(3)).

(b) Taking into account the objectives described in paragraph (a) of this section, enrollment priorities for filling vacant authorized positions shall be:

(1) *First:* Eligible individuals who are 60 years old or older;

(2) *Second:* Eligible individuals who seek reenrollment following termination because of illness or engaging in unsubsidized employment, provided that reenrollment is sought within one year of termination;

(3) *Third:* Eligible individuals who are enrolled in temporary positions as defined in § 674.318 of this part; and

(4) *Fourth:* Other eligible individuals.

(c) Priorities for enrollment in temporary positions shall be those established in paragraphs (b) (1), (2), and (4) of this section.

(d) Within all priorities established in this section, project sponsors shall give consideration to eligible individuals who are most in need. In determining those eligible individuals who are most in need, project sponsors may consider the extent to which an individual's income is below the low-income standard described in § 674.103 of this part.

(e) Enrollment priorities established in this section shall apply to vacant positions and shall not be interpreted to require the termination of any eligible enrollee.

§ 674.307 Physical examinations.

(a) Each individual selected for enrollment shall have a physical examination within the 2-month period immediately before the first day of compensated participation, except as provided in paragraph (e) of this section.

(b) Each enrollee shall have additional physical examinations at intervals which assure that no enrollee participates in community service employment for more than 15 months without a physical examination or a waiver as provided by paragraph (e) of this section.

(c) Enrollees who are terminated may be reenrolled without an additional examination, provided that the time elapsed since the last examination shall not exceed 15 months, and provided that a schedule of one examination within each 15-month period shall be resumed based on the date of the last examination.

(d) A physical examination shall be regarded as a service to the individual and is not intended to be the basis for denial of participation unless there is clear indication of potential adverse health effects as a result of the performance of tasks to be assigned. A physical examination is a program benefit and shall not be interpreted as an eligibility criterion.

(e) Notwithstanding paragraphs (a) and (b) of this section, when an individual objects to a physical examination, the project sponsor shall obtain a signed waiver prior to the first day of compensated enrollment. The project sponsor shall obtain additional signed waivers from each enrollee who objects to a physical examination at intervals which assure that no such individual participates in community service employment for more than 15 months without signing a waiver.

§ 674.308 Orientation

(a) Each project sponsor shall, as soon as practicable, provide each individual enrolled in community service employment orientation to the project. The orientation shall provide the new enrollee with information related to, as appropriate: project objectives; community service employment assignments; training; supportive services; responsibilities, rights, and duties of the enrollee; permitted and prohibited political activities, and plans for transition to unsubsidized employment.

(b) Project sponsors also shall provide orientation for host agencies and particularly for those individuals who will supervise enrollees to assure that enrollees will receive adequate supervision and opportunities for transitioning to the host agency staff or other unsubsidized employment.

§ 674.309 Assessment and evaluation of enrollees.

(a) Project sponsors shall assess each new enrollee to determine the most suitable SCSEP assignment for the individual. The assessment shall be made in consultation with the new enrollee and should consider the individual's preference of occupational category, work history, skills, aptitudes, potential for performing proposed community service employment duties, and potential for transition to unsubsidized employment.

(b) The project sponsor shall seek a community service employment assignment which will permit the most effective use of each enrollee's skills and aptitudes.

(c) The project sponsor shall make periodic evaluations, no less frequently than once each program year, to determine each enrollee's potential for transition to unsubsidized employment and the appropriateness of each enrollee's current community service employment assignment.

(d) If the project sponsor determines that a different community service employment assignment will provide greater opportunity for the use of an enrollee's skills and aptitudes, will provide work experience which will enhance the potential for unsubsidized employment, or will otherwise serve the best interests of an enrollee, the sponsor should develop an alternate assignment whenever feasible.

(e) The assessments and evaluations required by this section shall be

documented and be a part of each enrollee's permanent record.

§ 674.310 Community service employment.

(a) *Assignment to community service employment.* As soon as possible after the completion of an enrollee's orientation and training, if any, the project sponsor shall assign the enrollee to useful part-time community service employment (section 502).

(b) *Hours of community service employment.* (1) Community service employment provided by a project sponsor or project sponsors under the Act shall not exceed 1,300 hours, including paid hours of orientation, training, sick leave, and vacation, during the 12-month period specified in the grant agreement. The limit of 1,300 hours within the 12-month period shall apply to each individual enrollee and shall include hours of enrollment provided by all project sponsors (section 508(a)(2)).

(2) A project sponsor shall not require an enrollee to participate more than 20 hours during one week.

(3) A project sponsor shall not offer an enrollee an average of fewer than 20 hours of paid participation per week; however, shorter periods may be authorized by the grant agreement, in writing by the Department, or by written agreement between an enrollee and a project sponsor (section 508(a)(2)).

(4) A project sponsor shall, to the extent possible, ensure that enrollees work during normal business hours if they so desire.

(c) *Location.* Enrollees shall be employed at work-sites in or near the communities where they reside (section 502(b)(1)(b)).

(d) *Work assignments.* (1) Enrollees shall be employed in assignments which contribute to the general welfare of the community and which provide services related to publicly owned and operated facilities and projects or projects sponsored by organizations, other than political parties, exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954. Enrollees shall be employed to provide community services as defined in section 507(3) of the Act. To the fullest extent feasible, enrollees shall be given first consideration for assignments involved in the operation of projects.

(2) Enrollees shall not be assigned: (i) To work involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship, or (ii) to work which primarily benefits private, profitmaking organizations (sections 502(b)(1) (A) (C) (D) and 507(3)).

(e) *Supervision.* A project sponsor shall ensure that host agencies provide adequate orientation, instruction, and supervision for enrollees regarding responsibilities and safety.

(f) *Working conditions for enrollees.* Enrollees shall not be permitted to work in buildings or surroundings or under conditions which are unsanitary, hazardous, or dangerous to the enrollees' health or safety. A project sponsor shall make periodic visits to the enrollees' worksites to assure that the working conditions and treatment of enrollees are consistent with the Act and these regulations (section 502(b)(1)(J)).

§ 674.311 Enrollee wages and fringe benefits.

(a) Upon engaging in part-time community service employment, including orientation and training in preparation for community service employment, enrollees shall receive wages at a rate no less than the highest applicable rate required in section 502(b)(1)(J) of the Act.

(b) Within a project or subproject, fringe benefits shall be administered uniformly to all enrollees, including enrollees in temporary positions.

(c) Project sponsors shall ensure that enrollees receive all fringe benefits required by law.

(d) Where enrollees are not covered by the State workers' compensation law, the project sponsor shall provide enrollees with worker's compensation benefits equal to that provided by law for covered employment (section 504(b)).

(e) The project sponsor is authorized to pay the cost of unemployment insurance for enrollees where required by law (section 502(b)(1)(N)).

(f) The following fringe benefits shall be allowable provided they are administered uniformly to all enrollees within a project or subproject: Annual leave; sick leave; holidays; health insurance; and any other fringe benefits approved in the grant agreement, except as limited by paragraph (g) of this section.

(g) Expenditures of Federal funds for contributions into a retirement system or plan are prohibited unless the project sponsor can demonstrate that:

(1) Such contributions bear a reasonable relationship to the cost of providing such benefits to enrollees; and

(2) (i) The enrollees have a reasonable expectation of receiving the value of such contributions because such contributions vest at the time they are made on behalf of the enrollees; or

(ii) The retirement system or plan is of a "defined benefit" type (a system or plan under which a specified benefit is promised employees at retirement) and a separate actuarial determination has established a reasonable expectation that the enrollees will receive benefits as a result of contributions.

§ 674.312 Enrollee supportive services.

(a) Project sponsors shall provide supportive services designed to assist enrollees in successful participation in community service employment and, where appropriate, to prepare enrollees for and to assist enrollees to obtain unsubsidized employment.

(b) Supportive services may include but shall not be limited to:

(1) Counseling or instruction designed to assist enrollees to participate successfully in community service employment or to obtain unsubsidized employment.

(2) Counseling designed to assist enrollees personally in areas such as health, nutrition, social security benefits, medicare benefits, and retirement laws.

(3) If necessary for successful participation in community service employment and if not available from other sources, project sponsors may provide incidentals, including but not limited to work shoes, badges, uniforms, safety glasses, eyeglasses, and hand tools.

(4) Project sponsors, prior to expending project funds for enrollee transportation, must first seek enrollee transportation from other sources at no cost to the project. Project sponsors may expend project funds for transportation of enrollees provided that the transportation is in the direct performance of employment or employment-related activities. Reimbursement from Title V funds shall not exceed the limitation set forth in § 674.402 of this part (section 502(b)(1)(L)).

§ 674.313 Training in preparation for community service employment.

(a) Project sponsors may provide new enrollees with training related to community service employment assignments prior to and as preparation for actual community service employment. Training may be delivered through lectures, seminars, classroom instruction, or other arrangements including but not limited to arrangements with employment and training programs. Project sponsors are encouraged to obtain training services through locally available resources, including employment and training programs as defined in § 674.103 of this part and through host agencies, at no cost or reduced cost to the project (section 502(b)(1)(I)).

(b) Training in preparation for community service employment combined with time spent in orientation, shall be completed within the first 80 hours of the individuals's enrollment except when extended periods are authorized by the Department.

(c) Project sponsors shall enroll each individual in the project prior to orientation and training in preparation for community service employment and shall pay each enrollee as provided in § 674.310 of this part.

§ 674.314 Additional training.

(a) In addition to training and orientation in preparation for community service employment as described in § 674.313 of this part, project sponsors are encouraged to provide additional training opportunities which will permit enrollees to acquire or improve skills applicable in community service employment or unsubsidized employment.

(b) Additional training described in paragraph (a) of this section may be classified either as required training or voluntary training which can be defined by these general purposes:

(1) "Required training" is training which, in the judgment of the project sponsor, has the primary purpose of providing or improving skills which an enrollee will be expected to use in the performance of a community service employment assignment. When a project sponsor determines that it is necessary for an enrollee to engage in training primarily for the purpose of acquiring or improving skills to be used in a community service employment assignment, the enrollee shall be paid for the hours of training at the established wage rate. Required training shall be reasonable and consistent with the enrollee's community service employment assignment. No arbitrary time is imposed on training for an individual enrollee; however, project sponsors shall not schedule required training for an enrollee which exceeds 260 hours during a project year without prior approval of the Department.

(2) "Voluntary training" is training which is available to an enrollee but which does not have the primary purpose of providing or improving skills necessary in the performance of a community service employment assignment. While voluntary training may enhance skills which will be used in community service employment, it also should enhance an enrollee's potential for unsubsidized employment. Enrollees need not be compensated for hours of voluntary training, and uncompensated hours of voluntary training need not be counted within the 1,300-hour limit on compensated participation as set forth in § 674.310 of this part.

(c) Enrollees engaging in required training as described in paragraph (b)(1) of this section may be reimbursed at reasonable rates as described in the grant agreement for the cost of travel and room and board necessary to engage in such training, provided that, reimbursement shall not exceed rates established by current Federal travel regulations (section 502(b)(1)(I)).

(d) Project sponsors shall seek at all times to obtain all training for enrollees at no cost to the project. Where training is not available from other sources, Title V funds may be used for training.

(e) Nothing in this section shall be interpreted to prevent or limit enrollees from engaging in training available from sources other than Title V of the Act during hours other than hours of community service employment.

§ 674.315 Placement into unsubsidized employment.

(a) In order to ensure that the maximum number of eligible individuals have an opportunity to participate in community service employment, project sponsors shall employ reasonable means to place enrollees into unsubsidized employment.

(b) To encourage the placement of enrollees into unsubsidized jobs, the Department has established a goal of placing into unsubsidized employment the number of enrollees which equals 20 percent of the authorized positions.

(c) Project sponsors should contact private and public employers directly to develop or identify suitable unsubsidized employment opportunities and should encourage host agencies to employ enrollees in their regular work forces.

(d) Project sponsors shall follow up on enrollees who are placed into unsubsidized employment and shall document such follow up at least once within 3 months of placement.

§ 674.316 Duration of enrollment.

A project sponsor may establish or use time limitations on enrollment within a project, or within specified subprojects, if the limitations are approved in the grant agreement, provided the sponsor demonstrates that:

(a) The limitation will be applied in an equitable and uniform manner;

(b) Enrollees whose only source of income is community service employment will not be terminated solely because of the limitation;

(c) No limitation will be less than 1,040 hours of paid community service enrollment;

(d) No hours of paid enrollment prior to July 1, 1985, will be counted against the limitation; and

(e) Enrollees subject to termination because of a limitation on enrollment will be informed in writing no less than 12 months prior to scheduled termination.

§ 674.317 Non-Federal status of enrollees.

Enrollees who are employed in any project funded under the Act are not Federal employees as a result of such employment (section 504(a)).

§ 674.318 Temporary positions.

Where a portion of project funds is not being used as planned in the grant agreement, the project sponsor may use those funds during the period of the agreement to enroll additional eligible individuals in temporary positions. The number of temporary positions may not exceed 20 percent of the total number of authorized positions established under the agreement without the written approval of the Department. Payments to or on behalf of enrollees in temporary positions shall not exceed the amount of the unused funds available. Each individual enrolled in a temporary position shall be informed in writing that the employment is of a temporary nature and may be terminated. Project sponsors first shall seek to maintain full enrollment in authorized positions and shall seek to schedule all enrollments and terminations to avoid excessive terminations at the end of the project period.

§ 674.319 Nondiscrimination.

(a) No person shall on the grounds of race, color, religion, sex, national origin, handicap, or age (except where age is a valid consideration under §§ 674.305 and 674.306 of this part) be excluded from participation in, be denied of benefits of, or be subjected to discrimination in connection with any program or activity funded in whole or part with funds made available under Title V of the Act.

(b) Project sponsors shall comply with the Department's nondiscrimination requirements at 29 CFR Parts 31 and 32 and any amendments thereto.

(c) Each grant agreement or subagreement made pursuant to the Act shall contain an assurance signed by the project sponsor concerning nondiscrimination in all activities undertaken with funds from the Act.

§ 674.320 Political patronage.

(a) No project sponsor may select, reject, promote, or terminate an individual based on that individual's political affiliations or beliefs. The

selection or advancement of enrollees as a reward for political services or as a form of political patronage, whether or not the political service or patronage is partisan in nature, is prohibited.

(b) There shall be no selection of subproject sponsors or host agencies based on political affiliation.

§ 674.321 Political activities; lobbying.

(a) *Political Activities.* No project under the Act may involve political activities.

(1) No enrollee or staff person may be permitted to engage in partisan or nonpartisan political activities during hours for which the enrollee is paid with SCSEP funds.

(2) No enrollee or staff person at any time may be permitted to engage in partisan political activities in which such enrollee represents himself or herself as a spokesperson of the SCSEP project.

(3) No enrollee may be employed or outstationed in the office of a member of Congress or a State or local legislator or on any staff of a legislative committee.

(4) No enrollee may be employed or outstationed in the immediate office of any elected chief executive officer (or officers, if the office of chief executive is shared by more than one person) of a State or unit of general government, except that:

(i) Units of local government may serve as host agencies for enrollees in such positions provided that, prior to the assignments, documentation which makes clear that such assignments are nonpolitical is provided to and approved by the Department; and

(ii) Where assignments are technically in such offices, but actually are program activities not in any way involved in political functions, documentation attesting to the nonpolitical nature of the assignments is provided to and approved by the Department prior to such assignments.

(5) No enrollee may be assigned to perform political activities in the offices of other elected officials. However, since under the responsibility of such elected officials there are nonpolitical activities, placement of enrollees in such nonpolitical assignments is permissible, provided that project sponsors develop safeguards to ensure that enrollees placed in these assignments are not involved in political activities. These safeguards shall be described in the grant agreement and will be subject to review and monitoring.

(b) *Hatch Act.* (1) Persons governed by Chapter 15 of Title 5, United States Code, the Hatch Act, shall comply with its provisions as interpreted by the United States Office of Personnel Management.

(2) Each project subject to Chapter 15 of Title 5 of the United States Code will display a notice and will make available to each person associated with such project a written explanation, clarifying the law with respect to allowable and unallowable political activities under Chapter 15 of Title 5 of the United States Code which are applicable to the project and each category of individuals associated with such project. This notice, which shall have approval of the Department, will contain the telephone number and address of the Inspector General of the Department of Labor. Enforcement of the Hatch Act shall be as provided at Chapter 15 of Title 5 of the United States Code (section 502(b)(1)(O)).

(c) *Lobbying.* (1) No funds provided under this Act may be used in any way to attempt to influence in any manner a member of Congress to favor or oppose any legislation or appropriation by Congress.

(2) No funds provided under this Act shall be used in any way to attempt to influence in any manner a member of a State or local legislature to favor or oppose any legislation or appropriation by that legislature.

(3) Nonprofit organizations receiving funds under this Act shall comply with the terms of Paragraph B21 ("Lobbying") of Attachment B of Office of Management and Budget Circular No. A–122.

(4) Each grantee under the Act shall submit as part of its annual indirect cost rate proposal a certification that it has complied with the requirements of this paragraph (c).

§ 674.322 Unionization.

No funds provided under the Act may be used in any way to assist, promote, or deter union organizing.

§ 674.323 Nepotism.

(a) No project or subproject sponsor may hire and no host agency may be a worksite for a person in an administrative capacity, staff position, or community service employment position funded under the Act if a member of that person's immediate family is engaged in an administrative capacity for that project or subproject sponsor or host agency.

(b) To the extent that an applicable State or local legal requirement regarding nepotism is more restrictive than this provision, that requirement shall be followed.

(c) For purposes of this section: (1) The term "immediate family" means wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparrent and stepchild, grandparent, and grandchild.

(2) The term "engaged in an administrative capacity" includes those persons who in the administration of projects, subprojects, or host agencies have responsibility for or authority over those with responsibility for the selection of enrollees from among eligible applicants.

§ 674.324 Adverse actions against enrollees.

(a) Each project sponsor shall establish and described in the grant agreement procedures for resolving complaints arising between the project sponsor and an enrollee.

(b) Complaints alleging volations of law, other than those described in paragraph (c) of this Section, which cannot be resolved within 60 days as a result of the project sponsor's procedures may be filed with the Division of Older Worker Programs, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213.

(c) Complaints alleging discrimination on the basis of race, color, religion, sex, national origin, handicap, or age (except where age is a valid consideration under §§ 674.305 and 674.318 of this part) which are not resolved as a result of the project sponsor's procedure may be file with the Director, Office of Civil Rights, U.S. Department of Labor, Washington, D.C. 20210. Such complaints shall be handled in accordance with the procedures at 29 CFR Parts 31 and 32.

(d) Except for complaints described in paragraphs (b) and (c) of this Section, the Department shall limit its review in determining whether the project sponor's appeal procedures were followed.

§ 674.325 Maintenance of effort.

(a) Employment of enrollees funded under the Act shall be only in addition to employment which would otherwise be funded by the project sponsor, the subproject sponsor, and the host agencies without assistance under the Act (section 502(b)(1)(F).

(b) Projects funded under the Act:

(1) Shall result in an increase in employment opportunities in addition to those which would otherwise be available;

(2) Shall not result in the displacement of currently employed workers, including partial displacement such as a

reduction in hours of non-overtime work, wages, or employment benefits;

(3) Shall not impair existing contracts for service or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed;

(4) Shall not substitute project jobs for existing Federally-assisted jobs; and

(5) Shall not employ or continue to employ any enrollee to perform work which is the same or substantially the same as that performed by any other person who is on layoff section 502(b)(1)(G).

Subpart D—Limitations on Federal Funds and Administrative Standards and Procedures for Grantees

§ 674.401 General.

This Subpart D establishes limitations on Title V funds to be used for community service employment and describes or incorporates by reference requirements for the administration of grants by sponsors of Senior Community Service Employment Program projects.

§ 674.402 Limitations on Federal funds.

(a) Limitations on Federal funds set forth in this section shall apply to Title V funds allotted to project sponsors for community service employment. Cost categories, limitations, and periods during which different limitations shall apply are set forth in paragraph (b) of this section. Functions and related costs which shall be assigned to each cost category are set forth in paragraph (c) of this section.

(b) Cost categories, limitations, and periods during which limitations apply shall be:

(1) *Administration:* The amount of Federal funds expended for the cost of administration shall be no more than 15 percent for the period ending June 30, 1986; no more than 13.5 percent for the period beginning July 1, 1986, and ending June 30, 1987; and no more than 12 percent for the period beginning July 1, 1987. For projects to be operated after July 1, 1986, the Secretary of Labor may increase the amount available for the cost of administration to no more than 15 percent in accordance with section 502(c)(3) of the Act.

(2) *Enrollee wages and fringe benefits:* The amount of Federal funds expended for enrollee wages and fringe benefits shall be no less than 75 percent for the period ending June 30, 1986; no less than 76 percent for the period beginning July 1, 1986, and ending June 30, 1987; and no less than 78 percent for the period beginning July 1, 1987.

(3) *Other Enrollee Costs:* The amount of Federal funds expended for other enrollee costs shall not exceed the percentage of Federal funds remaining after the limitations on administration as set forth in paragraph (b)(1) and on enrollee wages and fringe benefits as set for in paragraph (b)(2) have been applied.

(c) Functions and related costs which shall be assigned to each cost category are:

(1) *Administration:* The cost category of administration shall include but shall not be limited to costs of providing and costs associated with providing:

(i) Administration, management, and direction of a project or subproject;

(ii) Reports on evaluation, management, community benefits, and other aspects of project or subproject activity;

(iii) Assistance of an advisory council, if any;

(iv) Accounting and management information systems;

(v) Training and technical assistance for project or subproject sponsor staff;

(vi) Bonding;

(vii) Audits; and

(viii) Services or other benefits accruing to a project or subproject as a result of allowable indirect cost charges.

(2) *Enrollee wages and fringe benefits:* The cost category of enrollee wages and fringe benefits shall include wages paid to enrollees for hours of community service employment as described in § 674.311 of this part or training as described in §§ 674.313 and 674.314 and the costs of fringe benefits actually provided as described in § 674.311.

(3) *Other enrollee costs:* The cost category of other enrollee costs shall include the costs of providing and the costs associated with providing those functions, services, and benefits not categorized as administration or enrollee wages and fringe benefits. Other enrollee costs shall include but shall not be limited to the costs of providing and the costs associated with providing:

(i) Recruitment and selection of eligible enrollees as provided in § 674.304 of this part;

(ii) Physical examinations for enrollees and eligible applicants who are being selected for enrollment as provided in § 674.307 of this part;

(iii) Orientation of enrollees and host agencies as provided in § 674.308 of this part;

(iv) Assessment of enrollees for participation in community service employment and evaluation of enrollees for continued participation or transition to unsubsidized employment as provided in § 674.309 of this part;

(v) Development of appropriate community service employment assignments as provided in § 674.310 of this part;

(vi) Supportive services for enrollees, including transportation, as provided in § 674.312, provided that when enrollee transportation is by privately-owned vehicle, reimbursement from Title V funds shall not exceed the current mileage rate established by Federal travel regulations.

(vii) Training for enrollees as provided in §§ 674.313 and 674.314; and

(viii) Development of unsubsidized employment opportunities for enrollees as provided in § 674.315.

(d) Project and subproject sponsors may lower administration costs or other enrollee costs by assigning enrollees to activities which normally would be charged to either of these cost categories. In such instances, the costs of enrollees' wages and fringe benefits shall be charged to the cost category of enrollee wages and fringe benefits; however, other costs which are not enrollee wages and fringe benefits and which are associated with the provision of administrative functions as described in paragraph (c)(1) of this section or with the provision of other enrollee costs services and functions as described in paragraph (c)(3) of this section shall be charged to the category of administration or other enrollee costs as appropriate (section 502(b)(1)(A)).

(e) No Federal funds provided to a project sponsor under the Act may be expended directly or indirectly for the purchase, erection, or repair of any building except for the labor involved in:

(1) Minor remodeling of a public building necessary to make it suitable for use by project administrators;

(2) Minor repair and rehabilitation of publicly used facilities for the general benefit of the community; and

(3) Minor repair and rehabilitation of housing occupied by persons with low incomes who are declared eligible for such services by authorized local agencies.

(f) Within the limitations stated in paragraphs (a) through (e) of this section, no Federal project funds may be expended for purposes other than those permitted by the applicable Federal cost principles which are set forth at 41 CFR Part 29–70.

§ 674.403 Administration costs waiver.

Based upon information submitted by a public or private nonprofit agency or organization with which the Department has or proposes to have an agreement under section 502(b) of the Act, the Department may increase the amount available for paying the costs of administration to an amount not to

exceed 15 percent of the Federal costs of the project (section 502(c)(3)).

§ 674.404 Sponsor share of project costs.

The Department will pay not more than 90 percent of the cost of any project which is the subject of an agreement entered into under the Act, except that the Department is authorized to pay all of the costs of any such project or subproject which is (a) an emergency or disaster project or subproject, (b) a project or subproject located in an economically depressed area as determined in consultation with the Secretary of Commerce and the Director of the Office of Community Services of the Department of Health and Human Services, or (c) a project or subproject permitted under section 502(e) of the Act, or (d) a project or subproject which is exempted by law. The sponsor share of project or subproject costs may be in cash or in-kind, or a combination of the two. The in-kind share shall be calculated in accordance with 41 CFR Part 29–70 sections 502(c) and 502(e).

§ 674.405 Administrative standards and procedures.

(a) All applicable requirements set forth at 41 CFR Part 29–70, "Administrative Requirements Governing All Grants and Agreements by Which Department of Labor Agencies Award Funds to State and Local Governments, Indian and Native American Entities, Public and Private Institutions of Higher Education and Hospitals, and Other Quasi-Public and Private Nonprofit Organizations," shall apply to grants (except for the administration of interagency agreements as set forth in Subpart E of this part) under Title V of the Older Americans Act of 1965, as amended.

(1) The requirements at 41 CFR 29–70.1 set forth the policies which apply to all grants.

(2) The requirements at 41 CFR 29–70.2 implement Office of Management and Budget Circulars A–102 and A–110, and apply to all SCSEP grants and agreements.

(b) Grant recipients under Title V shall be responsible for complying with all applicable sections of 41 CFR Part 29–70.

(c) For purposes of this part, "procurement" as defined in 41 CFR Part 29–70 does not include the award of subproject agreements described in § 674.204 of this part.

§ 674.406 Fiscal and project performance monitoring and reporting requirements.

(a) Each grantee shall submit quarterly fiscal reports in accordance with the financial reporting requirements of 41 CFR Part 29–70.

(b) Each grantee shall submit a Senior Community Service Employment Program Quarterly Progress Report. This report shall be prepared to coincide with the ending dates for Federal fiscal year quarters and shall be submitted to the Department no later than 30 days after the end of the quarterly reporting period. If the grant period ends on a date other than the last day of a Federal fiscal year quarter, a final report covering the entire grant period shall be submitted no later than 30 days after the ending date. The Department will provide instructions for the preparation of this report.

§ 674.407 Suspension and termination procedures.

(a) *Suspension.* In the event that the Department determines that a project sponsor has failed to comply with stipulations, standards, or conditions of the grant agreement, the Department may, on reasonable notice to the project sponsor, suspend the agreement and withhold further payments, or prohibit the project sponsor from incurring additional obligations against Federal funds pending corrective action or a decision to terminate in accordance with paragraph (b)(1) of this section. The Department may allow all necessary and proper costs which reasonably could not be avoided during the period of suspension provided that the costs meet the provisions of applicable cost principles.

(b) *Termination.* An agreement may be terminated under the following conditions:

(1) The Department may terminate any agreement in whole or in part at any time before the date of completion whenever it is determined that the project sponsor has failed to comply with the conditions of the agreement. The Department will notify the project sponsor promptly in writing of the determination, the reasons for the termination, and the effective date.

(2) An agreement may be terminated in whole or in part when both the project sponsor and the Department agree that the continuation of the project will not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date, and in the case of partial termination, the portion to be terminated. The project sponsor shall not incur new obligations for the terminated portion after the effective date and shall cancel as many outstanding obligations as possible. The Department will allow full credit to the project sponsor for the Federal share of the noncancellable obligations properly incurred by the project sponsor prior to termination.

(c) *Appeal of termination.* The project sponsor may appeal a suspension or termination under the terms set forth in § 674.408 of this part.

§ 674.408 Department of Labor appeals procedure for project sponsors.

(a) This section sets forth the procedures by which project sponsors may appeal SCSEP final determinations by the Department of Labor relating to costs, payments, notices of suspension, and notices of termination.

(b) Upon a project sponsor's receipt of the Department's final determination relating to costs, payments, suspension, or termination, the project sponsor may appeal the final determination to the Department's Office of Administrative Law Judges, as follows:

(1) Within 21 days of receipt of the Department's final determination the project sponsor may transmit by certified mail, return receipt requested, a request for hearing to the Chief Administrative Law Judge, United States Department of Labor, Suite 700, Vanguard Building, 1111 20th Street, NW., Washington, D.C. 20036, with a copy to the Department official who signed the final determination. The Chief Administrative Law Judge shall designate an administrative law judge to hear the appeal.

(2) The request for hearing shall be accompanied by a copy of the final determination, if issued, and shall state specifically those issues of the determination upon which review is requested. Those provisions of the determination not specified for review, or the entire determination when no hearing has been requested, shall be considered resolved and not subject to further review.

(3) The *Rule of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges*, set forth at 29 CFR Part 18, shall govern the conduct of hearings under this paragraph (b).

(4) The administrative law judge should render a written decision no later than 90 days after the closing of the record.

(5) The decision of the administrative law judge shall constitute final action by the Secretary of labor, unless, within 20 days after receipt of the decision of the administrative law judge, a party dissatisfied with the decision or any part thereof has filed exceptions with the Secretary of Labor specifically identifying the procedure, fact, law, or policy to which exception is taken. Any

exception not specifically urged shall be deemed to have been waived. Thereafter, the decision of the administrative law judge shall become the decision of the Secretary of Labor unless the Secretary of Labor, within 30 days of such filing, has notified the parties that the case has been accepted for review.

(6) Any case accepted for review by the Secretary of Labor shall be decided within 180 days of such acceptance. If not so decided, the decision of the administrative law judge shall become the final decision of the Secretary of Labor.

§ 674.409 Grant closeout procedures.

Grant closeout procedures shall conform to the requirements at 41 CFR Part 29–70. As necessary, the Department shall issue supplementary closeout requirements.

Subpart E—Interagency Agreements

§ 674.501 Administration.

(a) The Department will require other Federal establishments which receive and use funds under the Act to submit project fiscal and progress reports as described in § 674.406 of this part.

(b) The Department will require other Federal establishments which receive and use funds under the Act to maintain the standard records on individual enrollees and enrollee activities.

(c) Payments under the Act to Federal agencies may be made by advance transfer of obligational authority by the Department in accordance with a nonexpenditure transfer authorization.

(d) In aspects of project administration other than those described in paragraphs (a) and (b) of this section, Federal establishments which receive and use funds under the Act may use their normal administrative procedures.

Subpart F—Assessment and Evaluation

§ 674.601 General.

The Department will assess project sponsors to determine whether they are carrying out the purposes and provisions of the Act in accordance with grant or other agreements. The Department also will evaluate the overall program conducted under the Act to aid in the administration of the Act.

§ 674.602 Limitation.

In arranging for the assessment of project sponsors, the evaluation of project sponsors, or the evaluation of the overall program under the Act, the Department shall not use any individual, institution, or organization associated with any project or subproject sponsor under the Act.

Appendix No. 1—"Lobbying Costs for Nonprofit Organizations"

a. Notwithstanding other provisions of this Circular, costs associated with the following activities are unallowable:

a. (1) Attempts to influence the outcomes of any Federal, State, or local election, referendum, initiative, or similar procedure, through in kind of cash contributions, endorsements, publicity, or similar activity;

a. (2) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections;

a. (3) Any attempt to influence: (i) The introduction of Federal or State legislation; or (ii) the enactment of modification of any pending Federal or State legislation through communication with any member or employee of the Congress or State legislature (including efforts to influence State or local officials to engage in similar lobbying activity), or with any government official or employee in connection with a decision to sign or veto enrolled legislation;

a. (4) Any attempt to influence: (i) The introduction of Federal or State legislation; or (ii) the enactment or modification of any pending Federal or State legislation by preparing, distributing or using publicity or propaganda, or by urging members of the general public or any segment thereof to contribute to or participate in any mass demonstration, march, rally, fundraising drive, lobbying campaign or letter writing or telephone campaign; or

a. (5) Legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in unallowable lobbying.

b. The following activities are excepted from the coverage of subparagraph a:

b. (1) Providing a technical and factual presentation of information on a topic directly related to the performance of a grant, contract or other agreement through hearing testimony, statements or letters to the Congress or a State legislature, or subdivision, member, or cognizant staff member thereof, in response to a documented request (including a Congressional Record notice requesting testimony or statements for the record at a regularly scheduled hearing) made by the recipient member, legislative body or subdivision, or a cognizant staff member thereof; provided such information is readily obtainable and can be readily put in deliverable form; and further provided that costs under this section for travel, lodging or meals are unallowable unless incurred to offer testimony at a regularly scheduled Congressional hearing pursuant to a written request for such presentation made by the Chairman or Ranking Minority Member of the Committee or Subcommittee conducting such hearing.

b. (2) Any lobbying made unallowable by section a.(3) to influence State legislation in order to directly reduce the cost, or to avoid material impairment of the organization's authority to perform the grant, contract, or other agreement.

b. (3) Any activity specifically authorized by statute to be undertaken with funds from the grant, contract, or other agreement.

c. (1) When an organization seeks reimbursement for indirect costs, total lobbying costs shall be separately identified in the indirect cost rate proposal, and thereafter treated as other unallowable activity costs in accordance with the procedures of paragraph B3 of Attachment A.

c. (2) Organizations shall submit as part of their annual indirect cost rate proposal a certification that the requirements and standards of this paragraph have been complied with.

c. (3) Organizations shall maintain adequate records to demonstrate that the determination of costs as being allowable or unallowable pursuant to paragraph B21 complies with the requirements of this Circular.

c. (4) Time logs, calendars, or similar records documenting the portion of an employee's time that is treated as an indirect cost shall not be required for the purposes of complying with subparagraph c, and the absence of such records which are not kept pursuant to the discretion of the grantee or contractor, will not serve as a basis for disallowing claims of allowable costs by contesting estimates or unallowable lobbying time spent by employees during any calendar month unless: (i) The employee engages in lobbying, as defined in subparagraphs a and b, more than 25 percent of his compensated hours of employment during that calendar month; or (ii) the organization has materially misstated allowable or unallowable costs within the preceding five year period.

c. (5) Agencies shall establish procedures for resolving in advance, in consultation with OMB, any significant questions or disagreements concerning the interpretation or application of paragraph B21. Any such advance resolution shall be binding in any subsequent settlements, audits or investigations with respect to the grant or contract for purposes of interpretation of this Circular; provided, however, that this shall not be construed to prevent a contractor or grantee from contesting the lawfulness of such a determination.

Signed at Washington, D.C., this 12th day of July 1985.

William E. Brock,

Secretary of Labor.

[FR Doc. 85–17169 Filed 7–18–85; 8:45 am]

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Federal Register

Friday
July 19, 1985

Part V

Department of Energy

Office of Conservation and Renewable Energy

10 CFR Part 440

Weatherization Assistance for Low-Income Persons; Notice of Proposed Rulemaking and Public Hearings

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 440

[Docket No. CAS-RM-80-508]

Weatherization Assistance for Low-Income Persons

AGENCY: Office of Conservation and Renewable Energy, Department of Energy.

ACTION: Notice of proposed rulemaking and public hearings.

SUMMARY: The Department of Energy (DOE) is issuing a notice of proposed rulemaking for the Program for Weatherization Assistance for Low-Income Persons in order to implement a recent statutory change requiring that a Performance Fund be established to provide additional financial assistance to those States demonstrating best performance under the Program. The proposed regulation sets forth the following criteria for determining annually which States have demonstrated the best performance: Percentage of eligible dwelling units within the State which have been weatherized during the evaluation period; energy savings data supplied by the States; States' actual performance in achieving goals as projected in the State Application; States' ability to use available funds during the relevant period.

Beginning in fiscal year 1986, not less than 5 and not more than 15 percent of the amount appropriated for the Program for each fiscal year will be set aside by DOE to establish the Performance Fund. The twenty States to have demonstrated best performance will share the Performance Fund each year. The first funds awarded under the Performance Fund will be made available for expenditure during program year 1987.

DOE is aware that the equitable implementation of this statutory requirement is important to States. DOE is proposing a methodology it believes will give each State an equal opportunity to compete for the funds without regard to climate or amount of funding allocation. Each State will be evaluated individually on how effectively and efficiently it operates the DOE weatherization program.

DATES: Written comments must be received on or before September 17, 1985.

Public hearings will be held in:

Atlanta, Georgia—August 7, 1985—9:30 AM
(Request to speak by August 2)
San Francisco, California—August 9, 1985—9:30 AM
(Request to speak by August 6)
Boston, Massachusetts—August 12, 1985—9:30 AM
(Request to speak by August 7)
Chicago, Illinois—August 14, 1985—9:30 AM
(Request to speak by August 9)
Dallas, Texas—August 16, 1985—9:30 AM
(Request to speak by August 13)
Washington, DC—August 20, 1985—9:30 AM
(Request to speak by August 15)

ADDRESSES: Public hearing locations—

Atlanta, Georgia:
Richard Russell Federal Building, 75 Spring Street, Lower Plaza Conference Room (LP-7), 30303
San Francisco, California:
Federal Office Building, 450 Golden Gate Avenue, (between Polk & Larkin Streets), Room 13029 (13th Floor) 94102
Boston, Massachusetts:
John F. Kennedy Federal Building, Government Center, Room 2003-A (20th Floor) 02203
Chicago, Illinois:
U.S. District Court, 219 South Dearborn, Room 1669 (16th Floor) 60604
Dallas, Texas:
Main Tower Building, 1200 Main Street, Room 635 (6th Floor) 75202
Washington, DC:
U.S. Department of Energy, 1000 Independence Avenue, SW., Room 1E-245 (1st Floor) 20585

All written comments and requests to speak at the hearings should be addressed to: Conservation and Renewable Energy, Department of Energy, Office of Hearings and Dockets, Forrestal Building, Room 6B-025, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9319. Though five (5) copies are requested to be submitted, this is not a mandatory requirement in order to submit comments. In the event any person wishing to submit a written comment cannot provide five copies, alternative arrangements can be made in advance with the Office of Hearings and Dockets.

FOR FURTHER INFORMATION CONTACT: Greg Reamy, Office of Weatherization Assistance Program, Conservation and Renewable Energy Department of Energy, Mail Shop 5G-023, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-2207.

Dan Ruge, Office of General Counsel, Department of Energy, Mail Stop 6B-144, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9527.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background of the Program

Introduction

The Department of Energy (DOE) is proposing an amendment to the regulations for the Weatherization Assistance for Low-Income Persons Program (Program or WAP), 10 CFR Part 440, issued under Title IV of the Energy Conservation and Production Act, as amended, 42 U.S.C. 6861 *et seq.* (Act or Program Statute). Today's action proposes implementation of a new provision of the Program required by the recent passage of section 404, 42 U.S.C. 6865, of the Human Services Reauthorization Act of 1984, Pub. L. 98-558, 98 Stat. 2888 (Amending Act). When final, this amendment will provide States an opportunity to compete annually for additional funding based on their performance in operating the Weatherization Assistance Program.

Background of the Program

The Act authorized DOE to establish a program to weatherize the homes of low-income persons, particularly those who are elderly or handicapped. The program is intended to reduce national energy consumption, particularly of imported oil, and to reduce the impact of higher fuel costs on low-income families. Funds are provided to install weatherization materials such as insulation, storm windows, caulking and weatherstripping, and to make furnace efficiency modifications and other improvements to conserve energy.

DOE currently makes grants to States, the District of Columbia, and under certain circumstances, Indian tribal organizations. The Governor of each State, or designee, applies for, receives and administers the grant funds. The funds are distributed by the States and the District of Columbia to local governments and nonprofit organizations to weatherize homes. Certain Indian tribal organizations also administer Federal funds and perform weatherization activities under this Program.

Funds are allocated by DOE through a formula which reflects the relative need

for weatherization assistance among the States. The formula takes into account the number of low-income households, the percentage of total residential energy used for space heating and cooling, and the number of heating and cooling degree days in each State.

II. Amendment to the Weatherization Program

DOE is proposing in this rulemaking to establish the criteria and procedures by which States will be evaluated to determine which have demonstrated the best program performance. This evaluation will serve as the basis for DOE awarding supplemental funding to States from the Performance Fund.

The percentage of appropriated funds to be set aside for each year's Performance Fund will be determined by DOE and issued as part of the Annual Grant Guidance. This amount will be between 5 and 15 percent of the appropriated funds.

Section 440.26 Establishment of the Performance Fund.

Beginning in fiscal year 1986, not less than 5 and not more than 15 percent of the amount appropriated for each fiscal year will be set aside by DOE to establish the Performance Fund as required by the Amending Act. The Amending Act requires that the determinations of best performance be on a fiscal year basis (October 1 through September 30 of the following calender year). The program, however, is operated on a program year basis (April 1 through March 31 of the following calendar year). In order to accommodate these two different "years," DOE is proposing to use relevant evaluative information from an 18-month period beginning with a given fiscal year (October 1) and running through the related program year (March 31 of the second following calendar year). This 18-month period is called the "relevant reporting period." The first relevant reporting period is proposed to run from October 1, 1985, through March 31, 1987. Funds for the first year will be made available in program year 1987.

On January 4, 1985, DOE published at 50 FR 708 an interim final rule implementing seven other amendments to the Weatherization Program mandated by the Amending Act. In that rulemaking DOE indicated that a separate rulemaking would be issued concerning the Performance Fund amendment. While the interim final rule did not solicit comments on the Performance Fund idea, several comments were received. One comment suggested that the establishment and implementation of a fair and equitable Performance Fund would be very difficult and expressed fears the fund would turn into a "numbers game." Several comments suggested that States and local agencies would sacrifice quality at the expense of production. Three comments expressed concern that States in the Western part of the country might be unfairly evaluated because population-related criteria could adversely affect the sparsely-populated States. These States might lose funding in spite of a good performance record. DOE's proposed criteria would attempt to avoid these potential problems by evaluating the States on their individual performance in operating the Weatherization Program.

Only the 50 States and the District of Columbia will be eligible to receive money from the Performance Fund. Certain Indian tribes which are grantees of the program would not be eligible because, at the discretion of DOE, the tribes at present usually receive funding at more than 100 percent of their tentative allocation. Because the amount of funds involved with these grantees, moreover, is so small, it would be impractical to include them in a Performance Fund. The following paragraphs discuss the performance criteria DOE is proposing for evaluating States' performance and distributing funds placed in the Performance Fund. DOE invites comments regarding these criteria, as well as all other aspects of today's proposal.

Section 440.27 Evaluating State Performance.

A. Information

This section lists the information DOE will use in its annual evaluation of the States. This information is already provided to DOE by the States as part of the application and reporting aspects of the program. DOE will not require new or additional information in evaluating States' performance.

DOE will evaluate a State's performance based on information provided in the State Plan, the monitoring plan, and the training and technical assistance plan, pursuant to § 440.12; the monthly and quarterly reports required under § 440.25; and any relevant additional information available to DOE. The annual grant guidance from DOE to the States will detail explicitly all information required by the criteria in the Performance Fund.

It will be the responsibility of each State to insure the information provided in each of the areas above reflects an accurate account, as relevant, of operations to date and of how the State intends to operate its Weatherization Program. This information provided by the State will be the basis for DOE's evaluation.

B. Percentage of Eligible Units Weatherized

The first performance factor, which is mandated by the Amending Act, is the percentage of eligible dwelling units within the State which have been weatherized using low-income weatherization assistance program funds during the relevant reporting period. This percentage will consist of the actual completions reported to DOE on the monthly and quarterly reports divided by the planned completions submitted by the State under § 440.14(b)(8)(ii), multiplied by the maximum score for this criterion of 20. To minimize any incentive for a State to project a low completion figure but achieve a higher figure in order to receive a higher score, the maximum point value for this factor is 20. This proposed criterion will provide equity to all States regardless of funding level, climate, or eligible population. For example, a State which plans 1,200 completed units during the relevant reporting period and completes 1,000 actual units will be evaluated in the formula as follows:
$1{,}000 \div 1{,}200 = .83 \times 20 = 17$ Therefore, 17 would be the score that State would receive out of a possible 20.

C. Comparable Energy Savings

The second performance factor, also mandated by the Amending Act, requires DOE to consider comparable energy savings data in assessing the quality of weatherization assistance provided. Section 440.14(b)(5) of the program regulation already requires States in their Annual Plans to provide to DOE the estimated amount of energy to be conserved. DOE has completed an energy savings study entitled *Weatherization Program Evaluation* by Gerald E. Peabody, under contract SR-EEUD-84-1, published on August 20, 1984, by the Energy Information Administration of the Department of Energy. The study concludes that energy savings for this program average nationally between 13 to 14 percent. Copies of this report are available from DOE upon request. DOE proposes to award points for energy savings on the basis of data which States supply as required in the Annual State Plan. No score will be awarded for program energy savings of 10 percent or less. For energy savings between 11 and 12 percent the value awarded is 5. For savings between 13 and 14 percent the value awarded is 10; between 15 and 16

the value awarded is 12; between 17 and 18 the value awarded is 14; between 19 and 20 the value awarded is 16; between 21 and 22 the value awarded is 18; and for 23 percent or higher the value awarded is 20. Any claim of more than 14 percent energy savings must be accompanied by supporting documentation for purposes of the Performance Fund. At a minimum, the State must provide the methodology it used in determining the energy savings.

DOE is particularly interested in comments on whether the Department should require a particular methodology for justifying some or all of the savings to be considered under the Performance Fund. If a particular methodology is favored, commenters are also invited to make detailed recommendations in this regard. For example, commenters might think that the formula in § 440.21(b), which details energy audit procedures, might be adaptable without too great a burden. Prior to issuing a final rule, DOE will also examine further whether methodologies can be adopted nationally for calculating energy savings for Performance Fund use.

D. Achievement of Goals

The third factor in the Performance Fund criteria is the State's actual achievement of its goals as projected in the State Plan submitted under § 440.14. The State Plan, submitted annually, is an important link between DOE and the State which tells how the Weatherization Program will be managed for the year. DOE will evaluate a State's achievement of goals by comparing the projected goals with actual production and expenditures as reported in data supplied monthly on DOE Standard Form 459E and the Quarterly Financial Status Report, Standard Form 269. The areas of the State Application which DOE will use in its evaluation are as follows: (1) The production schedule for expenditures and number of dwellings expected to be weatherized each month (§ 440.14(b)(1)); (2) the estimated number of dwelling units expected to be weatherized during the relevant reporting period by category (§ 440.14(b)(2)); (3) the average amount of the DOE funds to be applied to any dwelling unit not to exceed $1,600 (§ 440.14(b)(9)(viii)); (4) the requirement that States spend at least 40 percent of their program costs for weatherization materials (§ 440.14(b)(9)(ix)); (5) the compliance with the State's Training and Technical Assistance Plan (T&TA) (§ 440.12(b)(7)); and (6) the compliance with the Monitoring Plan (§ 440.12(b)(6)). DOE will use the information from DOE Form 459E for evaluating T&TA and monitoring goals. Each of the six areas evaluated has a maximum point value of 5. Accordingly, the maximum value score for this factor is 30. The proposal for areas (1), (2), (5), and (6) is to divide the actual goals achieved by the planned goals and multiply each by 5. The maximum score for each area would be 5, even if actual performance were to exceed planning. Because areas (3) and (4) involve either meeting or failing to meet limits in the Act and WAP regulations, DOE proposes to award the maximum score of 5 to any State which complies and a score of 0 to a State not in compliance.

E. Actual Expenditures

The fourth criterion of the Performance Fund is the State's actual expenditure of DOE funds during the relevant reporting period. States that expend all DOE funds during the relevant reporting period will receive the maximum score of 30 points. Any State which does not expend all DOE funds, excluding funds used for administrative expenses, during the relevant reporting period will have a reduced score. States with one month's carryover, that is, an amount equal to 1/12 of the tentative allocation for that State, will receive a maximum score of 20. States with two months' carryover will receive a score of 10. States with carryover funds in excess of two months will receive a score of 0. DOE proposes to weight this criterion heavily because States which cannot expend funds during the relevant reporting period should be given less consideration for additional funding under the Performance Fund.

Section 440.28 Awarding the Performance Fund.

DOE proposes that the money allocated in this Performance Fund will be awarded to the twenty States annually determined to have demonstrated the "best performance." A State's ranking will be based on the total score achieved as a result of DOE's evaluation of each performance criterion. The criterion for distributing remaining funds is similar to that currently used to reallocate funds from States which were incrementally funded due to inability to expend DOE funds during a program year. DOE will evaluate production and expenditures as reported by the States on DOE Form 459E and Form 269 for the relevant reporting period and determine the demonstrated capacity of each State to expend additional funds to weatherize homes. DOE may find it necessary to review other data in addition in order to evaluate trends in making its determination. DOE proposes that a State which qualifies for performance funding will receive at least the percentage of its tentative allocation that is the same as the percentage (5 percent through 15 percent) used in determining the amount of the Performance Fund for the relevant year. For example, if DOE selects 10 percent of an appropriation as the figure to be used for the Performance Fund for that year, then a State which qualifies will receive an additional 10 percent of its tentative allocation from that year's Performance Fund. Any remaining funds will be distributed to all twenty States qualifying, based on their demonstrated capacity to expend. For example, a State with a relatively low tentative allocation that scores very high in the Performance Fund would not receive any more funds than that State's demonstrated capacity to expend them. To reward a State with more money than it can expend in a timely fashion would jeopardize that State's performance for the relevant reporting period in which the funds were not expended. In no event would this amount exceed 50 percent of a State's tentative allocation.

Section 440.29 Appeal.

DOE is proposing that States will be notified of their performance score, ranking, and the amount, if any, of funds to be received from the Performance Fund. A State may appeal the results only as to any technical or clerical error. Any appeal must be submitted in writing to DOE within 10 days of the receipt of the notification.

III. Opportunity for Public Comment

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the matters set forth in this notice to: Conservation and Renewable Energy, Department of Energy, Office of Hearings and Dockets, Forrestal Building, Room 6B-025, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9319.

Comments should be identified on the outside of the envelope, and on the document themselves, with the designation: "Weatherization Assistance for Low-Income Persons, Notice of Proposed Rulemaking, Docket Number CAS-RM-80-508." Five copies should be submitted. Though five (5) copies are requested to be submitted, this is not a requirement in order to submit comments. In the event any person wishing to submit a written comment cannot provide five copies, alternative arrangements can be made in advance with the Office of Hearings and Dockets.

All comments received will be available for public inspection in the DOE Reading Room, Room 1E-090, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours, 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Any person submitting information which that person believes to be confidential, and which may be exempt by law from public disclosure, should submit one complete copy, as well as two copies from which the information claimed to be confidential has been deleted. DOE shall make a determination of any such claim. This procedure is set forth in 10 CFR 1004.11 (44 FR 1980, January 8, 1979).

DOE will hold several public hearings on this proposed rule. The hearings will be held on the dates and at the locations indicated at the beginning of this notice.

Any person who has an interest in the proposed regulation or who is a representative of a group or class of persons which has an interest in it may make a request for an opportunity to make an oral presentation. Such a request to speak at a hearing should be addressed to the Office of Hearings and Dockets, at the address indicated at the beginning of this notice.

The person making the request should describe briefly his or her interest in the proceedings and, if appropriate, state why that person is a proper representative of a group. The person should also give a concise summary of the proposed oral presentation, and should provide a phone number where the person may be reached. Each person selected to be heard at a public hearing will be notified. Those persons selected to be heard should bring five copies of their statement to the hearing, however, this is not a requirement. In the event any person wishing to testify cannot meet this requirement, alternative arrangements can be made in advance with the Office of Hearings and Dockets by so indicating in the letter or phone call requesting an opportunity to make an oral presentation.

DOE reserves the right to select persons to speak at the hearings, to schedule their presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation will be limited to twenty minutes, based on the number of persons requesting to speak.

A DOE official will preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked of speakers only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by DOE with respect to the subject matter of the hearings will be based on all of the information available to DOE.

Any participant who wishes to ask a question at the hearing may submit the question in writing to the presiding officer. The presiding officer will determine whether the question is relevant and material, and whether the time limitations permit it to be presented for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made, and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

If DOE must cancel a hearing, DOE will make every effort to publish an advance notice of such cancellation in the **Federal Register**. Notice of cancellation will also be given to all persons scheduled to speak at the hearing. Hearing dates may be cancelled in the event no public testimony has been scheduled in advance.

IV. Environmental, Regulatory Impact, Regulatory Flexibility, Paperwork Reduction Act, and Coordinating Agency Reviews

A. Environmental Review

Pursuant to the requirements of the National Environmental Policy Act of 1969 (NEPA), Pub. L. 91-190, 83 Stat. 852, 42 U.S.C. 4321 *et seq.*, DOE published a Notice of Availability of an Environmental Assessment (EA) (DOE/EA-0085) of the Program for Weatherization Assistance for Low-Income Persons in the **Federal Register** on April 10, 1979 (44 FR 21323). At the same time, DOE published notice of its determination, based on the EA, that the proposed action would not constitute a major Federal action significantly affecting the quality of the human environment, and that therefore no Environmental Impact Statement (EIS) was required.

DOE has reviewed the environmental impacts of the program amendment proposed today. It is DOE's judgment that the program amendments will result in no environmental impacts not previously analyzed in the EA. Accordingly, DOE has determined that the environmental impacts of the program amendments, if modified as proposed, have been adequately analyzed in the April 1979 EA, and that these impacts are not significant. Hence, no additional EA or EIS is required.

B. Review Under Executive Order 12291

Today's issuance was reviewed under Executive Order 12291, 46 FR 13193 (February 27, 1981). DOE has concluded that the rule is not a "major rule" under the Executive Order because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in cost or prices for consumers, individual industries, State, Federal or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Pursuant to section 3(c)(3) of Executive Order 12291, this rule was submitted to the Director of OMB for a ten-day review. The Director has concluded his review of this proposed regulation under the Executive Order.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*, requires, in part, that an agency prepare a final regulatory flexibility analysis for any final rule, unless it determines that the rule will not have a "significant economic impact on a substantial number of small entities." In the event that such an analysis is not required for a particular rule, the agency must publish a certification and an explanation of that determination in the **Federal Register**. The changes proposed in this action, the addition of the Performance Fund, are largely procedural and have direct effect on only States and other grantees. Any impact on small entities would not be direct and would have, at most, only a minimal effect on only a few small entities. Accordingly, pursuant to section 605(b) of the Regulatory Flexibility Act, DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

The information collection requirements contained in this proposed rule are included in the Program Management package of information collections, and were approved by the Office of Management and Budget (OMB) under Control Number 1910-1400.

E. Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for the Weatherization Assistance Program is 81.042.

F. Consultation

In developing these proposed regulations, DOE has consulted with the Departments of Housing and Urban Development, Health and Human Services, and Agriculture, pursuant to section 413(b) of the Act.

List of Subjects in 10 CFR Part 440

Administrative practice and procedure, Aged, Energy conservation, Grant programs—energy, Grant programs—housing and community development, Handicapped, Housing standards, Indians, Report and recordkeeping requirements, Weatherization.

In consideration of the foregoing, DOE hereby proposes to amend Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., July 11, 1985.

Alan J. Streb,

Acting Assistant Secretary, Conservation and Renewable Energy.

1. The authority citation for Part 440 is revised to read as follows:

Authority: Title IV, Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1150 (42 U.S.C. 6851 *et seq.*), as amended by Title IV of the Human Services Reauthorization Act of 1984, Pub. L. 98-558, 98 Stat. 2888; Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*).

PART 440—[AMENDED]

2. 10 CFR Part 440 is amended by adding to the Table of Contents the following entries:

Sec.

3. 10 CFR Part 440 is further amended by adding to § 440.3 in the appropriate alphabetical order the definition of "relevant reporting period"; and by adding §§ 440.26, 440.27, 440.28, and 440.29 to read as follows:

§ 440.3 Definitions.

* * * * *

"Relevant reporting period" means that period, as designed annually by DOE, beginning on October 1 and running through March 31 of the second following year.

* * * * *

§ 440.26 Establishment of the Performance Fund.

(a) Beginning in fiscal year 1986, the Secretary shall allot annually not less than five percent and no more than fifteen percent of the amount appropriated for each fiscal year for the program to a special Performance Fund, to be awarded to provide additional financial assistance under this part to the States which DOE determines demonstrate the best performance during that fiscal year in accordance with the evaluation criteria established in § 440.27 and the procedures established in § 440.28. DOE will announce the percentage chosen for the year in the annual grant guidance issued to States.

(b) The Performance Fund will be distributed annually beginning with program year 1987.

§ 440.27 Evaluating State Performance.

(a) *Information.* DOE will evaluate annually the performance of each State in the program based on the criteria set forth in paragraphs (b), (c), (d), and (e) of this section from the following information submitted to DOE by the State:

(1) The annual State Application under § 440.12 including:

(i) The State Plan,

(ii) The Monitoring Plan, and

(iii) The Training and Technical Assistance Plan;

(2) Monthly and quarterly reports required under § 440.25; and

(3) Any additional relevent information available to DOE.

(b) *Percent of units weatherized (Maximum Score: 20 points).* DOE will score the States according to the reported percentage of eligible dwelling units in the State weatherized during the relevent reporting period. A State's score for this criterion is determined by taking the nunber of dwelling units weatherized, as reported to DOE under § 440.25, dividing it by the number of dwelling units expected to be weatherized during the relevant reporting period as submitted by the State in accordance with § 440.14 (b)(8)(ii), and multiplying the result by 20.

(c) *Comparable energy savings (Maximum Score: 20 points) (1)* DOE will award points to each State for the percentage of energy to be conserved in the State as reported in the State Plan as follows:

(i) No points will be awarded for estimated energy savings of ten percent of less;

(ii)) Five points will be awarded for estimated energy savings between eleven and twelve percent;

(iii) Ten points will be awarded for estimated energy savings between thirteen and fourteen percent;

(iv) Twelve points will be awarded for estimated energy savings between fifteen and sixteen percent;

(v) Fourteen points will be awarded for estimated energy savings between seventeen and eighteen percent;

(vi) Sixteen points will be awarded for estimated energy savings between nineteen and twenty percent;

(vii) Eighteen points will be awarded for estimated energy savings between twenty-one and twenty-two percent; and

(viii) Twenty points will be awarded for estimated energy savings of twenty-three percent or higher.

(2) If a State estimates energy savings to be greater than fourteen percent it must provide DOE with relevant information to support its estimates. At a minimum this information must include the methodology used in deriving its estimates.

(d) *Achievement of goals (Maximum Score: 30 points).* (1) DOE will award each State a maximum of five points for performance toward each of the following goals stated in the State's Application under § 440.12:

(i) The production schedule and the number of dwelling units to be weatherized each month (§ 440.14(1));

(ii) The number of dwelling units to be weatherized during the relevant reporting period by category (§ 440.14(b)(2));

(iii) The amount spent on weatherization materials (at least forty percent) (§ 440.14(b)(9)(ix));

(iv) The average amount of funds (not to exceed an average of $1600) to be applied to a dwelling unit (§440.14(b)(9)(viii));

(v) Compliance with the State Training and Technical Assistance Plan (§ 440.12(b)(7)); and

(vi) Compliance with the State Monitoring Plan (§ 440.12(b)(6)).

(2) For each of paragraphs (d)(1) (i), (ii), (v), and (vi) of this section, a score will be awarded to a State by dividing the amount of actual achievement, as reported to DOE under § 440.25, by the goal stated in the Application, and multiplying the result by five.

(3) For each of paragraphs (d)(1) (iii) and (iv) of this section, a State will be awarded five points if it complies with the criterion and no points if the State does not comply.

(e) *Actual expenditure (Maximum Score: 30 points).* (1) DOE will award each State that spends all DOE funds, excluding funds for administrative expenses, the maximum score of thirty points.

(2) DOE will award each State that has up to a one month carryover at the end of the relevant reporting period twenty points.

(3) Doe will award each State that has up to a two month carryover at the end of the relevant reporting period ten points.

(4) States with a carryover in excess of two months will receive no score under this paragraph.

§ 440.28 Awarding the Performance Fund.

(a) DOE will award funds from the Performance Fund to the twenty States annually determined to have demonstrated the best performance based on the criteria set forth in § 440.27.

(b) The amount of funds from the Performance Fund to be awarded to a State will be the percentage of the State's tentative allocation for the year of outstanding performance that is equal to the percentage of funds reserved for the Performance Fund for that year.

(c) DOE will distribute the remaining money in the Performance Fund among the twenty States on the basis of their demonstrated ability to use program funds, except that no State will receive an amount equal to more than 50 percent of its tentative allocation for the relevant year. DOE will make this determination based on the information provided by the States to DOE for the relevant reporting period, and possibly for other periods of time, in Standard Form 459E, which details the States' production and expenditures, and the Quarterly Financial Status Report, Standard Form 269.

§ 440.29 Appeals.

(a) DOE will notify each State in writing of its score, ranking and the amount of funds, if any, to be awarded from the Performance Fund.

(b) If a State believes a technical or clerical error was made in arriving at its score, the State may file an appeal in writing with DOE, within ten days of receipt of notification, at the Office of Weatherization Assistance, U.S. Department of Energy, Mail Stop 5G-023, 1000 Independence Avenue SW., Washington, D.C. 20585 and marked "Weatherization Assistance: Appeal."

(c) 10 CFR 205.131 and 205.134 provide the format for such a request.

(d) The appeal must adequately explain how DOE made a technical or clerical error.

(e) DOE shall consider the appeal and notify the State of its final determination within 30 days of the receipt of the appeal, if at all possible.

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federal register

Friday
July 19, 1985

Part VI

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 910

Lemons Grown in California and Arizona; Limitation of Handling; Final Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regs. 524 and 525; Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 400,000 cartons during the period July 21–27, 1985, and increases the quantity of lemons that may be shipped to 350,000 cartons during the period July 14–20, 1985. Such action is needed to provide for orderly marketing of fresh lemons for such periods due to the marketing situation confronting the lemon industry.

DATES: The regulation (§ 910.825) becomes effective June 21, 1985, and the amendment (§ 910.824) is effective for the period July 14–20, 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). This 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 July 16, 1985, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports that lemon demand continues to improve.

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

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

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 § 910.825 is added to read as follows:

§ 910.825 Lemon Regulation 525.

The quantity of lemons grown in California and Arizona which may be handled during the period July 21, 1985, through July 27, 1985, is established at 400,000 cartons.

3. § 910.824 Lemon Regulation 524 is revised to read as follows:

§ 910.824 Lemon Regulation 524.

The quantity of lemons grown in California and Arizona which may be handled during the period July 14, 1985, through July 20, 1985, is established at 350,000 cartons.

Dated: July 18, 1985.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc. 85–17396 Filed 7–18–85; 12:17pm]

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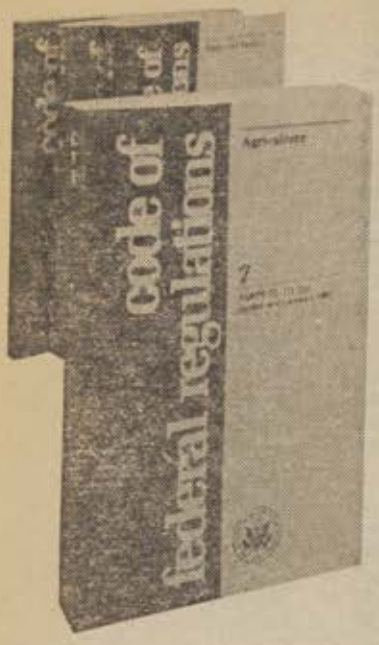

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